

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA14-1035  
NORTH CAROLINA COURT OF APPEALS

Filed: 3 March 2015

STATE OF NORTH CAROLINA

v.

Durham County

Nos. 10 CRS 56171, 11 CRS 3849

VICTOR LAMONT BULLOCK

Appeal by defendant from judgment entered 31 March 2014 by Judge W. Osmond Smith in Durham County Superior Court. Heard in the Court of Appeals 9 February 2015.

*Attorney General Roy Cooper, by Assistant Attorney General Mary Carla Babb, for the State.*

*Appellate Defender Staples Hughes, by Assistant Appellate Defender Jon H. Hunt, for defendant-appellant.*

HUNTER, JR., Robert N., Judge.

On 2 October 2012, a jury found defendant Victor Lamont Bullock guilty of malicious conduct by a prisoner and resisting a public officer, and defendant admitted through his counsel to being a habitual felon. The trial court sentenced defendant as a habitual felon to a term of 127 to 162 months imprisonment for his conviction for malicious conduct by a prisoner, as well as a

concurrent term of 60 days imprisonment for resisting a public officer. Defendant appealed, and this Court found no error in defendant's trial and convictions for his substantive offenses, but found that the trial court had erred in accepting defendant's admission to attaining the status of a habitual felon. *State v. Bullock*, \_\_\_ N.C. App. \_\_\_, 753 S.E.2d 741 (Dec. 3, 2013) (No. COA13-574) (unpublished). This Court reversed defendant's conviction for attaining the status of a habitual felon and remanded for a new trial on that charge. *Id.*

On remand, defendant entered a guilty plea to attaining the status of a habitual felon. Pursuant to defendant's plea arrangement with the State, the trial court sentenced defendant as a habitual felon to a mitigated term of 76 to 101 months imprisonment for his conviction for malicious conduct by a prisoner. 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 (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 by providing him with the documents necessary for him to do so.

On 17 November and 8 December 2014, defendant filed *pro se* arguments with this Court, arguing that the trial court erred by allowing the State to amend the indictment charging him with attaining habitual felon status to correct the date of one of defendant's prior convictions. Our appellate courts, however, have previously rejected defendant's arguments and permitted such amendments. See *State v. Price*, 310 N.C. 596, 598, 313 S.E.2d 556, 558 (1984) (holding that a prohibited amendment to an indictment is only a "change in the indictment which would substantially alter the charge set forth in the indictment" (citation and quotation marks omitted)); *State v. Hargett*, 148 N.C. App. 688, 693, 559 S.E.2d 282, 286 (2002) (holding that an amendment to correct a conviction date on a habitual felon indictment does not constitute a substantial change to the indictment). Defendant's arguments are thus overruled.

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.

Chief Judge MCGEE and Judge STEPHENS concur.

Report per Rule 30(e).