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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-450

Filed 19 December 2023

Dare County, Nos. 21 CRS 50682–83, 22 CRS 30–31

STATE OF NORTH CAROLINA

v.

TERAHN LARRY BLUE, Defendant.

Appeal by Defendant from judgment entered 31 May 2022 by Judge Jerry R. Tillett in Dare County Superior Court. Heard in the Court of Appeals 20 November 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General Heidi M. Williams, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Heidi E. Reiner, for Defendant-Appellant.

CARPENTER, Judge.

Terahn Larry Blue (“Defendant”) appeals from judgment entered upon his guilty plea concerning two counts of selling cocaine and two counts of possession with intent to sell or deliver cocaine. On appeal, Defendant’s counsel filed an *Anders* brief because she was “unable to identify any issue with sufficient merit to support a

meaningful argument for relief on appeal,” and she requested that “this Court conduct a full examination of the record for any prejudicial error and to determine if any issue has been overlooked.” After careful review, we discern no non-frivolous issues, and we affirm.

I. Factual & Procedural Background

On 31 May 2022, in Dare County Superior Court, Defendant pleaded guilty to two counts of selling cocaine and two counts of possession with intent to sell or deliver cocaine. The trial court consolidated the charges and sentenced Defendant to two consecutive terms of incarceration, both between fifteen and twenty-seven months. On 14 June 2022, Defendant filed written notice of appeal.

II. Jurisdiction

On 18 September 2023, the State filed a motion to dismiss Defendant’s appeal, arguing Defendant’s guilty plea limits his right to appeal. Defendant, however, appealed this case under *Anders v. California*, and Defendant’s counsel complied with the requirements of *Anders*. 386 U.S. 738, 744, 87 S. Ct. 1396, 1400, 18 L. Ed. 2d 493, 498 (1967) (allowing appellate counsel to state that an appeal is wholly frivolous and reference anything which might arguably support the appeal, but requiring counsel to furnish the defendant with a copy of counsel’s brief, which should advise the defendant of his right to raise any arguments on his own).

Ordinarily, “[i]f a defendant who has pled guilty does not raise the specific issues enumerated in subsection (a2) and does not otherwise have a right to appeal,

his appeal should be dismissed.” *State v. Hamby*, 129 N.C. App. 366, 369, 499 S.E.2d 195, 196 (1998) (citing *State v. Golden*, 96 N.C. App. 249, 385 S.E.2d 346 (1989)). But under an *Anders* review, we assess cases to determine if any of the errors listed under subsection 15A-1444(a2) are present, even if they are not raised. *See id.* at 369–70, 499 S.E.2d at 196–97; N.C. Gen. Stat. § 15A-1444(a2) (2021).

Here, regardless of Defendant’s guilty plea, we have jurisdiction to conduct a limited review because Defendant’s counsel complied with *Anders*. *See Hamby*, 129 N.C. App. at 369–70, 499 S.E.2d at 196–97 (conducting an *Anders* review even though the defendant pleaded guilty and “brought forward no issues on appeal”). Accordingly, we have jurisdiction to conduct a limited review, and we deny the State’s motion to dismiss. *See id.* at 369–70, 499 S.E.2d at 196–97.

III. Analysis

“Pursuant to *Anders*, this Court must conduct ‘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.” *State v. Robinson*, 279 N.C. App. 643, 646, 865 S.E.2d 745, 748 (2021) (quoting *State v. Kinch*, 314 N.C. 99, 102–03, 331 S.E.2d 665, 667 (1985)). And as mentioned above, our review is limited to the grounds set forth in subsection 15A-1444(a2). *See Hamby*, 129 N.C. App. at 369–70, 499 S.E.2d at 196–97.

Under subsection 15A-1444(a2):

A defendant who has entered a plea of guilty or no contest to a felony or misdemeanor in superior court is entitled to appeal as a matter of right the issue of whether the sentence imposed:

- (1) Results from an incorrect finding of the defendant's prior record level under [N.C. Gen. Stat. §] 15A-1340.14 or the defendant's prior conviction level under [N.C. Gen. Stat. §] 15A-1340.21;
- (2) Contains a type of sentence disposition that is not authorized by [N.C. Gen. Stat. §] 15A-1340.17 or [N.C. Gen. Stat. §] 15A-1340.23 for the defendant's class of offense and prior record or conviction level; or
- (3) Contains a term of imprisonment that is for a duration not authorized by [N.C. Gen. Stat. §] 15A-1340.17 or [N.C. Gen. Stat. §] 15A-1340.23 for the defendant's class of offense and prior record or conviction level.

N.C. Gen. Stat. § 15A-1444(a2).

After independently examining the record within the confines of subsection 15A-1444(a2), we conclude Defendant's appeal is wholly frivolous. *See Anders*, 386 U.S. at 744, 87 S. Ct. at 1400, 18 L. Ed. 2d at 498; N.C. Gen. Stat. § 15A-1444(a2). Accordingly, we affirm.

AFFIRMED.

Judges COLLINS and WOOD concur.

Report per Rule 30(e).