

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-482

Filed: 20 October 2015

Person County, Nos. 13CRS000966, 051076-77, 051092

STATE OF NORTH CAROLINA

v.

BENJAMIN ERIC DARBY

Appeal by Defendant from judgments entered 19 September 2014 by Judge W. O. Smith, III, in Person County Superior Court. Heard in the Court of Appeals 12 October 2015.

Attorney General Roy A. Cooper, III, by Assistant Attorney General Donna B. Wojcik, for the State.

Paul F. Herzog, for Defendant-Appellant.

DILLON, Judge.

A jury found Defendant guilty of attempted first degree murder of Benjamin Brackett, attempted first degree murder of Edgar Chambers, assault of Chambers with a deadly weapon with intent to kill inflicting serious injury (“AWDWIKISI”),¹ possession with intent to sell or deliver marijuana, and possession of drug

¹ See generally *State v. Tirado*, 358 N.C. 551, 579, 599 S.E.2d 515, 534 (2004) (allowing convictions of attempted murder and AWDWIKISI for same act).

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paraphernalia. The trial court sentenced Defendant within the applicable mitigated range to consecutive prison terms of 120 to 156 months and 96 to 128 months for the two counts of attempted murder. The court consolidated the remaining offenses for judgment and imposed a concurrent, presumptive-range sentence of 73 to 100 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. Counsel shows to the satisfaction of this Court that he has complied with the requirements of *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 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 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.

Chief Judge McGEE and Judge HUNTER, JR., concur.

Report per Rule 30(e).