

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA01-798

NORTH CAROLINA COURT OF APPEALS

Filed: 16 July 2002

STATE OF NORTH CAROLINA

v.

COREY DONNELL WHITE

Gaston County
Nos. 97 CRS 22156,
24483, 24489

Appeal by defendant from judgments entered 29 June 1999 by Judge Marvin K. Gray in Gaston County Superior Court. Heard in the Court of Appeals 24 June 2002.

Attorney General Roy Cooper, by Special Deputy Attorney General Richard E. Slipsky, for the State.

David Childers for defendant-appellant.

TIMMONS-GOODSON, Judge.

Corey Donnell White ("defendant") was convicted of two counts of robbery with a dangerous weapon and one count of second degree kidnapping. Defendant was sentenced to consecutive terms of 117 to 150 months imprisonment for each robbery conviction, and sentenced to a concurrent term of forty-six to sixty-five months imprisonment for kidnapping charge. Defendant appeals.

Counsel appointed to represent defendant has been unable to identify any 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 also 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 the 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 have fully examined the record to determine whether any issues of arguable merit appear therefrom.

Although we find no error necessitating reversal or a new trial, our review of the record has disclosed an error in the judgment and commitment forms. Defendant was found to have 14 prior record level points, for a prior record level of IV. The judgments also reflect that defendant had 14 prior record level points. However, the judgments erroneously categorize defendant as having a prior record level of V. We are unable to say with certainty whether these errors are mere clerical errors, and whether defendant was sentenced correctly as a Level IV felon, or incorrectly as a Level V felon, because defendant's sentences were within the presumptive range for both levels. Accordingly, we remand the matter for determination of whether the trial court sentenced defendant erroneously as a Level V felon, or whether there is simply a clerical error in the judgments, and for

correction of these errors in the judgments.

Other than the errors relating to defendant's prior record level, we have been unable to find any possible prejudicial error and conclude that the appeal is wholly frivolous.

No error; remanded for correction of clerical errors.

Chief Judge EAGLES and Judge McCullough concur .

Report per Rule 30(e).