An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA19-116

Filed: 3 December 2019

Union County, Nos. 16 CRS 53852, 17 CRS 55496-97

STATE OF NORTH CAROLINA

v.

JERRY LOUIS ELLIOTT

Appeal by Defendant from judgment entered 30 July 2018 by Judge Christopher W. Bragg in Union County Superior Court. Heard in the Court of Appeals 18 November 2019.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Daniel P. O'Brien, for the State.

Mary McCullers Reece for Defendant-Appellant.

DILLON, Judge.

Defendant pleaded guilty to a number of charges, including habitual larceny, pursuant to an *Alford* plea. *See North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160 (1970). Per the terms of the plea agreement, the State dismissed a number of other charges. The trial court subsequently dismissed one of the other charges. Defendant was sentenced at the top of the presumptive range to 20-33 months' imprisonment.

Defendant gave oral notice of appeal.

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 (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 arguments.

The State filed a motion to dismiss Defendant's appeal, arguing Defendant failed to raise any of the limited issues that he has a right to appeal under N.C. Gen. Stat. § 15A-1444. Given Defendant has a statutory right to appellate review of certain issues, *see* N.C. Gen. Stat. § 15A-1444(a1)-(a2) (2018), and Defendant's counsel filed an *Anders* brief asking this Court to review the record for any possible meritorious, appealable issue, we deny the State's motion to dismiss.

In accordance with *Anders*, we have fully examined the record to determine whether any issues of arguable merit appear therefrom. By virtue of his plea, Defendant's right of appeal was limited to the issues set forth in N.C. Gen. Stat. § 15A-1444(a1)-(a2). *State v. Hamby*, 129 N.C. App. 366, 369, 499 S.E.2d 195, 196 (1998). Here, Defendant stipulated to his prior convictions and prior record level.

Furthermore, Defendant was correctly sentenced in the presumptive range for a Class H, Level VI felony offense. Accordingly, we find no prejudicial error and affirm the trial court's judgment.

AFFIRMED.

Judges DIETZ and MURPHY concur.

Report per Rule 30(e).