

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

NO. COA01-1011

NORTH CAROLINA COURT OF APPEALS

Filed: 16 July 2002

STATE OF NORTH CAROLINA

v.

DARWIN VERNELL CHRISTIAN

Forsyth County
No. 00 CRS 52665
01 CRS 3848

Appeal by defendant from judgment entered 10 April 2001 by Judge Howard R. Greeson, Jr. in Forsyth County Superior Court. Heard in the Court of Appeals 24 June 2002.

Attorney General Roy A. Cooper, by Assistant Attorney General, Hilda Burnett-Baker, for the State.

Rebekah L. Randolph for defendant-appellant.

TIMMONS-GOODSON, Judge.

On 27 February 2001, a jury found defendant guilty of attempted armed robbery. Defendant subsequently pled no contest to attaining habitual felon status pursuant to a plea agreement. After finding one mitigating factor and no aggravating factor, the trial court found the factors in mitigation outweighed the factors in aggravation. The trial court sentenced defendant to 120 to 153 months imprisonment, which is within the mitigating range of a Class C felony with a prior record level of VI. Defendant appeals the underlying attempted armed robbery conviction.

Defendant's counsel states that she is unable to find errors

allowing appeal, and asks this Court to review the record for possible prejudicial error.

Counsel has shown to the satisfaction of this Court that he has complied with the requirements of *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), 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 him with documents necessary for him 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 accordance with *Anders*, we must fully examine the record to determine whether any issues of arguable merit appear therefrom or whether the appeal is wholly frivolous. We conclude the appeal is wholly frivolous. In reaching this conclusion, we have conducted our own examination of the record for possible prejudicial error and have found none.

We hold defendant had a fair trial, free from prejudicial error.

No error.

Chief Judge EAGLES and Judge MCCULLOUGH concur.

Report per Rule 30(e).