

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA09-172

NORTH CAROLINA COURT OF APPEALS

Filed: 4 August 2009

STATE OF NORTH CAROLINA

v.

Cabarrus County  
Nos. 03 CRS 11979-82  
05 CRS 55073

JUNIOR LEE BURGESS

Appeal by defendant from judgments entered 15 September 2008 by Judge Mark E. Klass in Cabarrus County Superior Court. Heard in the Court of Appeals 20 July 2009.

*Attorney General Roy Cooper, by Assistant Attorney General Kathryn J. Thomas, for the State.*

*Betsy J. Wolfenden for defendant-appellant.*

BRYANT, Judge.

Defendant appeals from judgments entered after finding defendant to be in violation of his probation and activating his sentence.

*Facts*

On 5 October 2004 defendant pled guilty to sale of a Schedule II controlled substance, possession with intent to sell, manufacture or deliver a Schedule III controlled substance, attempted trafficking in a Schedule II controlled substance, and possession with intent to sell or deliver a Schedule IV controlled substance. The court sentenced defendant to three terms of

imprisonment of fifteen to eighteen months, six to eight months, and nineteen to twenty-three months. The court suspended the sentences and placed defendant on supervised probation for a period of thirty-six months. Defendant's probation officer filed violation reports on 18 August 2006. Finding defendant violated terms and conditions of probation, the trial court extended the period of probation for an additional six months, from 5 October 2007 to 5 April 2008, for each judgment. On 1 April 2008 defendant's probation officer filed violation reports alleging defendant violated terms and conditions of probation by (1) failing to satisfy a monetary condition of probation; (2) being charged on 8 November 2007 with possession of a firearm by a felon, felony possession of a Schedule IV controlled substance, and felony sale and delivery of a Schedule IV controlled substance; and (3) being charged on 14 April 2007 with making a false report to a police station and communicating threats. Defendant subsequently pled guilty to the charge of possession of a firearm by a felon on 20 June 2006. Defendant also admitted that his plea to the offense constituted a willful violation of the terms of probation. The trial court found defendant to be in willful violation of the terms of probation and activated his sentences on 15 September 2008. Defendant appeals.

Defendant's counsel has filed a brief pursuant to *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), requesting this Court to review the record for possible prejudicial error. Counsel states

in the brief that after close examination of the record and research and review of relevant case law, she "is unable to identify an issue with sufficient merit to support a meaningful argument for relief on appeal." Counsel attached to the brief a copy of a letter she mailed to defendant in which she advised defendant of counsel's inability to find any legal errors and of defendant's right to file his own written arguments with this Court. A sufficient time has passed and defendant has not filed any written arguments on his own behalf.

After careful review of the judgments and record, we are unable to find any possible error to warrant a meaningful appeal. The appeal is therefore dismissed.

Dismissed.

Chief Judge MARTIN and Judge ELMORE concur.

Report per Rule 30(e).