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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-167

Filed: 16 October 2018

Buncombe County, Nos. 97 CRS 12460-65, 97 CRS 63565-69, and 97 CRS 63680

STATE OF NORTH CAROLINA

v.

CARL VINCENT CHOPPY, JR.

Appeal by Defendant from order entered 16 May 2017 by Judge Alan Z. Thornburg in Superior Court, Buncombe County. Heard in the Court of Appeals 1 October 2018.

*Attorney General Joshua H. Stein, by Special Deputy Attorney General K.D. Sturgis, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Aaron Thomas Johnson, for Defendant.*

McGEE, Chief Judge.

Carl Vincent Choppy, Jr. (“Defendant”) appeals from the trial court’s order denying his “Motion to Locate and Preserve Evidences [sic] and Motion for Post-Conviction DNA Testing.” We affirm the trial court’s order.

Defendant was found guilty on 29 October 1998 of four counts of assault with a deadly weapon with intent to kill inflicting serious injury (“AWDWIKISI”), four

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counts of attempted first-degree murder, two counts of conspiracy to commit first-degree murder, one count of discharging a firearm into occupied property, and one count of possession of a firearm by a felon. The trial court arrested judgment on the AWDWIKISI convictions, and entered judgments on the remaining convictions, sentencing Defendant to eight consecutive sentences totaling a minimum of 1,411 months and a maximum of 1,758 months of imprisonment. Defendant appealed, and this Court found no error. *State v. Choppy*, 141 N.C. App. 32, 539 S.E.2d 44 (2000), *disc. review denied and appeal dismissed*, 353 N.C. 384, 547 S.E.2d 817 (2001).

Defendant filed a *pro se* motion for post-conviction DNA testing pursuant to N.C. Gen. Stat. § 15A-269 on 9 June 2016. Defendant requested DNA testing on fifteen items he alleged were collected by law enforcement during their investigation, including two handguns and projectiles, fingerprints from one of the victim's vehicle, blood and hair from the victims, and blood and hair from both Defendant and his co-defendant. Defendant contended the DNA testing "would prove that [he] was not the perpetrator of the crimes, and that the requested DNA testing [was] material to [his] exoneration." Following a hearing, the trial court entered an order on 16 May 2017 denying Defendant's motion for DNA testing. Defendant appeals.

Counsel appointed to represent Defendant has been unable to identify an 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.

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Counsel has also shown to the satisfaction of this Court that he 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 for him 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 issues of arguable merit appear therefrom. Our review of potential error in this case is limited to those issues related to the trial court's denial of Defendant's motion to locate and preserve evidence and for DNA testing. We are unable to find any possible prejudicial error and conclude that Defendant's appeal is wholly frivolous. Accordingly, we affirm the trial court's order.

AFFIRMED.

Judges ELMORE and ARROWOOD concur.

Report per Rule 30(e).