

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-231

Filed 3 September 2024

Pitt County, Nos. 22 CRS 1499, 1790

STATE OF NORTH CAROLINA

v.

LAKEVIOUS TYRRELL SMITH, Defendant.

Appeal by Defendant from judgment entered 12 June 2023 by Judge Jeffery B. Foster in Pitt County Superior Court. Heard in the Court of Appeals 19 August 2024.

*Attorney General Joshua H. Stein, by Assistant Attorney General Reginaldo E. Williams, Jr., for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Sterling Rozear, for Defendant.*

PER CURIAM.

Defendant Lakevious Tyrrell Smith appeals from a judgment entered upon a guilty plea. Defendant pled guilty to one count of possession of marijuana and one count of possession of marijuana with intent to sell or deliver. Defense counsel filed an *Anders* brief on behalf of Defendant, requesting this Court make an independent review of the record to determine if any meritorious issues exist.

STATE V. SMITH

*Opinion of the Court*

On 12 April 2020, an officer of the Greenville Police Department pulled over Defendant while he was driving. The officer determined Defendant was driving with a suspended license. When the officer approached his vehicle, Defendant admitted to having a marijuana blunt in his possession. Based on this admission, the officer conducted a search of the vehicle. The officer found eighty grams of marijuana in the vehicle, which Defendant claimed was for personal use. Defendant proceeded to inform the officer he occasionally sold marijuana.

On 23 March 2021, an officer from the Pitt County Sheriff's Office pulled Defendant over for a traffic stop. The license on the vehicle showed that it was suspended. Defendant was not wearing his seatbelt, and his vehicle smelled like marijuana. A K-9 walked around the car and alerted to the presence of an illegal substance. The officers searched the vehicle's console and found about thirty-two grams of marijuana.

On 12 September 2022, Defendant was indicted for two counts of possession with intent to sell or deliver marijuana, two counts of maintaining a vehicle for keeping and selling a controlled substance, and two counts of possession of marijuana paraphernalia. On 23 June 2023, Defendant pled guilty to one count of possession with the intent to sell or deliver marijuana and one count of possession of marijuana. In exchange for the guilty plea, the State dismissed the remaining charges. Defendant gave timely notice of appeal.

Defendant's counsel filed a brief asking this Court to conduct an independent

STATE V. SMITH

*Opinion of the Court*

review of the record to determine if any meritorious issues or reversible error exist. Defendant's counsel filed the 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). Defendant's counsel presented three potential issues: (1) whether the indictments were sufficient to confer jurisdiction on the trial court; (2) whether there was a sufficient factual basis for the plea; and (3) whether the trial court erred when sentencing Defendant.

Pursuant to *Anders* and *Kinch*, we conduct a full examination of the record to determine whether Defendant's appeal has merit or is wholly frivolous. *Anders*, 386 U.S. at 744; *see also Kinch*, 314 N.C. at 102–03, 331 S.E.2d at 667 (“Pursuant to *Anders*, this Court must now determine from a full examination of all the proceedings whether the appeal is wholly frivolous.” (internal citations omitted)). This Court will review the legal points in the record, briefs, and transcripts to determine if they are wholly frivolous, not to determine their merits. *Kinch*, 314 N.C. at 102–03, 331 S.E.2d at 667 (citing *Anders*, 386 U.S. at 744).

After conducting a full and independent review of the record, we hold that there are no meritorious issues. Therefore, we affirm the trial court's judgment.

AFFIRMED.

Panel consisting of Chief Judge DILLON, and Judges GORE and GRIFFIN.

Report per Rule 30(e).