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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1016

Filed 16 April 2024

Pitt County, Nos. 21 CRS 56150-51

STATE OF NORTH CAROLINA

v.

ROMANE MARVELL BLOUNT

Appeal by defendant from judgment entered 10 April 2023 by Judge Jeffery B. Foster in Pitt County Superior Court. Heard in the Court of Appeals 19 March 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Reginaldo E. Williams, Jr., for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender James R. Grant, for defendant-appellant.

THOMPSON, Judge.

Defendant appeals from a judgment entered as a result of his guilty plea. Counsel for defendant filed an *Anders* brief on defendant's behalf, requesting this Court to review defendant's case. After a thorough review of the record, we affirm.

I. Factual Background and Procedural History

Defendant appeals his conviction—pursuant to a plea agreement—for two

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counts of assault with a deadly weapon with intent to kill for which defendant was sentenced to consecutive terms of fifty to seventy-two months of imprisonment. Appellate counsel for defendant has submitted an *Anders* brief to this Court requesting the Court to conduct an independent review of the record in this matter. After a thorough review of the record, we affirm the judgment of the trial court.

Defendant's case came on for a plea hearing on 10 April 2023 at which time the State offered the following factual basis in support of defendant's pleas: On 6 October 2021, defendant and Shameeka Mann, with whom defendant had been having a relationship, became involved in a physical confrontation. Defendant went to Mann's residence, got into Mann's vehicle with her, and an argument between the couple ensued. Defendant became violent with Mann, punching her until Mann was finally able to exit the vehicle. Defendant followed Mann, grabbing her by the hair and beating her head against the vehicle, the vehicle's tire, and against the concrete. Defendant then stopped his assault on Mann, got into his own vehicle and began backing out of the parking space he had occupied. Mann attempted to get into her vehicle in an effort to avoid defendant. Meanwhile, Mann's daughter had come out of their apartment to try to offer assistance to her mother. Several other children were outside the apartment building as well.¹ Defendant subsequently rammed his vehicle into the side of Mann's automobile, backed his vehicle away from hers, and then

¹ It is unclear from the record whether the other children present outside the apartment building were Mann's children or the children of other residents of the apartment complex.

accelerated up and over the parking lot curbing, driving towards the children outside the apartment building. Defendant's vehicle struck Mann's daughter on the leg as defendant tried to go after Mann, and Mann's daughter ran across the street and away from the scene.

Mann was taken to the hospital where it was determined that she had broken bones, facial injuries, and difficulty with her vision due to the head injuries she sustained in the altercation with defendant. Mann's daughter suffered some injuries to her leg, as well as chest and abdominal pain.²

On 13 December 2021, defendant was indicted by grand jury in Pitt County on two counts of assault with a deadly weapon with intent to kill and one count of assault inflicting serious injury. On 10 April 2023, defendant entered into a plea arrangement with the State wherein he pled guilty to two counts of assault with a deadly weapon with intent to kill; other charges pending against defendant, including a charge of attempted first-degree murder, were dismissed pursuant to defendant's plea agreement. On 10 April 2023, the court accepted defendant's plea and sentenced defendant to consecutive minimum terms of fifty months and maximum terms of seventy-two months of imprisonment. Defendant gave timely written notice of appeal on 19 April 2023.

II. Discussion

² The State's attorney posited that the chest and abdominal pain Mann's daughter experienced may have been attributable to the anxiety caused by the incident with defendant.

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“Pursuant to *Anders*, this Court must now determine from a full examination of all the proceedings whether the appeal is wholly frivolous.” *State v. Kinch*, 314 N.C. 99, 102, 331 S.E.2d 665, 667 (1985). “In carrying out this duty, we will review the legal points appearing in the record, transcript, and briefs, not for the purpose of determining their merits (if any) but to determine whether they are wholly frivolous.” *Id.* at 102–03, 331 S.E.2d at 667. “In order to review any such legal points, a brief review of the facts is necessary.” *Id.* at 103, 331 S.E.2d at 667.

Defendant’s appellate counsel (Counsel) was “unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal.” Counsel requested that this Court “conduct a full examination of the record for prejudicial error and determine if any issue has been overlooked.” Additionally, Counsel advised defendant “of his right to file supplemental arguments on his own behalf and provided him with a copy of [his appellant] [b]rief, the Record on Appeal, the hearing transcript, and the mailing address of this Court.” To fulfill the “*Anders* obligation” of referring this Court to “anything in the record that might arguably support the appeal,” *Anders v. California*, 386 U.S. 738, 744 (1967), Counsel points to the trial court’s failure to give defendant notice of the use of a probation point for committing the charged offenses while on probation for a different offense.

“[T]he trial court’s assignment of a prior record level is a conclusion of law, which we review de novo.” *State v. Mack*, 188 N.C. App. 365, 380, 656 S.E.2d 1, 12 (2008) (emphasis omitted).

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“The prior record level of a felony offender is determined by calculating the sum of the points assigned to each of the offender’s prior convictions that the court, or with respect to subdivision (b)(7) of this section, the jury, finds to have been proved in accordance with this section.” N.C. Gen. Stat. § 15A-1340.14(a) (2023). Subdivision § 15A-1340.14(b)(7) states, “[i]f the offense was committed while the offender was on supervised or unsupervised probation, parole, or post-release supervision, or while the offender was serving a sentence of imprisonment, or while the offender was on escape from a correctional institution while serving a sentence of imprisonment, [one] point.” *Id.* § 15A-1340.14(b)(7). “If the State seeks to establish the existence of a prior record level point under [N.C. Gen. Stat. §] 15A-1340.14(b)(7)” then the jury must “determine whether the point should be assessed using the procedures specified in subsections (a1) through (a3) of this section.” N.C. Gen. Stat. § 15A-1340.16(a5). Moreover, the State must provide a defendant with written notice of its intent to prove the existence of a prior record level point under N.C. Gen. Stat. § 15A-1340.14(b)(7). N.C. Gen. Stat. § 15A-1340.16(a6).

Based on the record, defendant has ten prior convictions and eighteen prior record points. Of those convictions, two were “[p]rior [f]elony Class E or F or G” convictions, two were “[p]rior [f]elony Class H or I” convictions, and six were “[p]rior Class A1 or 1 Misdemeanor” convictions. Additionally, one point was added because defendant committed an offense while on probation, making the total prior record points nineteen. Pursuant to the prior conviction level chart, if a defendant has five

or more prior misdemeanor convictions, the prior conviction level is ‘III.’ Pursuant to the prior record level chart, if a defendant has eighteen or more prior record points, the prior record level is ‘VI.’ Thus, defendant’s prior conviction level was ‘III’ and his prior record level was ‘VI.’ Although the trial court included the “probation point”—which would fall under N.C. Gen. Stat. § 15A-1340.14(b)(7)—when it determined defendant’s prior record level for sentencing, the additional probation point would not alter the prior record level. Here, defendant’s prior record level is ‘VI’ with or without the probation point.

Thus, we find no error in the record, and the appeal is therefore wholly frivolous.

III. Conclusion

As required by *Anders* and *Kinch*, this Court has conducted a full examination of the record to identify any meaningful argument with merit. We have found none. Furthermore, we are satisfied that Counsel adequately complied with the requirements of *Anders* and *Kinch*. Thus, we conclude that defendant’s appeal is frivolous, and defendant is not entitled to relief. Accordingly, we affirm the judgment entered by the trial court.

AFFIRMED.

Judges HAMPSON and GRIFFIN concur.

Report per Rule 30(e).