

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA09-1472

NORTH CAROLINA COURT OF APPEALS

Filed: 20 July 2010

STATE OF NORTH CAROLINA

v.

Pitt County
No. 08 CRS 11925

HARRY CHARLES BLAINE III

Appeal by defendant from judgments entered 13 May 2009 by Judge W. Russell Duke, Jr., in Pitt County Superior Court. Heard in the Court of Appeals 19 July 2010.

Attorney General Roy Cooper, by Assistant Attorney General Durwin P. Jones, for the State.

Daniel J. Clifton for defendant appellant.

BRYANT, Judge.

On or about 5 May 2008, defendant pled guilty to two counts of obtaining property by false pretenses. The trial court imposed two suspended sentences of 8 to 10 months imprisonment and placed defendant on 60 months of supervised probation. As a monetary condition of probation, the trial court required defendant to pay restitution, court costs, and attorney's fees in the total amount of \$21,038.00. On 29 October 2008, defendant's probation officer filed a probation violation report, alleging that defendant had violated three conditions of his probation. Following a hearing, the trial court found that defendant violated the conditions of his

probation. On 17 November 2008, the trial court modified defendant's probation, ordering defendant (1) to comply with a payment plan set by his probation officer and (2) to complete 72 hours of community service within 90 days following the probation violation hearing.

On 29 April 2009, defendant's probation officer filed a second probation violation report, alleging that defendant (1) had not completed any of his court-ordered community service and (2) had not paid any amount toward his restitution, court costs, and attorney's fees. On 13 May 2009, the trial court conducted a probation revocation hearing. Defendant admitted the violations and the trial court found that defendant had willfully violated the conditions of his probation. Thereafter, the trial court revoked defendant's probation and activated his suspended sentences, ordering the two terms of 8 to 10 months to run consecutively. From the judgment entered, defendant appeals.

Counsel appointed to represent defendant has been unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal and asks that this Court conduct its own review of the record for possible prejudicial error. Counsel has also shown to the satisfaction of this Court that he has complied with the requirements 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), by advising defendant of his right to file written arguments with this Court and providing him with the documents necessary for him to do so.

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 have fully examined the record to determine whether any issues of arguable merit appear therefrom or whether the appeal is wholly frivolous. We conclude the appeal is wholly frivolous. Furthermore, we have examined the record for possible prejudicial error and found none.

No error.

Judges HUNTER, Robert C. and STEELMAN concur.

Report per Rule 30(e).