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IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-123

No. COA20-549

Filed 6 April 2021

Guilford County, No. 18 CRS 87890, 18 CRS 87892, 19 CRS 25146

STATE OF NORTH CAROLINA

v.

NICHOLAS MAURICE JOHNSON, Defendant.

Appeal by Defendant from judgments entered 19 December 2019 by Judge Susan E. Bray in Guilford County Superior Court. Heard in the Court of Appeals 24 February 2021.

Attorney General Joshua H. Stein, by Assistant Attorney General Nicholas R. Sanders, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Emily Holmes Davis, for the Defendant.

JACKSON, Judge.

¶ 1

Nicholas Maurice Johnson (“Defendant”) has filed an *Anders* brief appealing from his convictions of robbery with a dangerous weapon, breaking and entering, larceny after breaking and entering, and possession of a firearm by a felon. Defendant asks this Court to conduct its own review to determine whether the record discloses prejudicial error. After an independent review, we find no error.

I. Factual and Procedural Background

¶ 2

The testimony presented at Defendant’s trial demonstrated that in November 2018, Ms. Chase was the victim of a home invasion and robbery. Ms. Chase was living in an apartment in Greensboro at the time, which she had previously shared with her boyfriend Michael Allred. Around 11 in the morning on 8 November 2018, Ms. Chase heard a knock on the door, and opened it to see Defendant—who she was familiar with as a friend of Michael’s. Defendant asked where Michael was, and Ms. Chase informed him that Michael was not there. Defendant then forced the door open and pushed his way inside, with a silver handgun in his hand. He pointed the gun at Ms. Chase and demanded that she give him all her money.

¶ 3

Another man appeared in the doorway, and Defendant sent him to retrieve Ms. Chase’s wallet, which contained \$75. Defendant told Ms. Chase he knew she had more money than that, and demanded that she give him more. Ms. Chase then went to her nightstand and pulled out another \$980 in cash, which she had planned to use to pay her rent that day. Defendant took the extra cash and told Ms. Chase that he would kill her and her daughter if she told anyone what happened. Defendant left out the front door and drove away, and Ms. Chase called the police. Defendant was subsequently apprehended on 5 December 2018 and later charged with robbery with a dangerous weapon, breaking and entering, larceny after breaking and entering, and possession of a firearm by a felon.

II. Analysis

¶ 4

An appeal of right from a final judgment entered in the superior court upon conviction properly lies directly with this Court. N.C. Gen. Stat. §§ 7A-27(b)(1), 15A-1444(a) (2019). Defendant here filed a timely appeal of the superior court’s judgment on 19 December 2019.

¶ 5

Defendant’s appellate counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), indicating that after a close examination of the record and relevant law, she is unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal.

¶ 6

Counsel has filed documentation with the Court showing that she has complied with the requirements of both *Anders* and *State v. Kinch*, 314 N.C. 99, 102, 331 S.E.2d 665, 666 (1985) (holding that defense counsel’s brief had “fully complied with *Anders*” by “stat[ing] in his brief that he found no merit in the assignments of error and request[ing] this Court to review the record for any prejudicial error”). Namely, counsel here advised Defendant in writing on 4 August 2020 of his right to file written arguments with the Court, and has provided him with a copy of the documents pertinent to his appeal, including the transcript, record on appeal, and counsel’s brief.

¶ 7

Unlike the appellant in *Kinch*, Defendant here has not filed a pro se brief with this Court, and a reasonable time for him to do so has expired. *Id.* at 102, 331 S.E.2d at 666-67. Further, as in *Kinch*, counsel for Defendant has referred us to three issues

that might arguably support an appeal: (1) the sufficiency of the indictments; (2) the propriety of the sentences imposed; and (3) the accuracy of the prior record calculation.

¶ 8

We agree with counsel that none of these arguments are meritorious. The indictments were legally sufficient. The trial judge properly arrested judgment of the larceny after breaking and entering conviction. Defendant's prior record level of VI (20 points) was properly calculated and the active sentences imposed for his Class D, G, and H convictions were within the presumptive range and were properly authorized under the applicable statutes.

III. Conclusion

¶ 9

In accordance with our duty under *Anders* and *Kinch*, we have fully examined the record to determine whether any meritorious issues appear to exist and have found none. Defendant received a fair trial, free from prejudicial error. There is no error in the jury's verdicts or in the judgments entered thereon.

NO ERROR.

Judges DILLON and INMAN concur.

Report per Rule 30(e).