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NO. COA07-1533

NORTH CAROLINA COURT OF APPEALS

Filed: 1 July 2008

STATE OF NORTH CAROLINA

v.

JEFFREY LEE GILBERT

Cabarrus County
Nos. 06 CRS 53581
06 CRS 53583
06 CRS 15211

Court of Appeals

Appeal by defendant from judgment entered 1 August 2007 by Judge Susan C. Taylor in Cabarrus County Superior Court. Heard in the Court of Appeals 23 June 2008.

Attorney General Roy Cooper, by Assistant Attorney General John G. Barnwell, for the State

Slip Opinion

Appellate Defender Staples S. Hughes, by Assistant Appellate Defender Charlesena Elliott Walker, for defendant-appellant.

CALABRIA, Judge.

On 11 September 2006, Jeffrey Lee Gilbert ("defendant") was charged with fleeing/eluding arrest with a motor vehicle, driving while license revoked, reckless driving to endanger, resisting a public officer and possession of cocaine. He subsequently was charged with attaining the status of an habitual felon. Pursuant to defendant's motion to dismiss at the close of the State's evidence at trial, Judge Susan C. Taylor ("Judge Taylor") dismissed the charge of driving while license revoked and dismissed the driving while license revoked element from the charge of

fleeing/eluding arrest with a motor vehicle. The jury found defendant guilty of the remaining charges, and defendant pled guilty to attaining the status of an habitual felon.

Judge Taylor found one mitigating factor. After arresting judgment on the charge of reckless driving, Judge Taylor consolidated the convictions for judgment and sentenced defendant to a minimum term of 70 months to a maximum term of 93 months in the North Carolina Department of Correction. From the trial court's judgment, defendant appeals.

On appeal, defendant's counsel brings forward one question, but she presents no arguments in defendant's brief. She 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 conduct a full examination of the record on appeal for possible prejudicial error and to determine whether any justiciable issue has been overlooked by counsel."

By letter dated 4 February 2008, defendant's counsel informed defendant that in her opinion there was no error in defendant's trial and that defendant could file his own arguments in this Court if he so desired. Counsel sent copies of the transcript, record and the brief to defendant, and she indicated she would also be sending a copy of the State's brief to defendant. Defendant has filed no arguments in this Court.

We hold that defendant's counsel has fully complied with the holdings in *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). Pursuant to *Kinch*, we must "review the record for any prejudicial error." *Kinch*, 314 N.C. at 102, 331 S.E.2d at 666. Upon review of the entire record and of the assignments of error noted in the record, we find no prejudicial error.

We hold defendant had a fair trial, free from prejudicial error.

No error.

Chief Judge MARTIN and Judge STROUD concur.

Report per Rule 30(e).