

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA16-197

Filed: 20 September 2016

Buncombe County, Nos. 15 CR 87529, 87630

STATE OF NORTH CAROLINA

v.

JOSEPH RIDDLE

Appeal by defendant from judgment entered 28 October 2015 by Judge Julie M. Kepple in Buncombe County District Court. Heard in the Court of Appeals 22 August 2016.

*Roy Cooper, Attorney General, by Kristin J. Uicker, Assistant Attorney General, for the State.*

*Stephen G. Driggers for defendant-appellant.*

DAVIS, Judge.

Joseph Riddle (“Defendant”) appeals from his convictions for aiding and abetting obtaining property by false pretenses and felony larceny. After careful review, we conclude that Defendant received a fair trial free from error.

**Factual Background**

The State summarized the following facts at Defendant’s guilty plea hearing: On 16 July 2015, Defendant along with his wife, Wendy Riddle (“Wendy”), and their

STATE V. RIDDLE

*Opinion of the Court*

two minor children went to the Sweeten Creek Antique Mall in Buncombe County, North Carolina. They went to a booth in the mall owned by John Tray (“Tray”), and while Wendy acted as a lookout, Defendant broke into a display case and stole two antique Chinese carvings valued at \$6,090.00. Defendant concealed the carvings in one of his children’s strollers and left the mall.

On 17 July 2015, Defendant and Wendy went to Allen’s Jewelry and Pawn with another individual, David Riddle (“David”),<sup>1</sup> who sold the stolen carvings to Chip Shepherd (“Shepherd”), an employee at Allen’s Jewelry and Pawn. Shepherd, who recognized the carvings from the local news as the ones having been stolen from Tray, contacted the Asheville Police Department and advised them that he had been sold the carvings by Defendant, Wendy, and David. Defendant, Wendy, and David were subsequently arrested, and Defendant was charged with aiding and abetting obtaining property by false pretenses and felony larceny.

On 28 October 2015, Defendant waived his right to a grand jury indictment, and a hearing was held before the Honorable Julie M. Kepple in Buncombe County District Court. At the hearing, Defendant pled guilty to both charges. The trial court sentenced Defendant to 9-20 months imprisonment. On 6 November 2015, defendant filed written notice of appeal.

**Analysis**

---

<sup>1</sup> It is unclear from the transcript what David Riddle’s relationship is to Defendant and Wendy.

## **I. Appellate Jurisdiction**

As an initial matter, we must address whether we have jurisdiction over the present appeal. We note that Defendant's notice of appeal incorrectly identified the court to which appeal would be taken as superior court as opposed to this Court. However, on 26 March 2016, Defendant also filed a petition for writ of *certiorari* seeking review of the judgment entered against him.

Pursuant to Rule 21(a)(1) of the Appellate Rules, this Court may, in its discretion, grant a petition for writ of *certiorari* and review an order or judgment entered by the trial court "when the right to prosecute an appeal has been lost by failure to take timely action[.]" N.C.R. App. P. 21(a)(1). We elect to exercise our discretion in the present case and grant Defendant's petition for writ of *certiorari* and reach the merits of his appeal.

## **II. *Anders v. California***

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, 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

STATE V. RIDDLE

*Opinion of the Court*

to file written arguments with this Court and by 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 in which he could have done so has passed. 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.<sup>2</sup>

**Conclusion**

For the reasons stated above, we conclude that Defendant received a fair trial free from error.

NO ERROR.

Judges ELMORE and DIETZ concur.

Report per Rule 30(e).

---

<sup>2</sup> The State moved to dismiss Defendant's appeal on the basis that, because Defendant pled guilty, he only has a limited right to appeal. We note, however, that even in guilty plea cases, a Defendant convicted of a felony has a statutory right to appellate review of certain aspects of the judgment. See N.C. Gen. Stat. § 15A-1444(a1)-(a2) (2015); see also *State v. Hamby*, 129 N.C. App. 366, 369-70, 499 S.E.2d 195, 196-97 (1998) (conducting *Anders* review even though defendant pled guilty and "brought forward no issues on appeal"). Accordingly, we deny the State's motion.