

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA11-188
NORTH CAROLINA COURT OF APPEALS

Filed: 6 September 2011

STATE OF NORTH CAROLINA

v.

Henderson County
No. 05CRS6065-67

GREGORY ANTONIO DAVIS

On writ of certiorari to review judgment entered on or about 28 January 2010 by Judge Dennis J. Winner in Superior Court, Henderson County. Heard in the Court of Appeals 18 July 2011.

Attorney General Roy A. Cooper, III, by Assistant Attorney General Ward Zimmerman, for the State.

Diepenbrock Law Office, P.A., by J. Thomas Diepenbrock, for defendant-appellant.

STROUD, Judge.

On 29 April 2003, Gregory Antonio Davis ("defendant") pled guilty to thirteen counts of obtaining property by false pretenses and one count of conspiracy to obtain property by false pretenses. The trial court sentenced defendant to an active term of eleven to fourteen months imprisonment for one

count of obtaining property by false pretenses. The remaining convictions were consolidated for judgment, and defendant was sentenced to a consecutive term of eleven to fourteen months imprisonment. However, the trial court suspended the second term of imprisonment and placed defendant on supervised probation for sixty months.

On 7 October 2008, a probation violation report was filed alleging that defendant: (1) had absconded from supervision and (2) had been "convicted of DWI on 7/24/08 and was given a[n] 85 day sentence." An order for defendant's arrest was issued and he was eventually arrested in Buncombe County on other charges in March 2009. Defendant's probation officer testified that he faxed a copy of the arrest order to the Buncombe County jail, requesting that defendant be placed on hold and brought to Henderson County after his Buncombe County matters were resolved.

The trial court held a probation violation hearing in Superior Court, Henderson County on 25 January 2010. Defendant denied the allegations in the probation violation report. The trial court found that defendant willfully violated the terms of his probation. Accordingly, the trial court revoked defendant's probation and activated his suspended sentence. On 30 July

2010, this Court granted defendant's petition for Writ of Certiorari.

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. We have been unable to find any possible prejudicial error and conclude that the appeal is wholly frivolous.

AFFIRMED.

Judges CALABRIA and STEELMAN concur.

Report per Rule 30(e).