An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-971

Filed: 20 March 2018

Richmond County, No. 17 CRS 000028

STATE OF NORTH CAROLINA

v.

JULIAN L. ROBINSON

Appeal by Defendant from judgment entered 10 February 2017 by Judge Ebern T. Watson, III, in Richmond County Superior Court. Heard in the Court of Appeals 12 March 2018.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Lisa Bradley, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellant Defender Katy Dickinson-Schultz, for Defendant-Appellant.

INMAN, Judge.

Julian L. Robinson ("Defendant") appeals from a judgment entered upon his guilty plea to misdemeanor larceny. After careful review, we affirm.

Factual and Procedural History

On 9 January 2017, Defendant was indicted on charges of breaking and entering a motor vehicle and habitual misdemeanor larceny relating to the 4 November 2016 theft of a Hitachi impact drill from a vehicle parked in a Dollar General parking lot. The drill was found elsewhere and returned to the victim.

On 10 February 2017, Defendant pleaded guilty pursuant to a plea agreement to misdemeanor larceny and the State dismissed the charge of breaking and entering a motor vehicle. In accordance with the plea agreement, the trial court sentenced Defendant as a prior record level III offender to an active term of 100 days of imprisonment. Defendant filed a *pro se* written notice of appeal.

Analysis

1. Appellate Jurisdiction

On 9 November 2017, Defendant filed a petition for writ of certiorari seeking review of the 10 February 2017 judgment. He acknowledged that his *pro se* written notice of appeal was deficient, as it incorrectly identified the court to which appeal would be taken as superior court rather than this Court, failed to provide proof of service on the State, and did not contain a file stamp indicating it had been filed in superior court. See N.C. R. App. P. 4. (a)(2) & (b). On 20 November 2017, the State filed a motion to dismiss Defendant's appeal, arguing that Defendant does not have an appeal of right because he pleaded guilty and has not raised an appealable issue in his brief. Because Defendant does have a limited right of appeal to review certain

sentencing issues under N.C. Gen. Stat. § 15A-1444(a2) (2015), and Defendant's appellate counsel has filed an *Anders* brief requesting this Court conduct its own review of the record for any prejudicial errors, we deny the State's motion to dismiss. *See State v. Hamby*, 129 N.C. App. 366, 369, 499 S.E.2d 195, 196-97 (1998). In our discretion, we allow Defendant's petition for writ of certiorari for the purpose of reviewing the judgment entered.

2. Discussion

Counsel appointed to represent Defendant on appeal has been unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal and asks that this Court conduct its own review of the record for possible prejudicial error. Counsel shows to the satisfaction of this Court that counsel has complied with the requirements of *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493 (1967), and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), by advising Defendant of his right to file written arguments with this Court and providing him with the documents necessary to do so. Defendant has not filed any documents on his own behalf with this Court and a reasonable time for him to do so has expired.

In accordance with *Anders*, we have fully examined the record to determine whether any issue of arguable merit appears therefrom. By virtue of his guilty plea, Defendant's right of appeal is limited to the sentencing issues set forth in N.C. Gen. Stat. § 15A-1444(a2). Here, Defendant stipulated to his prior convictions and the

factual basis for his plea. Furthermore, Defendant was properly sentenced within the presumptive range for a Class 1 misdemeanor as a Level III offender. We have been unable to find any possible prejudicial error and conclude that the appeal is wholly frivolous.

Conclusion

For the foregoing reasons, we affirm the trial court's judgment.

AFFIRMED.

Judges BRYANT and HUNTER concur.

Report per Rule 30(e).