

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA05-1678

NORTH CAROLINA COURT OF APPEALS

Filed: 05 July 2006

STATE OF NORTH CAROLINA

v.

Pender County  
No. 05 CRS 4711

DANIEL FENNELL

Appeal by defendant from judgment entered 7 November 2005 by Judge Jay D. Hockenbury in Pender County Superior Court. Heard in the Court of Appeals 19 June 2006.

*Attorney General Roy Cooper, by Assistant Attorney General Kathleen U. Baldwin, for the State.*

*James M. Bell for defendant-appellant.*

STEELMAN, Judge.

On 26 May 2005, defendant pled guilty to felony possession of cocaine in New Hanover County District Court. The trial court entered judgment suspending defendant's sentence of a minimum term of eight months and maximum term of ten months imprisonment and placed defendant on supervised probation for thirty-six months. Defendant's supervision was transferred to Pender County. In October and November of 2005, defendant's probation officer filed probation violation reports alleging that defendant had violated his probation by: (1) testing positive for both cocaine and

marijuana; (2) failing to notify his probation officer that he moved from his residence; (3) being in arrears on his supervision and court fees; and (4) failing to report to "TASC or CDTEG since admission date[.]" After defendant executed a written waiver of counsel form, defendant appeared *pro se* at the probation violation hearing and admitted to testing positive for cocaine and marijuana and being behind in his monetary payments. On 7 November 2005 the trial court found defendant willfully violated his probation and activated his suspended sentence. Defendant appeals.

Defendant's counsel states that after careful review of the record, he was "unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal." He asks this Court to examine 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, *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), by advising defendant of his right to file written arguments with this Court and providing him with documents necessary for him to do so. Defendant has not filed any written arguments on his own behalf with this Court, and a reasonable time in which he could have done so has passed.

In accordance with *Anders*, we must fully examine the record to determine whether any issues of arguable merit appear therefrom or whether the appeal is wholly frivolous. We conclude the appeal is wholly frivolous. In reaching this conclusion, we have conducted

our own examination of the record for possible prejudicial error and have found none. The judgment of the trial court is, therefore, affirmed.

AFFIRMED.

Judges McCULLOUGH and HUDSON concur.

Report per Rule 30(e).