

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA12-279
NORTH CAROLINA COURT OF APPEALS

Filed: 21 August 2012

STATE OF NORTH CAROLINA

v.

Henderson County
No. 09 CRS 1894

KEVIN LOGAN

Appeal by defendant from judgments entered 24 October 2011 by Judge Gary M. Gavenus in Henderson County Superior Court. Heard in the Court of Appeals 6 August 2012.

Attorney General Roy Cooper, by Assistant Attorney General Josephine N. Tetteh, for the State.

Jon W. Myers, for defendant-appellant.

MARTIN, Chief Judge.

On 20 May 2011, defendant Kevin Logan pled guilty to felony possession of cocaine with intent to sell or deliver, sale or delivery of cocaine, and felony failure to appear. The matter was continued for entry of judgment, and on 24 October 2011 the trial court sentenced defendant to a term of twenty to twenty-four months imprisonment for the possession and failure to appear convictions, and to a consecutive term of twenty-nine to

thirty-five months for the sale or delivery conviction. 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 within 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. We note, however, that the trial court failed to check the box on either judgment form requiring defendant to pay restitution, even though the court orally ordered restitution and included the restitution amount in the Restitution Worksheet and Order attached to the judgments.

Accordingly, we must remand for correction of this clerical error.

Affirmed; remanded for correction of clerical error.

Judges STEPHENS and ERVIN concur.

Report per Rule 30(e).