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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-517

Filed 5 March 2025

Randolph County, Nos. 20CRS052256, 20CRS052292

STATE OF NORTH CAROLINA

v.

MICAH DEONTRE SMITH

Appeal by defendant from judgments entered 18 September 2023 by Judge Keith O. Gregory in Randolph County Superior Court. Heard in the Court of Appeals 11 February 2025.

Attorney General Jeff Jackson, by Deputy General Counsel Daniel P. Mosteller, for the State.

Christopher J. Heaney for defendant-appellant.

ZACHARY, Judge.

Defendant Micah Deontre Smith appeals from the trial court's judgments entered upon a jury's verdicts finding him guilty of one count of first-degree murder and one count of possession of a firearm by a felon. Counsel for Defendant filed an *Anders* brief on appeal. After careful review, we conclude that Defendant received a fair trial, free from error, but remand for the limited purpose of correcting a clerical

error in the prior record level worksheet and the judgment entered in file number 20CRS052292.

Background

On 6 July 2020, a Randolph County grand jury indicted Defendant for first-degree murder and possession of a firearm by a felon. After Defendant's first trial resulted in a mistrial due to a hung jury, Defendant's case came on for retrial on 11 September 2023 in Randolph County Superior Court. On 18 September 2023, the jury returned verdicts finding Defendant guilty of both charges.

That same day, the trial court entered judgments against Defendant. The court sentenced Defendant to life imprisonment without the possibility of parole in the custody of the North Carolina Department of Adult Correction for his conviction of first-degree murder and a consecutive term of 19 to 32 months' imprisonment for his conviction of possession of a firearm by a felon.

Defendant gave oral notice of appeal.

Anders Review

On appeal, Defendant's counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493, *reh'g denied*, 388 U.S. 924, 18 L. Ed. 2d 1377 (1967). Counsel "cannot identify any issue with sufficient merit to support a meaningful argument for relief on appeal." Hence, counsel has requested "that this Court conduct a full examination of the record for prejudicial error and determine if any non-frivolous issue has been overlooked." Counsel has shown to the satisfaction of this

Court that he has complied with the requirements of *Anders* and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), by advising Defendant of his right to file his own written arguments with this Court and providing him with the documents necessary to do so.

Defendant has not filed any written arguments on his own behalf with this Court, and a reasonable time in which he could have done so has passed. In his *Anders* brief, Defendant's counsel raised two potential issues for our consideration, neither of which have merit, based on our careful review of the record. Defendant is thus not entitled to relief on these bases.

"Under our review pursuant to *Anders* and *Kinch*, we must determine from a full examination of all the proceedings whether the appeal is wholly frivolous." *State v. Frink*, 177 N.C. App. 144, 145, 627 S.E.2d 472, 473 (2006) (cleaned up). As required by *Anders* and *Kinch*, we have conducted a full examination of the record for any issue with arguable merit. We have been unable to find any error in the proceedings, and we conclude that this appeal presents no issue that might entitle Defendant to relief. Nevertheless, we remand for correction of a clerical error in the record.

Clerical Error

Lastly, we note a clerical error in the calculation of Defendant's prior record level. In calculating Defendant's prior record level, Defendant was assigned two total points—rather than two points per conviction, for a total of four points—for his two prior felony Class H or I convictions. *See* N.C. Gen. Stat. § 15A-1340.14(b)(4) (2023)

(directing sentencing courts to assign two points to the defendant's prior record level for each prior felony Class H or I conviction). Accordingly, Defendant should have been assigned 12 total prior record level points for sentencing purposes instead of 10. Importantly, the trial court's error did not affect Defendant's sentence, as he would have been a Level IV felony offender whether he received 10 points or the appropriate 12 points. However, even though Defendant remains a Level IV felony offender, the prior record level worksheet and the judgment entered in file number 20CRS052292 reflect a clerical error—a miscalculation of Defendant's prior record level. *See State v. Everett*, 237 N.C. App. 35, 44, 764 S.E.2d 634, 640 (2014) ("When, on appeal, a clerical error is discovered in the trial court's judgment or order, it is appropriate to remand the case to the trial court for correction because of the importance that the record speak the truth." (citation omitted)). In light of the clerical error in the prior record level worksheet and the judgment entered in file number 20CRS052292, we remand to the trial court for the limited purpose of correcting the clerical error as indicated herein.

Conclusion

"For the reasons stated above, we conclude that Defendant received a fair trial free from error, but remand for correction of the clerical error found in his prior record level worksheet" and the judgment entered in file number 20CRS052292. *Id.*

NO ERROR IN PART; REMANDED FOR CORRECTION OF A CLERICAL ERROR.

STATE V. SMITH

Opinion of the Court

Judges CARPENTER and MURRY concur.

Report per Rule 30(e).