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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-1354

Filed: 15 January 2019

Union County, No. 16 CRS 54621

STATE OF NORTH CAROLINA

v.

KARL ANDREW BAKER, Defendant.

Appeal by Defendant from judgments entered 6 June 2017 by Judge Christopher W. Bragg in Union County Superior Court. Heard in the Court of Appeals 20 December 2018.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Jasmine S. McGhee, for the State.

Guy J. Loranger, for defendant-appellant.

Karl Andrew Baker, pro se.

HUNTER, JR., Robert N., Judge.

Karl Andrew Baker (“Defendant”) appeals from judgments entered pursuant to his *Alford* plea to assault on a female and sexual battery. We find no error.

I. Factual and Procedural Background

On 3 January 2017, a Union County Grand Jury indicted Defendant for second-degree rape. In exchange for the State's dismissal of the rape charge, Defendant entered an *Alford* plea to one count of assault on a female and one count of sexual battery, both Class A1 misdemeanor offenses. *See North Carolina v. Alford*, 400 U.S. 25, 27 L. Ed. 2d 162 (1970); N.C. Gen. Stat. §§ 14-27.33, 14-33(c)(2) (2017). Consistent with the terms of the plea arrangement, the trial court imposed an active sentence of 150 days imprisonment for assault on a female and a consecutive suspended sentence of 150 days imprisonment, with 36 months of supervised probation for sexual battery. Defendant filed timely notice of appeal.

II. Analysis

Appellate counsel for Defendant filed a no-merit brief on Defendant's behalf, in which he states he has been unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal and asks this Court to conduct its own review of the record for possible prejudicial error. Counsel shows to the satisfaction of this Court he 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 necessary documents to do so.

The State filed a motion to dismiss Defendant's appeal, arguing Defendant's guilty plea limits his right to appeal to specific sentencing issues and he received a

STATE V. BAKER

Opinion of the Court

type of sentence disposition and term of imprisonment that was statutorily authorized. Given Defendant has a statutory right to appellate review of certain issues, *see* N.C. Gen. Stat. § 15A-1444(a2), (e) (2017), and Defendant's counsel filed an *Anders* brief asking this Court to review the record for any possible appealable issue, we deny the State's motion to dismiss. *See State v. Hamby*, 129 N.C. App. 366, 369-70, 499 S.E.2d 195, 196-97 (1998) (conducting *Anders* review even though the defendant pled guilty and "brought forward no issues on appeal").

Defendant filed *pro se* arguments in which he appears to challenge the factual basis for his guilty plea and the trial court's acceptance of his guilty plea as knowing and voluntary. Defendant's arguments do not pertain to the issues from which Defendant has an appeal of right under N.C. Gen. Stat. § 15A-1444, and, therefore, they are not cognizable by this Court on direct appeal. Defendant may seek relief by filing a motion for appropriate relief with the trial court. *See* N.C. Gen. Stat. § 15A-1415 (2017).

In accordance with *Anders*, we fully examined the record to determine whether any issues of arguable merit appear therefrom. As noted above, our review of potential error in this case is limited to those issues authorized by N.C. Gen. Stat. § 15A-1444. *See State v. Jamerson*, 161 N.C. App. 527, 528-29, 588 S.E.2d 545, 546-47 (2003). Here, Defendant stipulated to his prior convictions and received terms of imprisonment in the range authorized for Class A1 misdemeanors with a prior

STATE V. BAKER

Opinion of the Court

conviction level III. *See* N.C. Gen. Stat. § 15A-1340.23 (2017). Accordingly, we are unable to find any possible prejudicial error and find no error in the judgments.

III. Conclusion

For the foregoing reasons, we find no error in the judgments.

NO ERROR.

Chief Judge McGEE and Judge INMAN concur.

Report per Rule 30(e).