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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-596

Filed: 2 June 2020

Lincoln County, No. 16 CRS 51460

STATE OF NORTH CAROLINA

v.

CHRISTOPHER SCOTT LAIL

Appeal by defendant from judgment entered 27 November 2018 by Judge Todd Pomeroy in Lincoln County Superior Court. Heard in the Court of Appeals 27 April 2020.

Attorney General Joshua H. Stein, by Assistant Attorney General Joseph L. Hyde, for the State.

James R. Parish for defendant-appellant.

PER CURIAM.

Defendant Christopher Scott Lail appeals from a judgment entered upon his guilty plea to possession of methamphetamine. We affirm.

Background

On 7 November 2016, Defendant Christopher Scott Lail was indicted for possession of methamphetamine. Lail entered an open plea to the charge on 27

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November 2018, leaving sentencing to the discretion of the court. The trial court found Lail had a prior record level of II, based on 4 prior record level points; sentenced him to a suspended term of 5 to 15 months' imprisonment; and placed him on supervised probation for 24 months. The court also ordered Lail to serve an active term of 30 days in jail but gave him credit for time spent incarcerated after his arrest. Lail filed timely notice of appeal from the judgment entered against him.

Analysis

Appellate counsel appointed to represent Lail on appeal has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that after close examination of the record and relevant law, he has been “unable to identify any non-frivolous issues to be raised in this appeal.” Counsel asks this Court to conduct its own review of the record for possible prejudicial error. Counsel has filed documentation with the Court showing he has complied with the requirements of *Anders* and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), by advising Lail of his right to file written arguments with the Court and providing him with a copy of the documents pertinent to his appeal. Counsel has also set out four possible appellate issues he considered presenting on appeal but rejected as without merit. Lail has not filed any written arguments on his own behalf, and a reasonable time for him to have done so has passed.

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The State filed a motion to dismiss Lail's appeal. The State argues Lail has not presented any issues he may raise in his limited appeal of right from a judgment entered upon a guilty plea, *see* N.C. Gen. Stat. § 15A-1444(a2), (e), and we should thus dismiss his appeal. We deny the motion, because, although limited, Lail has a statutory right to appeal from the judgment entered against him, and his appellate counsel has filed an *Anders* brief requesting our independent review of the record for any prejudicial errors.

In accordance with *Anders* and *Kinch*, we have fully examined the record to determine whether any issues of arguable merit appear to exist. We agree with Lail's appellate counsel that the potential issues identified in the brief are without merit, and we have been unable to find any possible prejudicial error at the plea proceeding or in the judgment entered. Accordingly, we affirm the trial court's judgment.

While we find no possible prejudicial error, our decision is without prejudice to Lail's right to bring a motion for appropriate relief as it relates to his jail credit. Upon our *Anders* review, we are perplexed by this portion of the record before us. It is silent as to why there is a discrepancy between the amount of time requested by Lail's counsel of approximately 120 days and the judgment's reflection of only 78 days credit for pretrial confinement. Lail is not procedurally barred from pursuing a motion for appropriate relief before the trial court regarding the proper amount of jail credit.

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Conclusion

This Court affirms the trial court's judgment.

AFFIRMED.

Panel consisting of Judges DILLON, DIETZ, and MURPHY.

Report per Rule 30(e).