

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA01-855

NORTH CAROLINA COURT OF APPEALS

Filed: 2 April 2002

STATE OF NORTH CAROLINA

v.

Northampton County
No. 96 CRS 2203

EARL LEON BROADY

Appeal by defendant from judgment dated 2 January 2001 by Judge Frank R. Brown in Northampton County Superior Court. Heard in the Court of Appeals 26 March 2002.

Attorney General Roy Cooper, by Assistant Attorney General Lisa K. Bradley, for the State.

Monique N. Skinner for defendant-appellant.

GREENE, Judge.

Earl Leon Broady (Defendant) appeals a judgment dated 2 January 2001 revoking Defendant's probation and entering an active sentence on his 8 January 1997 guilty plea to assault with a deadly weapon inflicting serious injury.

On 8 January 1997 pursuant to a plea agreement, Defendant pled guilty to assault with a deadly weapon inflicting serious injury. Defendant was given a suspended sentence of twenty-four to thirty-eight months and placed on supervised probation. Pursuant to the trial court's judgment suspending sentence, Defendant was placed on supervised probation for forty-eight months and ordered to pay

\$1,219.74 in attorney's fees and restitution. As conditions to Defendant's probation, he was ordered to: refrain from using, possessing, or controlling any illegal drug or controlled substance; submit at reasonable times to warrantless searches; and not violate any North Carolina laws carrying a sentence of more than forty-five days. On 10 August 2000, a probation violation report was filed alleging Defendant was in arrears of the monetary conditions of his probation, had tested positive for cocaine, and had been arrested for assault with a deadly weapon. Following a hearing, the trial court found Defendant had willfully violated the conditions of his probation as set forth in the violation report. The trial court revoked Defendant's probation and activated his prison sentence.

Counsel for Defendant has been unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal. Counsel asks that this Court conduct its own review of the record for possible prejudicial error.

The issue is whether the record reveals any issues of arguable merit in Defendant's appeal or whether the appeal is wholly frivolous.

Where a defendant's counsel is unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal, counsel may file an *Anders* brief asking this Court to conduct its own review of the record for possible prejudicial error. *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493

(1967); *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985).

In this case, 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 has not filed any written arguments on his own behalf with this Court and a reasonable time for him to have done so has passed. The State asserts the record is complete and free from prejudicial error.

In accordance with *Anders*, we have fully examined the record to determine whether any issues of arguable merit appear therefrom or whether the appeal is wholly frivolous. We have been unable to find any possible prejudicial error and conclude Defendant's appeal is wholly frivolous.

No error.

Judges HUDSON and TYSON concur.

Report per Rule 30(e).