

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA14-54
NORTH CAROLINA COURT OF APPEALS

Filed: 17 June 2014

STATE OF NORTH CAROLINA

v.

Craven County
No. 09 CRS 51899

ANACIN WILLIAM PHILLIPS

Appeal by defendant from judgment entered 25 July 2013 by Judge John E. Nobles, Jr., in Craven County Superior Court. Heard in the Court of Appeals 26 May 2014.

Attorney General Roy Cooper, by Assistant Attorney General Daniel P. O'Brien, for the State.

Michael J. Reece for defendant-appellant.

HUNTER, Robert C., Judge.

Defendant was convicted of assault with a deadly weapon with intent to kill inflicting serious injury on 29 September 2011. The trial court sentenced him as a prior record level ("PRL") IV offender to an active prison term of 133 to 169 months imprisonment. On appeal, we remanded for resentencing based on our conclusion that the court had misclassified one of defendant's two Ohio prior convictions for the purpose of

calculating defendant's PRL. See *State v. Phillips*, ___ N.C. App. ___, ___, 742 S.E.2d 338, 343-44 (2013) (citing N.C. Gen. Stat. § 15A-1340.14(a), (e) (2011)), *disc. review denied*, ___ N.C. ___, 753 S.E.2d 671 (2014). Applying the proper classification, we found that "defendant's prior record level points for felony sentencing would be reduced from ten to seven points" and his PRL would be reduced from IV to III. *Id.* at ___, 742 S.E.2d at 344. On remand, the trial court resentenced defendant as a PRL III offender to a presumptive prison term of 114 to 146 months. Defendant gave notice of appeal in open court.

Counsel appointed to represent defendant is 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. He shows 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 for him to do so has expired. 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.

NO ERROR.

Judges STEPHENS and ERVIN concur.

Report per Rule 30(e).