

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA04-158

NORTH CAROLINA COURT OF APPEALS

Filed: 19 October 2004

STATE OF NORTH CAROLINA

v.

Craven County  
No. 02 CrS 57660

COREY LOPEZ JOHNSON

Appeal by defendant from judgment entered 14 July 2003 by Judge Benjamin G. Alford in Craven County Superior Court. Heard in the Court of Appeals 18 October 2004.

*Attorney General Roy Cooper, by Assistant Attorney General Lisa Granberry Corbett, for the State.*

*Adrian M. Lapas for defendant-appellant.*

LEVINSON, Judge.

Defendant pled guilty on 14 July 2003 to felony breaking and entering a motor vehicle and to habitual felon status. The plea agreement provided for sentencing within the presumptive range as a Class C offense, Level IV offender. The trial court sentenced defendant within the presumptive range to a minimum term of 126 months and a maximum term of 161 months.

Defendant requests this Court 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) to review the record for possible prejudicial

error. Counsel has complied with the notification and briefing requirements of those cases. Defendant has not filed his own written arguments.

"In North Carolina, a defendant's right to appeal in a criminal proceeding is purely a creation of state statute." *State v. Pimental*, 153 N.C. App. 69, 72, 568 S.E.2d 867, 869, *disc. review denied*, 356 N.C. 442, 573 S.E.2d 163 (2002). A defendant who pleads guilty or no contest to a crime may appeal and present only the following issues: (1) whether the sentence is supported by the evidence but only if the minimum term of imprisonment does not fall within the presumptive range; (2) whether the sentence results from an incorrect finding of the defendant's prior record level under N.C.G.S. § 15A-1340.14 or the defendant's prior conviction level under N.C.G.S. § 15A-1340.21; (3) whether the sentence contains a type of sentence disposition that is not authorized by N.C.G.S. § 15A-1340.17 or N.C.G.S. § 15A-1340.23 for the defendant's class of offense and prior record or conviction level; (4) whether the sentence contains a term of imprisonment that is for a duration not authorized by N.C.G.S. § 15A-1340.17 or N.C.G.S. § 15A-1340.23 for the defendant's class of offense and prior record or conviction level; (5) whether the trial court improperly denied defendant's motion to suppress; and (6) whether the trial court improperly denied defendant's motion to withdraw his guilty plea. *State v. Jamerson*, 161 N.C. App. 527, 528-29, 588 S.E.2d 545, 546-47 (2003). Only issues (2), (3) and (4) are applicable in the case at bar.

We have reviewed the record for possible error arising out of these appealable issues. We conclude the prior record level is correctly determined, the sentence disposition is valid, and the sentence duration is authorized.

No error.

Judges TIMMONS-GOODSON and CALABRIA concur.

Report per Rule 30(e).