NO. COA03-1694

NORTH CAROLINA COURT OF APPEALS

Filed: 21 December 2004

STATE OF NORTH CAROLINA

    v.

WALKER JOHNSON, III

Cumberland County
No. 02 CRS 53465

Appeal by Defendant from judgment entered 4 September 2003 by Judge James Floyd Ammons, Jr. in Superior Court, Cumberland County. Heard in the Court of Appeals 21 September 2004.

> *Roy Cooper, Attorney General, by Marc Bernstein, Assistant Attorney General, for the State.*
>
> *Samuel L. Bridges, for defendant-appellant.*

WYNN, Judge.

Defendant Walker Johnson, III appeals from his conviction of felony possession of cocaine. Defendant asserts that the trial court erred in allowing possession of cocaine to go to the jury as a felony, contending that the offense is instead a misdemeanor. Defendant bases this assertion on *State v. Jones*, 161 N.C. App. 60, 588 S.E.2d 5 (2003), and *State v. Sneed*, 161 N.C. App. 331, 588 S.E.2d 74 (2003). Consequently, Defendant contends that the trial court lacked jurisdiction to sentence Defendant as an habitual felon pursuant to a conviction of felonious possession of cocaine. We disagree.

Both *Jones* and *Sneed* were unambiguously overruled by our Supreme Court, which held that "possession of cocaine is a felony and therefore can serve as an underlying felony to an habitual felon indictment." *State v. Jones*, 358 N.C. 473, 476, 598 S.E.2d 125, 127 (2004); *State v. Sneed*, 358 N.C. 538, 599 S.E.2d 365 (2004). Defendant has failed to present supporting arguments for his other assignments of error; they are therefore deemed abandoned. N.C. R. App. P. 28(a); *State v. Prevatte*, 356 N.C. 178, 214, 570 S.E.2d 440, 460 (2002).

For the foregoing reasons, we affirm the trial court's judgment and dismiss the instant appeal.

Affirmed.

Judges HUNTER and THORNBURG concur.

Report per Rule 30(e).