

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA06-290

NORTH CAROLINA COURT OF APPEALS

Filed: 3 October 2006

STATE OF NORTH CAROLINA

v.

Edgecombe County
Nos. 04 CRS 004058 - 004059

DERRICK MONTRAIL HARPER

Appeal by defendant from judgments entered 1 September 2005 by Judge Milton F. Fitch, Jr., in Edgecombe County Superior Court. Heard in the Court of Appeals 2 October 2006.

Attorney General Roy Cooper, by Assistant Attorney General Sandra Wallace-Smith, for the State.

Paul F. Herzog, for defendant-appellant.

TYSON, Judge.

Derrick Montrail Harper ("defendant") appeals from judgments entered after a jury found him to be guilty of two counts of first-degree murder. We find no error.

I. Background

The State adduced eyewitness testimony describing defendant shooting to death two individuals on 23 May 2004 outside the Club Hypnotize at the intersection of Thigpen Road and Factory Street in Conetoe, North Carolina. Eyewitnesses testified that defendant shot the victims and immediately fled from the scene. Testimony was also presented describing defendant's disposal of the murder

weapon. A jury found defendant to be guilty of two counts of first-degree murder. The trial court sentenced defendant to two concurrent terms of life imprisonment without possibility of parole. Defendant appeals.

II. *Anders v. California*

Counsel appointed to represent defendant on appeal is unable to identify any issue with sufficient merit to support a meaningful argument for relief. While noting the possibility that defendant received ineffective assistance of counsel at trial, appellate counsel concedes that no such violation appears on the face of the record. *State v. Long*, 354 N.C. 534, 539-40, 557 S.E.2d 89, 93 (2001).

Appellate counsel asks this Court to conduct its own review of the record for possible prejudicial error in accordance with *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493 (1967). Counsel has shown to the satisfaction of this Court that he has complied with the requirements of *Anders* 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 defendant with the documents necessary to do so. Defendant has not filed any written arguments and a reasonable time for him to do so has passed.

In accordance with *Anders*, we have fully examined the record on appeal to determine whether any issues of arguable merit appear therein. The record on appeal is insufficient for us to review, and we neither address nor rule on, whether defendant received effective assistance of counsel at trial. We find no error in the judgments of the trial court in the record before us.

No Error.

Judges BRYANT and LEVINSON concur.

Report per Rule 30(e).