

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA06-306

NORTH CAROLINA COURT OF APPEALS

Filed: 15 August 2006

STATE OF NORTH CAROLINA

v.

Northampton County
Nos. 04 CRS 50672
04 CRS 50675

TRAVIS DEMONZ BOONE

Appeal by defendant from judgment entered 22 February 2005 by Judge Cy A. Grant in Northampton County Superior Court. Heard in the Court of Appeals 24 July 2006.

Attorney General Roy Cooper, by Assistant Attorney General Daniel P. O'Brien, for the State.

Paul T. Cleavenger for defendant-appellant.

MARTIN, Chief Judge.

Defendant pled guilty on 22 February 2005 to robbery with a dangerous weapon and second degree kidnapping. The court consolidated the convictions for judgment and imposed an active term within the presumptive range of a minimum of 108 months and a maximum of 139 months. This Court allowed defendant's petition for a writ of certiorari on 4 August 2005. This Court's order limited the issues defendant could raise to those within his appeal of right listed in N.C. Gen. Stat. § 15A-1444.

Defendant's counsel has filed a brief pursuant to *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). Counsel has provided this Court with copies of letters he wrote to defendant advising defendant of counsel's inability to find possible error and of defendant's right to file his own arguments directly with this Court. Defendant has not filed his own arguments.

Having pled guilty and received a term of imprisonment within the presumptive range, defendant does not have the right to raise the issue of whether the sentence is supported by evidence. N.C. Gen. Stat. § 15A-1444(a1) (2005). He does, however, have the right to raise the issues of whether the sentence imposed (1) results from an incorrect finding of his prior record level, (2) contains an unauthorized sentence disposition for the class of offense and prior record level, or (3) contains an unauthorized sentence duration for the class of offense or prior record level. N.C. Gen. Stat. § 15A-1444(a2) (2005).

After reviewing the record and appropriate governing statutes, we are unable to find possible error to support an appeal. At the sentencing hearing defendant correctly stipulated that his prior record level is four. The more serious of the two consolidated offenses is robbery with a dangerous weapon, which is a class D offense for sentencing purposes. N.C. Gen. Stat. § 14-87(a). The presumptive range of minimum sentences for a class D offense at defendant's prior record level is an active term of a minimum of 94 months to a maximum of 117 months. N.C. Gen. Stat. § 15A-1340.17(c). Defendant's minimum sentence of 108 months fits squarely within that range. The trial court committed

No error.

Judges CALABRIA and JACKSON concur.

Report per Rule 30(e).