An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA17-1350

Filed: 19 June 2018

Mecklenburg County, No. 15 CRS 237939

STATE OF NORTH CAROLINA

v.

LORENZO D. MILLS

Appeal by defendant by writ of certiorari from judgment entered 25 July 2017 by Judge Linwood O. Foust in Mecklenburg County Superior Court. Heard in the Court of Appeals 18 June 2018.

Attorney General Joshua H. Stein, by Assistant Attorney General Kimberly N. Callahan, for the State.

Mary McCullers Reece, for defendant-appellant.

CALABRIA, Judge.

Lorenzo D. Mills ("defendant") appeals by writ of certiorari from the trial court's judgment entered upon his guilty plea to felony possession of marijuana, possession with intent to sell or deliver marijuana, and possession of marijuana paraphernalia. After careful review, we affirm.

I. Factual and Procedural Background

On 27 June 2016, defendant was indicted by a grand jury on charges of felony possession of marijuana, possession with intent to sell or deliver marijuana, and possession of marijuana drug paraphernalia. Defendant filed a motion to suppress evidence obtained by a search warrant executed after his arrest. According to defendant, his constitutional rights were violated because officers did not comply with the procedures set out in N.C. Gen. Stat. §§ 15A-249 and -253 in executing the warrant.

At defendant's suppression hearing on 25 July 2016, the State called Detective Susan Martin ("Detective Martin") with the Charlotte-Mecklenburg Police Department ("CMPD") to testify. Detective Martin testified that defendant's father had been shot and that CMPD had issued warrants for defendant's arrest relating to the investigation. On 21 October 2015, CMPD officers located defendant at his girlfriend's home in Charlotte, North Carolina. Once the officers confirmed that defendant was at her house, Detective Martin began working on a search warrant for the girlfriend's home for any evidence relating to the shooting.

Defendant did not open the door when officers attempted to do a "knock and talk[,]" but remained inside the home for approximately 45 minutes. During that time, defendant's girlfriend arrived at the house, told officers it was her home but refused to answer any questions, returned to her vehicle, and left. Defendant then

exited the home and officers placed him under arrest. The officers transported defendant to the team office for questioning.

Detective Martin arrived at the girlfriend's home with the search warrant after defendant was arrested and transported for questioning. Detective Martin testified that they knocked and announced at the front door, and because no one was found at the home, Detective Martin read the search warrant aloud inside the home then left a copy affixed to the kitchen island. During the search of the home, officers discovered marijuana and drug paraphernalia.

Defendant testified that he did not initially come out of the home when police arrived because it was not his house and he had no authority over the home. Defendant further testified that officers kept him outside the home for 30 minutes before transporting him to the team office.

At the close of the evidence on the motion to suppress, the trial court denied the motion. Defendant thereafter pled guilty as charged. As part of the plea agreement, defendant specifically reserved his right to appeal the denial of his motion to suppress. The trial court accepted the plea and consolidated the offenses for judgment. The court sentenced defendant to a term of 6-17 months of in the custody of the North Carolina Department of Adult Correction, suspended the sentence, and placed defendant on 24 months of supervised probation. Defendant appeals.

On 15 December 2017, defendant filed a petition for writ of certiorari with this Court, seeking review of the 25 July 2017 judgment. Defendant acknowledges that his oral notice of appeal did not comply with Appellate Rule 4 since it was not made at trial, but in open court the following day. *See* N.C.R. App. 4(a)(1) (An appeal in a criminal case may be taken by "giving oral notice of appeal *at trial*[.]" (emphasis added)). In our discretion, we grant defendant's petition for writ of certiorari for the purpose of reviewing the judgment entered.

II. Anders and Kinch

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.

Where a defendant entered a guilty plea in superior court, the defendant's appeal is limited to the following issues: (1) whether the sentence imposed is supported by the evidence (if the minimum term of imprisonment does not fall within

the presumptive range); (2) whether the sentence imposed results from an incorrect finding of the defendant's prior record level under N.C. Gen. Stat. § 15A-1340.14 or the defendant's prior conviction level under N.C. Gen. Stat. § 15A-1340.21; (3) whether the sentence imposed constitutes a type of sentence not authorized by N.C. Gen. Stat. § 15A-1340.17 or N.C. Gen. Stat. § 15A-1340.23 for the defendant's class of offense and prior record or conviction level; (4) whether the trial court properly denied the defendant's motion to suppress pursuant to N.C. Gen. Stat. § 15A-979(b); and (5) whether the trial court improperly denied the defendant's motion to withdraw his guilty plea. N.C. Gen. Stat. § 15A-1444(e) (2017); *State v. Jamerson,* 161 N.C. App. 527, 528-29, 588 S.E.2d 545, 546-47 (2003).

Pursuant to *Anders* and *Kinch,* we must fully examine the record for possible prejudicial error under N.C. Gen. Stat. § 15A-1444. Counsel has specifically directed our attention to issues regarding the denial of the motion to suppress. After careful review of the record, we find no error in the trial court's decision to deny the motion to suppress. Further, defendant stipulated to his prior convictions resulting in seven prior record level points and stipulated to the factual basis for his plea. Defendant's active sentence falls within the presumptive range for a prior record level III offender convicted of a Class I felony. *See* N.C. Gen. Stat. § 15A-1340.17(c), (d) (2017).

After a full examination of the record, we find no possible prejudicial error in defendant's judgment and commitment pursuant to N.C. Gen. Stat. § 15A-1444. Accordingly, we affirm the trial court's judgment.

AFFIRMED.

Judges DAVIS and BERGER concur.

Report per Rule 30(e).