

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-860

Filed 19 February 2025

Catawba County, No. 23CRS209515

STATE OF NORTH CAROLINA

v.

DAVID ALLEN NOBLITT

Appeal by Defendant from judgment entered 21 March 2024 by Judge Daniel A. Kuehnert in Catawba County Superior Court. Heard in the Court of Appeals 4 February 2025.

*Attorney General Jeff Jackson, by Assistant Attorney General Madison Beveridge, for the State-Appellee.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Katy Dickinson-Schultz, for the Defendant-Appellant.*

PER CURIAM.

Defendant David Allen Noblitt appeals from judgment revoking his probation. He asks this Court to conduct an independent review of the record in accordance with *Anders v. California*, 386 U.S. 738 (1967), to determine whether prejudicial error

occurred during his probation revocation hearing. We find no non-frivolous issue and dismiss the appeal.

### **I. Background**

On 16 August 2023, Defendant pled guilty to three charges: assault with a deadly weapon with intent to cause serious injury, injury to real property, and resisting a public officer. The trial court consolidated the charges and sentenced him to 25 to 45 months in prison, suspended for 36 months of supervised probation. On 22 November 2023, a violation report was filed, alleging that Defendant had committed a new crime—simple assault—while on probation.

At the hearing on the violation report, Defendant testified that on the day of the assault, he had asked his father to buy him a drink, and his father bought him a 20-ounce Sun Drop. After drinking it, Defendant became ill. Suspecting his mother of poisoning him, Defendant called 9-1-1. While on the phone, Defendant’s father was screaming in his face and tried to kick him. Defendant admitted that he grabbed his father’s legs, but claimed it was in self-defense. The State informed the trial court that Defendant’s parents were generally concerned for his mental health, and that Defendant had previously assaulted and “severely injured” a neighbor with a baseball bat.

The trial court found that an assault took place and that it was “reasonably satisfied under the law that [Defendant] violated probation and that he committed

an offense.” As a result, the trial court activated Defendant’s sentence of 25 to 45 months’ imprisonment.

## II. Analysis

Defendant’s counsel is “unable to identify an issue with sufficient merit to support a meaningful argument for relief on appeal” and asks that this Court conduct its own review of the record for possible prejudicial error. Counsel has shown to the satisfaction of this Court that he has complied with the requirements of *Anders*, 386 U.S. 738, and *State v. Kinch*, 314 N.C. 99 (1985), by advising Defendant of his right to file written arguments with this Court and providing him with the documents necessary for him to do so.

We need not conduct *Anders* review of post-conviction proceedings. *See Pennsylvania v. Finley*, 481 U.S. 551 (1987); *see also Gagnon v. Scarpelli*, 411 U.S. 778 (1973) and *State v. Coltrane*, 307 N.C. 511 (1983). Nonetheless, in our discretion, we have conducted an independent review of the record. Based on our review, we are unable to discern any non-frivolous issue and accordingly dismiss the appeal. *See Kinch*, 314 N.C. at 106 (“Upon our examination of all of the proceedings, we hold the appeal to be wholly frivolous and subject to dismissal.”).

DISMISSED.

Panel consisting of: Judges COLLINS, GRIFFIN, and MURRY.

Report per Rule 30(e).