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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-607

Filed: 6 December 2016

Durham County, No. 13 CRS 5783

STATE OF NORTH CAROLINA

v.

ANDRE THOMPSON, Defendant.

Appeal by Defendant from judgment entered 24 August 2015 by Judge G. Wayne Abernathy in Durham County Superior Court. Heard in the Court of Appeals 17 November 2016.

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

Appellate Defender Glenn Gerding, by Assistant Appellate Defender James R. Grant, for Defendant-Appellant.

INMAN, Judge.

Andre Thompson (“Defendant”) appeals from a judgment revoking probation. After careful review, we affirm the judgment of the trial court, but remand Defendant’s case for the limited purpose of correcting clerical errors.

On 18 November 2013, Defendant was charged by bill of indictment with possession of a firearm by a felon. On 8 January 2014, Defendant entered a plea of guilty to the offense. The trial court imposed a suspended sentence of 10 to 21 months

STATE V. THOMPSON

Opinion of the Court

and placed Defendant on 36 months of supervised probation. Defendant's sentence imposed was in the mitigated range for his Class G offense and prior record level of II. The trial court also imposed a split sentence of 86 days, but gave Defendant credit for 86 days spent in pretrial confinement.

On 21 April 2014, Defendant's probation officer served on Defendant a violation report alleging that he violated his probation by: (1) failing to report for a scheduled office visit on 1 April 2014; (2) having a \$33.00 arrearage; and (3) being charged with abduction of a child. On 1 August 2014, Defendant's probation officer served a second violation report, alleging the following violations: (1) failing to report to three office visits in July 2014; and (2) overtly refusing to comply with probation. On 11 August 2014, Defendant's probation officer served a final violation report, alleging the following violations: (1) failing to report to an office visit on 11 August 2014; and (2) absconding, due to his willful avoidance of supervision.

On 24 August 2015, the trial court conducted a hearing on the violation reports. At the outset of the hearing, the State indicated that the hearing had been continued several times because Defendant refused to show up to attend the hearing. After finding that Defendant had notice of the hearing, that counsel attempted to persuade Defendant to attend, and that Defendant still refused to come into the courtroom, the trial court proceeded with the hearing. The trial court found that Defendant willfully violated the conditions of his probation by absconding since 7 May 2014. The trial

STATE V. THOMPSON

Opinion of the Court

court then revoked Defendant's probation, activated his suspended sentence, and gave him credit for 319 days of time served. Defendant gave notice of appeal in open court.

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 to file written arguments with this Court and providing him with the documents necessary for him to do so. Counsel directs our attention to potential issues on appeal, but acknowledges that he detected no reversible error on the part of the trial court.

Counsel also directs our attention to several clerical errors on the judgment, but contends that they do not constitute reversible error. The State concurs, and contends that it is appropriate for this Court to remand the case for the correction of the clerical errors. We agree. Where a clerical error is found, the case may be remanded "to the trial court for the limited purpose of correcting the clerical errors." *State v. Lark*, 198 N.C. App. 82, 95, 678 S.E.2d 693, 703 (2009).

First, counsel submits that the trial court erroneously checked a box on the judgment indicating that Defendant waived a hearing and admitted his violation.

STATE V. THOMPSON

Opinion of the Court

Based on our review of the transcript, it is apparent that Defendant did neither, and we agree that this constitutes a clerical error on the part of the trial court.

Second, counsel submits that while the trial court properly found absconding as a basis for revocation, the court failed to list the violation report of 11 August 2014, which contained the absconding allegation, and instead listed the 21 April 2014 violation report. Again, it is apparent from the transcript of the hearing that the trial court intended to revoke based on absconding. Therefore, we agree that the omission constitutes a clerical error on the part of the trial court.

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 or whether the appeal is wholly frivolous. We conclude the appeal is wholly frivolous.

Furthermore, we have examined the record for possible prejudicial error and found none. We therefore affirm the judgment of the trial court, but remand Defendant's case for the limited purpose of correcting the above-described clerical errors.

AFFIRMED; REMANDED FOR THE CORRECTION OF CLERICAL ERRORS.

Judges STROUD and TYSON concur.

STATE V. THOMPSON

Opinion of the Court

Report per Rule 30(e).