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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-485

Filed: 2 June 2020

Gaston County, No. 17 CRS 7178, 17 CRS 61214, 17 IFS 987

STATE OF NORTH CAROLINA

v.

WILLIAM HUNT EMERSON

Appeal by defendant from judgment entered 19 December 2018 by Judge David A. Phillips in Gaston County Superior Court. Heard in the Court of Appeals 12 May 2020.

*Attorney General Joshua H. Stein, by Assistant Attorney General Liliana R. Lopez, for the State.*

*Unti & Smith, PLLC, by Sharon L. Smith, for defendant-appellant.*

BRYANT, Judge.

Where defense counsel requests a review of the record for any possible prejudicial error and our review fails to reveal any possible prejudicial error, we find no error in the trial or judgment in this case.

Defendant William Hunt Emerson was indicted on charges of felony serious injury by vehicle, driving while impaired (DWI), possession of an open container in a passenger area, and failure to stop for a traffic signal. The matter came on for trial

STATE V. EMERSON

*Opinion of the Court*

on all charges at the 17 December 2018 Criminal Session of the Gaston County Superior Court, the Honorable David A. Phillips presiding.

The State presented evidence tending to show that on the morning of 6 September 2017, police officers responded to a three-vehicle collision at the intersection of Wilkinson Boulevard and Park Street, in the city of Belmont. It was raining that morning. The vehicles involved in the collision included a gold Chevrolet Malibu, a dump truck, and a Ford pickup truck driven by defendant. The driver of the Chevrolet Malibu testified that as she made a left turn at the intersection on a green light, defendant ran the red light, and struck her car, causing her to roll into a dump truck. As a result of the impact, the driver of the Chevrolet Malibu sustained several pelvic fractures, a crushed tailbone, and fractures to her spine. Defendant was driving 40 mph, while the other drivers involved in the incident were traveling at 10mph.

At the scene of the accident, defendant was described as having red, glassy eyes, a light odor of alcohol, and exhibited a “medium” level of appreciable impairment. A bottle of bourbon was found behind the driver’s seat, and the seal on the bottle had been broken. Defendant was asked to submit to a portable breath test, which yielded a positive result for the presence of alcohol. Because of the rain, a standardized field sobriety test was not conducted, but defendant was arrested for

DWI. An intoxilyzer test administered to defendant revealed a result of .17 grams of alcohol per 210 liters of breath.

At the close of the evidence, a jury found defendant guilty of all the charges. The trial court arrested judgment on the DWI and consolidated the remaining charges, sentencing defendant to an active term of 16 to 29 months imprisonment. Defendant appeals.

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On appeal, defendant requests that this Court conduct an independent review of the record in accordance with *Anders v. California* to determine if his guilty verdict presents any potential reversible error.

Defendant's counsel has filed a brief on defendant's behalf in which she states that she has been unable to identify any issue with sufficient merit to support a meaningful argument for relief, and asks this Court to independently examine the record for possible prejudicial error.

Counsel has shown to the satisfaction of this Court that she 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 submit his own arguments to this Court and providing him with the necessary documents to move forward. Counsel has also set forth two possible appellate issues on appeal but concedes that the issues are meritless.

STATE V. EMERSON

*Opinion of the Court*

Defendant has not filed any written arguments on his own behalf, and a reasonable time within which to do so has passed. In accordance with *Anders* and *Kinch*, we have fully examined the record to determine whether any issues of arguable merit appear therefrom. We have been unable to find any possible prejudicial error in the record and conclude that the appeal is wholly frivolous. Therefore, we hold no error.

NO ERROR.

Judges BERGER and MURPHY concur.

Report per Rule 30(e).