

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA15-631

Filed: 17 November 2015

Cabarrus County, Nos. 13 CRS 1935, 52064-65, 52320-21

STATE OF NORTH CAROLINA

v.

JARVIS TEREZA MARSH

Appeal by defendant from judgments entered 13 January 2015 by Judge Martin B. McGee in Cabarrus County Superior Court. Heard in the Court of Appeals 2 November 2015.

Attorney General Roy Cooper, by Special Deputy Attorney General Amar Majmundar, for the State.

Appellate Defender Staples Hughes, by Assistant Appellate Defender Paul M. Green, for defendant-appellant.

HUNTER, JR., Robert N., Judge.

On 12 December 2014 a jury found Jarvis Tereza Marsh (“Defendant”) guilty of two counts of first degree kidnapping and single counts of first degree burglary, robbery with a dangerous weapon, assault with a deadly weapon inflicting serious injury, and possession of a firearm by a convicted felon. Proceedings were continued until the 12 January 2015 session of Cabarrus County Superior Court, whereupon a jury found Defendant guilty of attaining violent habitual felon status. The trial court

STATE V. MARSH

Opinion of the Court

consolidated Defendant's convictions into two judgments and imposed consecutive sentences of life imprisonment without parole, pursuant to N.C. Gen. Stat. § 14-7.12 (2013). Defense counsel gave oral notice of appeal in open court the following afternoon.

Defendant filed a petition for writ of certiorari with this Court as an alternative basis for review of the trial court's judgments, in the event we deem his oral notice of appeal untimely under N.C.R. App. P. 4(a)(1). *See* N.C.R. App. P. 21(a)(1) (authorizing issuance of the writ when "the right to prosecute an appeal has been lost by failure to take timely action"). "Compliance with the requirements for entry of notice of appeal is jurisdictional." *State v. Oates*, 366 N.C. 264, 266, 732 S.E.2d 571, 573 (2012). Because Rule 4(a)(1) requires oral notice of appeal to be given "at trial," Defendant's oral notice the day after trial did not comply with the rule. *See State v. Hammonds*, 218 N.C. App. 158, 162, 720 S.E.2d 820, 823 (2012); *see also State v. Jackson*, __ N.C. App. __, __, 758 S.E.2d 39, 42 (2014), *reversed in non-pertinent part*, __ N.C. __, 772 S.E.2d 847 (2015). In our discretion, however, we allow his petition for writ of certiorari. *See Hammonds*, 218 N.C. App. at 162, 720 S.E.2d at 823.

Defendant's appointed appellate counsel is unable to identify any issue of sufficient merit that supports a meaningful argument for relief on appeal, and therefore 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

STATE V. MARSH

Opinion of the Court

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 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.

For the foregoing reasons, we find

NO ERROR.

Chief Judge McGee and Judge Dillon concur.

Report per Rule 30(e).