

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA13-77
NORTH CAROLINA COURT OF APPEALS

Filed: 3 September 2013

STATE OF NORTH CAROLINA

v.

Cleveland County
No. 11 CRS 53699

GILBERT FLOYD BROWN

Appeal by defendant from judgment entered 15 November 2012 by Judge Richard D. Boner in Cleveland County Superior Court. Heard in the Court of Appeals 19 August 2013.

Attorney General Roy Cooper, by Special Deputy Attorney General John J. Aldridge III, for the State.

Daniel F. Read for defendant-appellant.

DILLON, Judge.

Gilbert Floyd Brown (Defendant) filed notice of appeal on 27 November 2012 from a judgment entered based upon Defendant's plea of guilty to possession of a firearm by a felon. Defendant appropriately concedes in his brief that he does not have a right of appeal because his sentence has been correctly calculated and is within the limits allowed by law. See N.C. Gen. Stat. § 15A-1444(a1) & (a2) (2011). He seeks a writ of

certiorari pursuant to N.C. Gen. Stat. § 15A-1444(e) so he can raise the issue of whether he was denied effective assistance of counsel because trial counsel failed to challenge the constitutionality of his conviction for the present offense based upon a prior felony conviction which was almost thirty years old at the time of the offense at bar.

We have examined the judgment, including the prior record level worksheet which is attached to the judgment. We observe that Defendant has multiple drug-related convictions, including a conviction for felony possession of cocaine in 1989 in addition to the felony conviction cited by Defendant in 1982. Defendant also has multiple misdemeanor convictions involving assaultive or threatening behavior. Given the lack of support in the record for Defendant's argument, we exercise our discretion to deny his request for a writ of certiorari and we dismiss the appeal.

DISMISSED.

Judges GEER and ERVIN concur.

Report per Rule 30(e).