

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1054

Filed 7 May 2024

Pitt County, No. 22 CRS 265533

STATE OF NORTH CAROLINA

v.

CLINTON JACKSON III, Defendant.

Appeal by Defendant from judgment entered 9 March 2023 by Judge Marvin K. Blount, III, in Pitt County Superior Court. Heard in the Court of Appeals 16 April 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General J. Joy Strickland, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Anne M. Gomez, for Defendant.

GRIFFIN, Judge.

Defendant Clinton Jackson, III, appeals from the trial court's judgment entered upon his *Alford* plea to felony breaking or entering and taking indecent liberties with a child. Defense counsel filed an *Anders* brief on behalf of Defendant, and "respectfully requests that this Court conduct an independent examination of the

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record for any prejudicial error.”

Around 4:00 or 5:00 a.m. on the morning of 10 August 2022, a twelve-year-old female named Amanda¹ was sleeping in her mother’s apartment when she awoke to someone grabbing her breasts. She felt a man’s “penis up against her side” as he “humped her over her clothes.” The man fled when Amanda woke up and screamed for her mother. Amanda’s mother saw the man and recognized him as someone she had met at a gas station and who had been seen “hanging around the complex.” Amanda’s sister and mother found Defendant’s account and postings on Instagram and identified him as the man who was in their apartment. Amanda’s mother identified Defendant again during a photo lineup at the police department.

A grand jury indicted Defendant for first-degree burglary, first-degree kidnapping, and taking indecent liberties with a child. Defendant entered an *Alford* plea to the lesser-included offense of felony breaking and entering and taking indecent liberties with a child. The trial court dismissed the kidnapping charge.

The trial court entered judgment on Defendant’s *Alford* plea and consolidated his charges. The court sentenced Defendant to 19 to 32 months imprisonment, then suspended the sentence and imposed 24 months of supervised probation instead. The court also ordered Defendant to register as a sex offender for 30 years. Defendant timely appeals.

¹ We use a pseudonym to protect the identity of the juvenile and for ease of reading. See N.C. R. App. P. 42(b).

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Defendant's counsel filed a brief on appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985). Though counsel was "unable to identify any issue with sufficient merit to support an argument for relief on appeal," "counsel respectfully requests that this Court conduct an examination of the record for prejudicial error." Counsel has shown to the satisfaction of this Court that she has complied with the requirements of *Anders* and *Kinch* by advising Defendant of his right to file written arguments with this Court and providing him with the documents necessary to do so.

Defendant's counsel refers this Court to the following issues which may support Defendant's appeal: (1) whether Defendant's prior record level was correctly calculated and the following sentence properly imposed; (2) whether Defendant's indictment sufficiently alleged each element of his charges; and (3) whether the trial court erred by requiring Defendant to register as a sex offender.

Pursuant to *Anders* and *Kinch*, we are tasked to independently examine the entire proceedings to determine whether Defendant's appeal is wholly frivolous. *Anders*, 386 U.S. at 744; *see also Kinch*, 314 N.C. at 102–03, 331 S.E.2d at 667 ("[W]e [] review the legal points appearing in the record, transcript, and briefs, not for the purpose of determining their merits (if any) but to determine whether they are wholly frivolous." (citation omitted)). After conducting a full and independent examination of the record, including the potential issues presented by Defendant's counsel, we hold the record contains no meritorious issue which would entitle Defendant to relief.

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NO ERROR.

Chief Judge DILLON and Judge TYSON concur.

Report per Rule 30(e).