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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-797

Filed 17 September 2024

Guilford County, No. 18 CRS 85724

STATE OF NORTH CAROLINA, Plaintiff

v.

SEAN DEANTE BRADSHAW, Defendant.

Appeal by Defendant from judgment entered 13 May 2022 by Judge Martin B. McGee in Guilford County Superior Court. Heard in the Court of Appeals 27 May 2024.

*Edward Eldred, for defendant-appellant.*

*Attorney General Joshua H. Stein, by Special Deputy Attorney General Kimberly D. Potter, for the State.*

STADING, Judge.

Defendant Sean Deante Bradshaw appeals from final judgment after he was convicted of second-degree murder following an Alford plea. After careful review, we dismiss Defendant's appeal as it raises no non-frivolous issues.

**I. Background**

On 26 November 2018, the State charged Defendant with first-degree murder

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for the shooting of one Letron Tyson. The matter was originally set for trial on 9 May 2022, but neither Defendant nor the State were able to subpoena the sole, critical eyewitness to testify—Ms. Courtney Edwards. Both parties attempted to serve subpoenas on Edwards but she “successfully avoided all attempts to complete service of a subpoena.” Consequently, a week before trial, the trial court issued an order to secure the attendance of Edwards under N.C. Gen. Stat. § 15A-803 (2023).

On 9 May 2022, the matter was scheduled to be heard but Edwards still was not present. As a result, Defendant moved for trial to be continued; the trial court held Defendant’s motion open, and court was recessed for the day. On the following day, Edwards’ appointed counsel informed the trial court that Edwards was in Georgia. The trial court told her counsel that Edwards needed to be present the next day or else she would be arrested. On 11 May 2022, Edwards still had not appeared at trial, so the trial court asked her counsel to “let her know that the Court is asking her to voluntarily [create and sign a written proffer of what her testimony would be] . . . with counsel.” That same day, Defendant was arraigned, to which he pled not guilty. On its own volition, the trial court raised the following issue: whether the State needed to wait an additional week before proceeding in light of Defendant’s indictment that day. The next day, the trial court concluded that the arraignment from the preceding day did not prevent trial from moving forward. The trial court also denied Defendant’s motion to continue from 9 May 2022 that was previously held open and jury selection commenced. Before jury selection was completed, the trial

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court recessed proceedings at the end of the day.

On 13 May 2022, Edwards finally appeared, stated that her proffer was complete per the court’s request, and her attorney delivered the proffer to the parties. Edwards proffered that on the night in question, she was assaulted by the victim—her fiancé at the time—inside her apartment. Following the assault, Edwards contacted Defendant, picked him up, and returned to her apartment. Later that night, the victim returned to the apartment and “punched the door open,” causing Edwards to fall and scream. Upon hearing the altercation, Defendant made his way to the door and saw the victim, who “raised his arms with his hands open” to indicate that he was unarmed. After two or three minutes of Defendant staring at the victim, he pulled out a firearm, shot the victim three times, and fled the apartment. Edwards told Defendant not to shoot the victim three times to no avail.

Thereafter, Defendant, pursuant to negotiations with the State, entered an Alford plea to second-degree murder with an active sentence of 219-275 months. Prior to entry of the plea, the trial court conducted a colloquy, and the State provided a factual basis in reaching the agreement with Defendant. Following the colloquy, Defendant’s Alford plea was accepted, and he was sentenced pursuant to its terms. Defendant filed a timely notice of appeal on 25 May 2022.

**II. Jurisdiction**

This court has jurisdiction to consider Defendant’s appeal under N.C. Gen. Stat. §§ 7A-27(b)(4) (2023), 15A-1444(a1) and (a2) (2023), and N.C. R. App. P. 4(a)(2).

### III. Analysis

In his *Anders* brief to this Court, counsel for Defendant was “unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal,” and as such, asks “this Court to conduct a full examination of the record for possible prejudicial error. . . .” Counsel for Defendant respectfully requests that this Court “allow[] [Defendant time] to raise any points that he chooses.” *Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 1400 (1967). For the reasons below, we dismiss Defendant’s appeal.

Pursuant to *Anders*,

if counsel finds his case to be wholly frivolous, after a conscientious examination of it, he should so advise the court and request permission to withdraw. That request must, however, be accompanied by a brief referring to anything in the record that might arguably support the appeal. A copy of counsel’s brief should be furnished the indigent and time allowed him to raise any points that he chooses; the court—not counsel—then proceeds, after a full examination of all the proceedings, to decide whether the case is wholly frivolous. If it so finds it may grant counsel’s request to withdraw and dismiss the appeal. . . .

*Id.* Here, Counsel for Defendant satisfied his *Anders* duties by providing Defendant with all relevant materials and notices. Thus, our determination rests upon whether “the appeal is wholly frivolous. In carrying out this duty, we will review the legal points appearing in the record, transcript, and briefs, not for the purpose of

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determining their merits (if any) but to determine whether they are wholly frivolous.” *State v. Kinch*, 314 N.C. 99, 102-03, 331 S.E.2d 665, 667 (1985) (citation omitted); *see State v. Frink*, 177 N.C. App. 144, 145, 627 S.E.2d 472, 473 (2006).

We have conducted a full and thorough examination of the record for any issues with arguable merit, including both those raised by Defendant’s *pro se* brief and his counsel, in compliance with *Anders* and *Kinch*. We first note that within Defendant’s appeal we are unable to discern any credible arguments pursuant to N.C. Gen. Stat. § 15A-1444(a1) and (a2) (2023). Defendant’s *pro se* brief attempts to raise one argument for our consideration: whether he received effective assistance of counsel at trial. However, “claims of ineffective assistance of counsel should be considered through motions for appropriate relief and not on direct appeal.” *State v. Stroud*, 147 N.C. App. 549, 553, 557 S.E.2d 544, 547 (2001); *see State v. Dockery*, 78 N.C. App. 190, 192, 336 S.E.2d 719, 721 (1985) (“The accepted practice is to raise claims of ineffective assistance of counsel in post-conviction proceedings, rather than direct appeal”); *see also State v. Ware*, 125 N.C. App. 695, 697, 482 S.E.2d 14, 16 (1997) (“To properly advance [defendant’s ineffective assistance of counsel] arguments, defendant must move for appropriate relief. . . .”). Accordingly, Defendant’s argument is dismissed. *Kinch*, 314 N.C. at 102-03, 331 S.E.2d at 667 (citation omitted).

**IV. Conclusion**

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In accordance with *Anders* and *Kinch*, we have conducted a thorough examination of the record for any issue of arguable merit. After careful consideration, we are unable to find any error, and thus conclude that Defendant's appeal presents no non-frivolous issues. We therefore dismiss Defendant's appeal.

DISMISSED.

Judges CARPENTER and COLLINS concur.

Report per Rule 30(e).