

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-607

Filed 5 November 2024

Nash County, No. 21CRS052382

STATE OF NORTH CAROLINA

v.

DARIUS JEMAL DANZY

Appeal by defendant from judgment entered 25 April 2023 by Judge Brenda G. Branch in Nash County Superior Court. Heard in the Court of Appeals 27 September 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General, Raymond W. Goodwin, for the State.

Darren Jackson, for the defendant-appellant.

PER CURIAM.

Darius Jemal Danzy (“Defendant”) appeals from a judgment entered upon his plea of guilty to fleeing to elude arrest. We dismiss Defendant’s appeal.

I. Background

Defendant entered an *Alford* plea to a misdemeanor charge of fleeing to elude arrest pursuant to a plea agreement in exchange for the State agreeing to dismiss a

felony charge of felony fleeing to elude arrest. Defendant was sentenced to 45 days, with credit given for time served, the remaining sentence was suspended, and Defendant was placed on 6 months' probation. Defendant filed a *pro se* written notice of appeal in the trial court 1 May 2023.

II. *Anders Brief*

Counsel appointed to represent Defendant on appeal “is unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal” and asks this Court to conduct its own review of the record for possible prejudicial error. Counsel has shown to the satisfaction of this Court that counsel 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 to him the documents necessary to do so.

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 G.S. 15A-1340.14 or the defendant's prior conviction level under G.S. 15A-1340.21;
- (2) Contains a type of sentence disposition that is not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level; or

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(3) Contains a term of imprisonment that is for a duration not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level.

N.C. Gen. Stat. § 15A-1444(a2) (2023).

The State contends the record on appeal is complete and free of prejudicial errors. Our review of the record on appeal confirms Defendant's prior record level calculation was correct, and his sentence falls within the presumptive range for a record level I for a Class 1 misdemeanor. *See* N.C. Gen. Stat. § 15A-1340.17 (2023).

Defendant has filed a *pro se* brief with this Court. Based on our independent review of the record, his arguments have no merit. Defendant signed and acknowledged his transcript of his plea. Defendant stipulated to his prior record and was informed of the maximum punishment he was facing from his *Alford* plea. Defendant received a sentence in the presumptive range authorized for class 1 misdemeanors with a prior record level I. *See* N.C. Gen. Stat. § 15A-1340.23 (2023).

Defendant's *pro se* arguments appear to challenge the factual basis for his *Alford* plea and the trial court's acceptance of his guilty plea as knowing and voluntary. Defendant's arguments do not pertain to the issues from which Defendant has an appeal of right under N.C. Gen. Stat. § 15A-1444(a2) and are not cognizable by this Court on his direct appeal. "Defendant may seek relief by filing a motion for appropriate relief with the trial court." *State v. Baker*, 263 N.C. App. 593, 822 S.E.2d 328, 2019 WL 190166, *1 (2019) (unpublished). "If 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) (citation omitted).

III. Conclusion

We have fully examined the record to determine whether any issues of arguable merit appear therefrom in accordance with *Anders* and *Kinch*. *Anders*, 386 U.S. 738, 18 L. Ed. 2d 493; *Kinch*, 314 N.C. 99, 331 S.E.2d 665. We discern no prejudicial errors and conclude the appeal is wholly frivolous. Defendant’s appeal is dismissed. *It is so ordered.*

DISMISSED.

Panel consisting of Judges STROUD, TYSON, and WOOD.

Report per Rule 30(e).