

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-85

Filed 18 June 2024

Beaufort County, Nos. 20CRS51117-18 21CRS160 21CRS51040 22CRS50491

STATE OF NORTH CAROLINA

v.

JIMMIE SINCLAIR

Appeal by defendant from judgment entered 6 June 2022 by Judge William R. Pittman in Beaufort County Superior Court. Heard in the Court of Appeals 29 May 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Kyle Peterson, for the State.

Ryan Legal Services, PLLC, by John E. Ryan III, for the defendant-appellant.

PER CURIAM.

Jimmie Sinclair (“Defendant”) appeals from his criminal sentence as a level VI offender, which was entered pursuant to an *Alford* plea. We affirm.

I. Background

Defendant pled guilty, pursuant to *State v. Alford*, to three counts of manufacturing, selling, distributing, or possessing cocaine within one thousand feet

of a school, one count of manufacturing, selling, distributing, or possessing cocaine within one thousand feet of daycare center, and attaining habitual felon status.

An *Alford* plea allows a defendant to “voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence even if he was unwilling or unable to admit his participation in the acts constituting the crime.” *North Carolina v. Alford*, 400 U.S. 25, 37, 27 L. Ed. 2d 162, 171 (1970). A defendant enters into an *Alford* plea when he proclaims he is innocent, but “intelligently concludes that his interests require entry of a guilty plea and the record before the judge contains strong evidence of actual guilt.” *Id.*

State v. Crawford, 278 N.C. App. 104, 105, n.1, 861 S.E.2d 18, 21, n.1 (2021). N.C. Gen. Stat. § 15A-1022(c) requires, *inter alia*, “sufficient information in the Record to support an independent judicial determination of a factual basis for the plea.” *Id.* at 118-19, 861 S.E.2d at 29.

In accordance with N.C. Gen. Stat. § 14-7.6 (2023), all counts were consolidated into one judgment as a Class C level, and Defendant was sentenced within the presumptive range as a prior record level VI with 18 points at the lowest level to a minimum of 120 months and a maximum of 156 months imprisonment.

A prior panel of this Court granted Defendant’s petition for writ of *certiorari* on 24 April 2023.

II. *Anders* Brief

Counsel appointed to represent Defendant states he is unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal.

Counsel asks this Court to conduct its own review of the record for possible prejudicial error. Counsel identified purported miscalculations of several prior convictions in the record which may have resulted in Defendant's prior conviction level calculations to be a prior record level V, or at a calculation lower than 18 points for sentencing. Defendant's plea agreement indicates his agreement to a potential range of punishment, which coincides with Defendant being a habitual felon with a prior record level VI. *See* N.C. Gen. Stat. § 15A-1340.14(c) (2023).

Counsel has shown to the satisfaction of this Court that he has complied with the requirements of *Anders v. California*, 386 U.S. 738, 18 L. Ed.2d 493 (1967), and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), by advising Defendant of his right to file written arguments with this Court and providing him with the documents necessary to do so. Based upon our independent review of the record, Defendant's arguments have no merit.

III. Conclusion

In accordance with *Anders* and *Kinch*, we have fully examined the record to determine whether any issues related to the trial court's judgment exist. We are unable to find any prejudicial error and conclude Defendant's appeal is wholly frivolous. Defendant was properly sentenced as an habitual felon with a prior record level VI within the presumptive range as is consistent with his past convictions, and as he agreed. The trial court's order and judgment is affirmed. *It is so ordered.*

AFFIRMED.

STATE V. SINCLAIR

Opinion of the Court

Panel consisting of Judges TYSON, MURPHY, and CARPENTER

Report per Rule 30(e).