

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA06-115

NORTH CAROLINA COURT OF APPEALS

Filed: 5 September 2006

STATE OF NORTH CAROLINA

v.

MARK ALAN SHORT

Rutherford County
Nos. 04 CRS 53801
05 CRS 1331

Appeal by defendant from judgment entered 8 September 2005 by Judge James L. Baker, Jr., in Rutherford County Superior Court. Heard in the Court of Appeals 21 August 2006.

Attorney General Roy Cooper, by Assistant Attorney General Kathryne E. Hathcock, for the State.

Leslie C. Rawls for defendant-appellant.

CALABRIA, Judge.

Mark Alan Short ("defendant") appeals from his guilty plea of felony fleeing to elude arrest and attaining habitual felon status. We find no error.

On 20 July 2004, Corporal Aldridge ("Aldridge") of the Rutherford County Sheriff's Department discovered defendant operating a 1989 Toyota with a stolen New York license plate. Aldridge then pursued defendant and attempted to stop him; however, defendant failed to stop and crossed the state border into Cherokee County, South Carolina, where he eventually brought the car to a

stop and proceeded to jump a fence into a wooded area. Officers then pursued defendant into the neighboring wooded area and arrested him.

Based on these facts, the State sought, and the Grand Jury subsequently returned, indictments on the charges of felony eluding arrest and attaining habitual felon status. On 8 September 2005, pursuant to a plea agreement, defendant pled guilty to felony fleeing to elude arrest and to attaining habitual felon status. The plea agreement provided that defendant would be sentenced to the mitigated range of 80 to 105 months for his prior record level IV. In accordance with the plea agreement, the trial court sentenced defendant to 80 to 105 months in the North Carolina Department of Correction. Defendant appeals.

Defendant's counsel states that she is "unable to identify an issue with sufficient merit to support a meaningful argument for relief on appeal" and asks this Court to review the record for possible prejudicial error. Counsel has shown to the satisfaction of this Court that she has complied with the requirements of *Anders v. California*, 386 U.S. 738, 744, 18 L. Ed. 2d 493, 498, *reh'g denied*, 388 U.S. 924, 18 L. Ed. 2d 1377 (1967), and *State v. Kinch*, 314 N.C. 99, 102, 331 S.E.2d 665, 667 (1985), by advising defendant of his right to file written arguments with this Court and providing him with the necessary documents. 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. *Anders*, 386 U.S. at 744, 18 L. Ed. 2d at 498. 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.

No error.

Chief Judge MARTIN and Judge JACKSON concur.

Report per Rule 30(e).