

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA01-941

NORTH CAROLINA COURT OF APPEALS

Filed: 7 May 2002

STATE OF NORTH CAROLINA

v.

Cumberland County
Nos. 00 CRS 4713-14
00 CRS 53981-83
00 CRS 54478-82
00 CRS 55326

ANTHONY C. COVINGTON

Appeal by defendant from judgments entered 15 March 2001 by Judge Wiley F. Bowen in Cumberland County Superior Court. Heard in the Court of Appeals 8 April 2002.

Attorney General Roy Cooper, by Assistant Attorney General Kathleen U. Baldwin, for the State.

Sherry Miller for defendant-appellant.

TYSON, Judge.

Anthony C. Covington ("defendant") pled guilty to eight counts of robbery with a dangerous weapon, five counts of common law robbery, five counts of second degree kidnapping, and one count each of forgery, uttering a forged instrument, attempted common law robbery, and conspiracy to commit robbery with a dangerous weapon. The court entered judgments imposing seven consecutive terms of imprisonment of a minimum of ninety-four months and a maximum of 122 months each.

Defendant's appointed counsel has filed a brief on defendant's

behalf in which she states that she "has been unable to identify any specific matters upon which she believes relief may be granted to the Defendant in this matter." She requests this Court to conduct a full examination of the record on appeal for possible prejudicial error overlooked by counsel. In accordance with *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), counsel submitted the brief to provide assistance to the Court in conducting its review. Counsel has also mailed copies of the record on appeal, briefs and the transcript to defendant and a letter informing defendant of her inability to find error and of his right to file his own written arguments directly with this Court.

In response to counsel's letter, defendant has filed a handwritten document in which he contends that he entered the plea because he was told by his lawyer that he would receive a sentence of 117 to 150 months and not more than nine to twelve years. He contends that he was denied effective assistance of counsel.

By pleading guilty and receiving a sentence within the presumptive term, defendant is limited to raising three issues on appeal: (1) whether defendant's sentence results from an incorrect finding of defendant's prior record level or defendant's prior conviction level; (2) whether the sentence contains an unauthorized disposition; and (3) whether the sentence contains a term of imprisonment not authorized for defendant's class of offense and prior record or conviction level. N.C. Gen. Stat. § 15A-1444(a2)

(1999). We have examined all of defendant's sentences for any of these three possible errors and have not found any to support an appeal.

We do not address the merits of defendant's claim of ineffective assistance of counsel because such claim is more appropriately made by a motion for appropriate relief filed in the trial court division pursuant to N.C. Gen. Stat. § 15A-1415 and N.C. Gen. Stat. § 15A-1420 (1999). See, e.g., *State v. House*, 340 N.C. 187, 196-97, 456 S.E.2d 292, 297 (1995); *State v. Ware*, 125 N.C. App. 695, 696, 482 S.E.2d 14, 16 (1997); *State v. Waters*, 122 N.C. App. 504, 505, 470 S.E.2d 545, 546 (1996). Defendant may file such motion, supported by affidavits and other documentary evidence to support his claim, in the trial court. Upon the filing of the motion, the trial court will take appropriate action in deciding the motion.

We are unable to find any possible prejudicial error to support a meaningful appeal. This appeal is dismissed.

Dismissed.

Judges GREENE and HUDSON concur.

Report per Rule 30(e).