

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA23-648

Filed 19 December 2023

Scotland County, No. 21 CRS 52308

STATE OF NORTH CAROLINA

v.

JIMMY DELL OTT, JR.

Appeal by defendant from judgment entered 26 October 2022 by Judge Dawn McDonald Layton in Scotland County Superior Court. Heard in the Court of Appeals 20 November 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General Ann Stone, for the State.

Jackie Willingham for defendant-appellant.

PER CURIAM.

Defendant Jimmy Dell Ott, Jr., appeals from the judgment entered upon his guilty plea to larceny from a merchant by use of an emergency door, a Class H felony. *See* N.C. Gen. Stat. § 14-72.11(1) (2021). In exchange for Defendant's guilty plea, the State dismissed two additional, factually related charges of felony larceny and first-degree trespassing; all charges initially arose from the same 2021 incident at a

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Walmart in Laurinburg, North Carolina. Pursuant to the terms of the plea arrangement, the trial court sentenced Defendant, a Prior Record Level V offender, to an active, mitigated term of 10 to 21 months' imprisonment and ordered him to pay \$2,441.23 in restitution to Walmart. Defendant timely filed written notice of appeal from the judgment.

Counsel appointed to represent Defendant on appeal has been unable to identify any issue of sufficient merit to support a meaningful argument for relief. Accordingly, counsel has filed a brief requesting that this Court conduct its own independent review of the record for possible prejudicial error. Counsel has also advised Defendant of his right to file his own written arguments with this Court, and provided him with the information and materials necessary to do so. Counsel has thus demonstrated, to the satisfaction of this Court, her compliance with the mandates of *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), and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985).

Defendant has not filed any arguments with this Court, and a reasonable time for him to do so has expired.

In accordance with *Anders* and *Kinch*, we have carefully reviewed the record for any issue of arguable merit. Finding none, we conclude that this appeal is wholly frivolous; therefore, we affirm the trial court's judgment.

AFFIRMED.

Panel consisting of:

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Judges TYSON, ZACHARY, and FLOOD.

Report per Rule 30(e).