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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-644

Filed 19 March 2024

Granville County, No. 19 CRS 51061

STATE OF NORTH CAROLINA

v.

MICHAEL MATTHEWS LEWIS

Appeal by defendant from judgment entered 8 August 2022 by Judge Josephine K. Davis in Granville County Superior Court. Heard in the Court of Appeals 5 March 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Brent D. Kiziah, for the State.

Sean P. Vitrano for defendant-appellant.

ZACHARY, Judge.

Defendant Michael Matthew Lewis appeals from the trial court's judgment in which he was sentenced for second-degree murder pursuant to his *Alford* plea.¹

¹ An *Alford* plea is a guilty plea in which the defendant does not admit to the criminal act, but admits that there is sufficient evidence to convince a trier of fact that he is guilty. *See North Carolina v. Alford*, 400 U.S. 25, 37, 27 L. Ed. 2d 162, 171 (1970).

Appellate counsel for Defendant filed an *Anders* brief, and Defendant filed a supplemental brief on his own behalf. After careful review, we conclude that the trial court did not err, and remand for the limited purpose of correcting certain clerical errors in the judgment.

Background

On 5 August 2019, a grand jury returned a true bill of indictment charging Defendant with one count of first-degree murder. On 26 July 2022, the State and Defendant executed a negotiated plea arrangement pursuant to which Defendant pleaded “guilty pursuant to *Alford*” to second-degree murder, with sentencing to be “determined by the court.” On 8 August 2022, the trial court entered judgment against Defendant for second-degree murder and sentenced him to 240 to 300 months in the custody of the North Carolina Division of Adult Correction. Defendant did not move to withdraw his *Alford* plea, but filed written notice of appeal from the judgment on 15 August 2022.

N.C. Gen. Stat. § 15A-1444 provides, in pertinent part: “Except as provided in subsections (a1) and (a2) . . . , and except when a motion to withdraw a plea of guilty or no contest has been denied, the defendant is not entitled to appellate review as a matter of right when he has entered a plea of guilty or no contest[.]” N.C. Gen. Stat. § 15A-1444(e) (2023). The defendant may instead “petition the appellate division for review by writ of certiorari.” *Id.*

On 13 November 2023, Defendant filed a petition for writ of certiorari requesting that this Court allow review of the judgment. In our discretion, we allow Defendant's petition for writ of certiorari in order to address the merits of his appeal. *See id.*

Anders Review

Defendant's counsel 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), stating that "[a]fter close examination of the record and the relevant law, counsel is unable to identify an issue with sufficient merit to support relief on appeal." Counsel asks this Court "to conduct an independent review of the record in accordance with *Anders* . . . to determine whether any prejudicial error occurred in the trial court proceedings" in case "counsel has overlooked a potentially meritorious issue[.]" Counsel also "advised [Defendant] of his right to file supplemental arguments on his own behalf" in accordance with *Anders* and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985). Defendant subsequently filed a supplemental *pro se* brief on his own behalf.

"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) (cleaned up). In this case, we have conducted a full examination of the record for any issues with arguable merit, including those Defendant raises in his *pro se* brief, as required by *Anders* and *Kinch*.

We are unable to find any error, and we conclude that this appeal presents no issue that might entitle Defendant to relief from the judgment.

Clerical Errors

Lastly, Defendant brings to this Court’s attention certain clerical errors in the judgment, which the State does not dispute. These include the misspelling of Defendant’s name;² a missing indication that Defendant entered his plea pursuant to *Alford*; an incorrect indication that Defendant’s “prior record points were ‘00,’ when in fact he had one prior record point from an impaired driving conviction”; and the erroneous checking of “the box for a Class B1 felony in the section relating to a sentence of life imprisonment without parole.” *See State v. Vorndran*, 272 N.C. App. 671, 677, 847 S.E.2d 423, 426 (2020) (“We realize that in the process of checking boxes on form orders, it is possible for the wrong box to be marked inadvertently, creating a clerical error which can be corrected upon remand.” (citation omitted)). In light of these clerical errors in the judgment, we remand to the trial court “for the limited purpose of correcting the clerical error[s]” as indicated herein. *Id.* (citation omitted).

Conclusion

Defendant received a fair trial, free from error. We remand to the trial court for the limited purpose of correcting the clerical errors in the judgment as indicated herein.

² Defendant states in his *pro se* supplemental brief to this Court that his “name is Michael Matthew Lewis not ‘Matthews’ ” as is indicated in the judgment entered by the trial court.

STATE V. LEWIS

Opinion of the Court

NO ERROR; REMANDED FOR CORRECTION OF CLERICAL ERRORS.

Judges WOOD and FLOOD concur.

Report per Rule 30(e).