An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

2022-NCCOA-248

No. COA21-545

Filed 5 April 2022

Lenoir County, No. 19 CRS 52026

STATE OF NORTH CAROLINA,

v.

WYATT BRADLEY HORNE, Defendant.

Appeal by Defendant from judgment entered 30 June 2021 by Judge Imelda J. Pate in Lenoir County Superior Court. Heard in the Court of Appeals 23 February 2022.

*Attorney General Joshua H. Stein, by Assistant Attorney General Matthew W. Bream, for the State.*

*Richard Croutharmel for Defendant-Appellant.*

GRIFFIN, Judge.

¶ 1 Defendant Wyatt Bradley Horne appeals from a judgment entered upon his *Alford* plea to the charge of assault by strangulation. Counsel for Defendant filed an *Anders* brief and a petition for writ of certiorari on Defendant's behalf. After review, we discern no error and deny Defendant's petition for writ of certiorari.

¶ 2 On 30 March 2021, Defendant entered into a plea agreement with the State

whereby the State agreed to dismiss certain charges and "consent[ed] to an Intermediate Judgment in the mitigated range for sentencing." The trial court subsequently entered a judgment upon Defendant's plea in accordance with the plea agreement.

¶ 3 Counsel for Defendant has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), asking this Court to "conduct an independent review of the record . . . to determine whether any prejudicial error occurred in the trial proceedings." In his brief, Defendant's counsel has raised two potential issues for our review. However, Defendant has no appeal of right with respect to either of these proposed issues following his *Alford* plea,[1] *see* N.C. Gen. Stat. §§ 15A-1444(a1)-(a2) (2019), nor do the issues have any merit based on our review of the record. Accordingly, Defendant is not entitled to relief on the bases proposed by Defendant's counsel.

¶ 4 "Under our review pursuant to *Anders* and *Kinch*, we must determine from a full examination of all the proceedings whether the appeal is wholly frivolous." *State*

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[1] Because Defendant received a sentence in the mitigated range, he has an appeal of right with respect to sentencing issues only. *See* N.C. Gen. Stat. § 15A-1444(a1) ("A defendant who has been found guilty, or entered a plea of guilty or no contest to a felony, is entitled to appeal as a matter of right the issue of whether his or her sentence is supported by evidence introduced at trial and sentencing hearing only if the minimum sentence of imprisonment does not fall within the presumptive range[.]"); *State v. Mabry*, 217 N.C. App. 465, 470, 720 S.E.2d 697, 701 (2011) ("[A] defendant receiving a mitigated sentence must, under the plain language of the statute, have a right to appeal the sufficiency of the evidence supporting his or her sentence."). Neither of the issues proposed by Defendant's counsel challenges Defendant's sentence, and we discern no error with respect to sentencing.

*v. Frink*, 177 N.C. App. 144, 145, 627 S.E.2d 472, 473 (2006) (citation and internal quotation marks omitted). We have conducted a full and independent examination of the record as required by *Anders* and *Kinch* and conclude that the record contains no meritorious issue entitling Defendant to relief. The petition for writ of certiorari filed in this cause is denied.

NO ERROR.

Judges DILLON and DIETZ concur.

Report per Rule 30(e).