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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-485

No. COA21-742

Filed 5 July 2022

Jackson County, Nos. 19CRS322, 19CRS50298, 20CRS000296

STATE OF NORTH CAROLINA

v.

LANE ELIZABETH STOCKER

Appeal by Defendant from judgment entered 24 May 2021 by Judge Thomas H. Lock in Jackson County Superior Court. Heard in the Court of Appeals 7 June 2022.

*Attorney General Joshua H. Stein, by Assistant Attorney General Gail E. Carelli, for the State-Appellee.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Sterling Rozear, for Defendant-Appellant.*

COLLINS, Judge.

¶ 1 Defendant Lane Elizabeth Stocker appeals from judgment on the revocation of her probation. Defense counsel filed an *Anders* brief asking this Court to conduct an independent review of the proceedings to determine whether any non-frivolous justiciable issue exists to support Defendant's appeal. After careful review, we find no such issue and dismiss the appeal.

## **I. Background**

¶ 2

On 13 May 2019, Defendant was indicted for malicious conduct by a prisoner and for felony failure to appear. On 25 June 2019, Defendant pled guilty as charged and was found to be a prior record level II. The trial court consolidated the judgment and imposed a prison sentence of 17 to 30 months, which was suspended for 18 months of supervised probation. On 9 December 2019, the trial court found Defendant to be in violation of her probation and entered an order modifying her probation, including extending the term of probation by six months.

¶ 3

On 29 July 2020, 25 September 2020, and 23 March 2021, violation reports were filed, alleging that Defendant had violated her probation. After a hearing, the trial court found that Defendant had committed a criminal offense, revoked her probation, and activated her suspended sentence. The trial court reduced her prison sentence to a term of 15 to 27 months. Defendant appealed.

## **II. Appellate Jurisdiction**

¶ 4

A written notice of appeal in a criminal case must be filed with the clerk of superior court and must be served “upon all adverse parties within fourteen days after entry of the judgment[.]” N.C. R. App. P. 4(a)(2). Such written notice of appeal “shall specify the party or parties taking the appeal; shall designate the judgment or order from which appeal is taken and the court to which appeal is taken; and shall be signed by counsel of record for the party or parties taking the appeal, or by any such

party not represented by counsel of record.” N.C. R. App. P. 4(b).

¶ 5

Defendant’s *pro se* notice failed to designate the judgment from which or the court to which appeal is taken, does not indicate service upon the State, and is not file stamped. Recognizing these defects in her notice of appeal, Defendant has filed a petition for writ of certiorari seeking this Court’s review of the 24 May 2021 judgment. This Court may issue a writ of certiorari “in appropriate circumstances . . . to permit review of the judgments and orders of trial tribunals when the right to prosecute an appeal has been lost by failure to take timely action[.]” N.C. R. App. P. 21(a)(1).

¶ 6

Defendant’s *pro se* notice indicates her intent to appeal, describes the proceeding as the one that occurred “yesterday,” and names her trial counsel. Appellate Entries were entered indicating that Defendant gave notice of appeal. In our discretion, we grant Defendant’s petition and review the merits of her appeal.

### III. Discussion

¶ 7

Defense counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), explaining that he was “unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal.” The record discloses that defense counsel has complied with the requirements of *Anders* and *Kinch* by advising Defendant of her right to file her own supplemental arguments and providing her with defense counsel’s brief, the trial

transcript, the record on appeal, and the mailing address of this Court. Defendant did not file any written arguments with this Court, and a reasonable time for her to do so has passed.

¶ 8 To fulfill his obligation to refer the Court to “anything in the record that might arguably support the appeal,” *Anders*, 386 U.S. at 744, defense counsel raised the following issues:

This Court should determine whether the indictments were legally sufficient to confer jurisdiction on the trial court. *See State v. Wilson*, 128 N.C. App. 688, 691, 497 S.E.2d 416, 419 (1998) . . . .

. . . .

This Court should determine whether the original probationary term and the subsequent extension were proper. *See* N.C. Gen. Stat. § 15A-1340.14.

. . . .

This Court should determine whether the revocation of probation was proper. *See* N.C.G.S. § 15A-1344.

. . . .

This Court should determine whether [the] sentence [imposed upon Defendant’s probation revocation] was authorized by statute. *See* N.C.G.S. § 15A-1340.17; N.C.G.S. § 15A-1344(d).

¶ 9 In accordance with our duty under *Anders*, we have conducted “a full examination of all the proceedings[,]” including a “review [of] the legal points appearing in the record, transcript, and briefs, not for the purpose of determining their merits (if any) but to determine whether they are wholly frivolous.” *Kinch*, 314

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*Opinion of the Court*

N.C. at 102-03, 331 S.E.2d at 667. Upon our examination of all the proceedings, we conclude that the appeal is wholly frivolous, and we dismiss the appeal. *See id.* at 106, 331 S.E.2d at 669.

DISMISSED.

Judges ARROWOOD and GORE concur.

Report per Rule 30(e).