

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA05-1220

NORTH CAROLINA COURT OF APPEALS

Filed: 6 June 2006

STATE OF NORTH CAROLINA

v.

Craven County
No. 04CRS055726

DEWAN MAXWELL

Appeal by defendant from judgment entered 30 March 2005 by Judge J. Richard Parker in Craven County Superior Court. Heard in the Court of Appeals 8 May 2006.

Attorney General Roy A. Cooper, III, by Assistant Attorney General Thomas H. Moore, for the State.

Adrian M. Lapas for defendant-appellant.

HUNTER, Judge.

A jury found defendant guilty of malicious conduct by a prisoner, upon evidence that he spat upon the face of Edward James Foulks, a correctional officer with the North Carolina Department of Correction, while incarcerated in the Segregation Unit at Craven Correctional Institution on 24 October 2004. The trial court sentenced defendant to an active prison term of twenty-one to twenty-six months. Defendant gave notice of appeal in open court.

Counsel appointed to represent defendant has been unable to identify any issue with sufficient merit to support a meaningful

argument for relief on appeal. He asks that this Court conduct its own review of the record for possible prejudicial error. Counsel has shown to the satisfaction of this Court 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 this Court and providing him with the documents necessary to do so. Defendant has not filed any written arguments, and a reasonable time for him to have done so has passed.

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

No error.

Judges WYNN and McGEE concur.

Report per Rule 30(e).