

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA11-676
NORTH CAROLINA COURT OF APPEALS

Filed: 20 December 2011

STATE OF NORTH CAROLINA

v.

Gaston County
Nos. 10 CRS 62633, 19045

HERMAN V. TATE

Appeal by defendant from judgment entered 16 February 2011 by Judge Linwood O. Foust in Gaston County Superior Court. Heard in the Court of Appeals 28 November 2011.

Attorney General Roy Cooper, by Assistant Attorney General Amy Kunstling Irene, for the State.

William D. Auman for defendant.

ELMORE, Judge.

Herman V. Tate (defendant) pursuant to a plea agreement, pled guilty to common law robbery and having attained habitual felon status. The trial court sentenced defendant in the mitigated range to a term of sixty-six to eighty-nine months imprisonment. Defendant now appeals.

Counsel appointed to represent defendant on appeal has filed an *Anders* brief indicating that he is "unable to identify

an issue with sufficient merit to support a meaningful argument for relief on appeal." He asks this Court to conduct its own review of the record for possible prejudicial error. Counsel has filed documentation with the Court showing that he has complied with the requirements of *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493 (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 the Court and providing him with a copy of the documents pertinent to his appeal. Defendant has filed no additional arguments of his own with this Court, and a reasonable time for such arguments has passed.

In accordance with *Anders*, we have fully examined the record to determine whether any issues of arguable merit appear therefrom and whether the appeal is wholly frivolous. We find no possible prejudicial error and therefore dismiss the appeal as frivolous.

Dismissed.

Judges McGEE and McCULLOUGH concur.

Report per Rule 30(e).