

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA07-1256

NORTH CAROLINA COURT OF APPEALS

Filed: 6 May 2008

STATE OF NORTH CAROLINA

v.

Henderson County  
Nos. 07 CR 51393  
07 CR 51415

RODNEY KEITH GREEN

# Court of Appeals

Appeal by defendant from judgment entered 1 June 2007 by Judge Robert S. Cilley in Henderson County District Court. Heard in the Court of Appeals 28 April 2008.

*Attorney General Roy Cooper, by Assistant Attorney General Tawanda Foster-Williams, for the State.*

# Slip Opinion

*Don Willey, for defendant.*

STEELMAN, Judge.

Where defendant pled guilty and there was no basis for his appeal under N.C. Gen. Stat. § 15A-1444, the judgment of the trial court is affirmed.

Rodney Keith Green ("defendant") was charged with felony breaking or entering, felony larceny and obtaining property by false pretense on 12 March 2007. Defendant pled guilty 1 June 2007 to felony breaking or entering and obtaining property by false pretense. The two charges were consolidated into one judgment and the felony larceny charge was dismissed pursuant to the plea

agreement. The trial court determined defendant to have a prior record level II based on one prior record point and sentenced defendant within the presumptive range for the Class H felony to a minimum of six months and a maximum of eight months imprisonment. The sentence was suspended and defendant was placed on eighteen months supervised probation. Defendant was also ordered to pay restitution in the amount of \$50.00 as well as court costs and attorney fees in the amount of \$387.50. From the judgment entered, defendant appeals.

In his brief, defendant's appellate counsel states that he "has been unable to locate any governing Constitutional provisions, statutes or judicial decisions in material support of" the assignments of error listed by counsel in the record on appeal. Therefore, counsel submits, he "cannot in good faith argue a basis for the appeal or for any material relief" and requests this Court to "conduct its own review for errors."

In accordance with the holding 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), counsel wrote a letter to defendant on 21 November 2007, advising defendant of counsel's inability to find error, of counsel's request for this Court to conduct an independent review of the record, and of defendant's right to file his own arguments directly with this Court. Counsel attached to the letter a copy of the record on appeal and the transcript of the guilty plea and sentencing. The certificate of service of counsel's brief shows that he served a copy of the brief on

defendant on 10 December 2007. Defendant has not filed his own written arguments.

Based upon the facts of this case where defendant entered a guilty plea, the defendant's appeal is limited to whether the sentence imposed results from an incorrect finding of the defendant's prior record level under N.C. Gen. Stat. § 15A-1340.14 or the defendant's prior conviction level under N.C. Gen. Stat. § 15A-1340.21 or whether the sentence imposed constitutes a type of sentence not authorized by N.C. Gen. Stat. § 15A-1340.17 or N.C. Gen. Stat. § 15A-1340.23 for the defendant's class of offense and prior record or conviction level. N.C. Gen. Stat. § 15A-1444 (2007); *State v. Jamerson*, 161 N.C. App. 527, 528-29, 588 S.E.2d 545, 546-47 (2003).

Pursuant to *Anders* and *Kinch*, we must fully examine the record for possible prejudicial error under N.C. Gen. Stat. § 15A-1444. After careful review of the record, we find no prejudicial error in the judgment entered pursuant to section 15A-1444.

AFFIRMED.

Judges HUNTER and MCCULLOUGH concur.

Report per Rule 30(e).