

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

No. COA22-693

Filed 06 June 2023

Lenoir County, Nos. 17CRS051622, 17CRS051690, 17CRS052335, 19CRS050807

STATE OF NORTH CAROLINA

v.

DEVONTE AMIR CANTEY

Appeal by Defendant from judgments entered 16 December 2021 by Judge Imelda J. Pate in Lenoir County Superior Court. Heard in the Court of Appeals 10 May 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General Jessica N. Price, for the State-Appellee.

Sharon L. Smith for Defendant-Appellant.

COLLINS, Judge.

Defendant Devonte Amir Cantey appeals from judgments entered upon the revocation of his 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 non-frivolous justiciable issue and dismiss the appeal.

I. Background

On 28 August 2019, Defendant entered *Alford* pleas in response to charges comprising seven felonies and two misdemeanors across four cases. The court sentenced Defendant to three terms of 6 to 17 months' imprisonment, and one term of 13 to 25 months' imprisonment, to run consecutively. The sentences, which were within the presumptive range for the offenses and Defendant's prior record level, were suspended pending Defendant's successful completion of 36 months' supervised probation.

On 18 October 2021, probation violation reports were filed against Defendant in all four cases after he was convicted of two felonies that were committed in December 2020. The matter was heard on 16 December 2021, where Defendant admitted the violations. The trial court revoked Defendant's probation in all four cases and activated Defendant's sentences. Defendant gave oral notice of appeal in open court.

II. Discussion

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 she was "unable to identify an issue with sufficient merit to support a meaningful argument for relief on appeal." In our discretion, we will conduct a review of the proceedings, consistent with *Anders* and *Kinch*.

The record discloses that defense counsel has complied with the requirements

of *Anders* and *Kinch* by advising Defendant of his right to file his own arguments and providing him with defense counsel's brief, the trial transcript, the record on appeal, and the mailing address of this Court. Defendant has not filed any written arguments with this Court, and a reasonable time for him to do so has passed.

To fulfill her 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 revocation of [Defendant's] probation was proper.

. . . .

This Court should determine whether [Defendant's] sentence was authorized by statute.

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 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 DILLON and STADING concur.

Report per Rule 30(e).