

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

2023-NCCOA-14

No. COA22-542

Filed 17 January 2023

Sampson County, No. 15 CRS 51148

STATE OF NORTH CAROLINA

v.

JONATHAN CONLANGES BOYKIN

Appeal by defendant from judgment entered 12 November 2021 by Judge Charles H. Henry in Sampson County Superior Court. Heard in the Court of Appeals 29 November 2022.

*Attorney General Joshua H. Stein, by Assistant Attorney General Ryan C. Zellar, for the State.*

*Stephen G. Driggers for defendant-appellant.*

ZACHARY, Judge.

¶ 1 Defendant Jonathan Conlanges Boykin appeals from the trial court’s judgment entered upon remand from this Court in *State v. Boykin*, 275 N.C. App. 187, 853 S.E.2d 781 (2020). After careful review, we affirm.

¶ 2 The full factual and procedural background of this case may be found in this Court’s previous opinion. *See id.* Pertinent to the present appeal, this Court remanded

for resentencing the judgment entered in 15 CRS 51148. *Id.* at 198, 853 S.E.2d at 788. In 15 CRS 51148, the trial court originally sentenced Defendant for a Class F offense as a Prior Record Level V offender to 127 to 165 months in the custody of the North Carolina Division of Adult Correction for habitual impaired driving. However, the judgment did not indicate Defendant's habitual felon status. *Id.*

¶ 3

On 10 November 2021, the judgment in 15 CRS 51148 came on for resentencing in Sampson County Superior Court. At the resentencing hearing, the State presented evidence that Defendant had since been convicted of additional felonies and consequently attained Prior Record Level VI for sentencing purposes. The State also noted at the hearing that Defendant's previous sentence of 127 to 165 months, which falls at the top of the presumptive range for a Class C offense at Prior Record Level V, is also within the presumptive range for a Class C felony offender sentenced at Prior Record Level VI. *See* N.C. Gen. Stat. § 15A-1340.17(c) (2021).

¶ 4

Taking Defendant's two recent convictions into consideration, the trial court determined that Defendant was a Prior Record Level VI offender with 18 points. In resentencing Defendant in 15 CRS 51148, the trial court imposed the same active term that Defendant originally received (127 to 165 months' imprisonment), a sentence within the presumptive range for a Prior Record Level VI habitual felon. Defendant gave notice of appeal in open court.

¶ 5

Counsel appointed to represent Defendant on appeal has filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493, *reh’g denied*, 388 U.S. 924, 18 L. Ed. 2d 1377 (1967), indicating that he was “unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal.” Counsel requests that this Court conduct its own review of the record for possible prejudicial error. Counsel has also demonstrated to the satisfaction of this Court that he has complied with the requirements of *Anders* and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), by advising Defendant of his right to file arguments with this Court and providing him with the documents necessary to do so. Defendant has not filed any written arguments with this Court related to the present appeal, and a reasonable time for him to do so has passed.

¶ 6

“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 v. Frink*, 177 N.C. App. 144, 145, 627 S.E.2d 472, 473 (2006) (citation and internal quotation marks omitted). As required by *Anders* and *Kinch*, we have conducted a full examination of the record for any issue with arguable merit. We have been unable to find any error in the judgment entered upon Defendant’s resentencing, and we conclude that this appeal presents no issue that might entitle Defendant to relief. Accordingly, we affirm the trial court’s judgment.

AFFIRMED.

STATE V. BOYKIN

2023-NCCOA-14

*Opinion of the Court*

Judges WOOD and GORE concur.

Report per Rule 30(e).