

# Supreme Court of North Carolina

STATE OF NORTH CAROLINA

v

JOE ROBERT REYNOLDS

From N.C. Court of Appeals  
( 18-445 )  
From Surry  
( 13CRS050435 13CRS815 )  
From N.C. Court of Appeals  
( 14-1019 16-149 P17-884 )  
From Surry  
( 15CRS692-694 )

## ORDER

Upon consideration of the petition filed on the 14th of February 2019 by Defendant in this matter for discretionary review of the decision of the North Carolina Court of Appeals pursuant to G.S. 7A-31, the following order was entered and is hereby certified to the North Carolina Court of Appeals:

"Denied by order of the Court in conference, this the 14th of August 2019."

**s/ Davis, J.  
For the Court**

Upon consideration of the petition filed by Defendant on the 3rd of June 2019 in this matter for a writ of certiorari to review the order of the North Carolina Court of Appeals, the following order was entered and is hereby certified to the North Carolina Court of Appeals:

"Withdrawn by order of the Court in conference, this the 14th of August 2019."

**s/ Davis, J.  
For the Court**

The following order has been entered on the motion filed on the 10th of June 2019 by Defendant to Supplement Petition with Affidavit of Facts:

"Motion Dismissed as moot by order of the Court in conference, this the 14th of August 2019."

**s/ Davis, J.  
For the Court**

The following order has been entered on the motion filed on the 19th of June 2019 by Defendant to Withdraw:

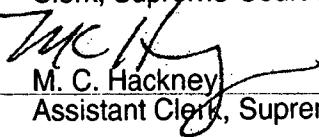
"Motion Allowed by order of the Court in conference, this the 14th of August 2019."

**s/ Davis, J.  
For the Court**

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 21st day of August 2019. ✓



Amy L. Funderburk  
Clerk, Supreme Court of North Carolina

  
M. C. Hackney  
Assistant Clerk, Supreme Court Of North Carolina

Copy to:

North Carolina Court of Appeals

Ms. Amanda S. Zimmer, Assistant Appellate Defender, For Reynolds, Joe Robert - (By Email)

Mr. William P. Hart, Assistant Attorney General, For State of North Carolina - (By Email)

Mr. Joe Robert Reynolds, For Reynolds, Joe Robert

Mr. C. Ricky Bowman, District Attorney

Hon. L. Neil Brendle, Clerk

West Publishing - (By Email)

Lexis-Nexis - (By Email)

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA18-445

Filed: 15 January 2019

Surry County, Nos. 15 CRS 692, 694

STATE OF NORTH CAROLINA

v.

JOE ROBERT REYNOLDS, Defendant.

Appeal by Defendant from judgment entered 2 November 2017 by Judge Anderson D. Cromer in Surry County Superior Court. Heard in the Court of Appeals 20 December 2018.

*Attorney General Joshua H. Stein, by Assistant Attorney General William P. Hart, Jr., for the State.*

*Office of the Appellate Defender Glenn Gerdig, by Assistant Appellate Defender Amanda S. Zimmer, for defendant-appellant.*

*Joe Roberts Reynolds, pro se.*

HUNTER, JR., Robert N., Judge.

Joe Robert Reynolds ("Defendant") appeals from judgment entered by the trial court on remand from our decision in *State v. Reynolds*, \_\_\_ N.C. App. \_\_\_, 800 S.E.2d

STATE V. REYNOLDS

*Opinion of the Court*

702, (2017), *disc. review denied*, 370 N.C. 693, 811 S.E.2d 159 (2018) (“*Reynolds II*”).

We find no error.

**I. Factual and Procedural Background**

In 2013, Defendant was indicted for, and convicted of, failing to register as a sex offender in violation of N.C. Gen. Stat. § 14-208.11(a)(1) (2017) and attaining the status of an habitual felon. In *State v. Reynolds*, 241 N.C. App. 657, 775 S.E.2d 695, 2015 WL 3791731 (2015) (unpublished) (“*Reynolds I*”), “this Court vacated defendant’s convictions concluding North Carolina General Statute § 14-208.11(a)(1) logically applies only to individuals who are registering for the first time and not to defendant, who was already registered.” *Reynolds II*, \_\_\_ N.C. App. at \_\_\_, 800 S.E.2d at 704 (quoting *Reynolds I*, 2015 WL 3791731 at \*2).

In 2015, following our decision in *Reynolds I*, Defendant was indicted for, and convicted of, failure to report a change of address as a registered sex offender, in violation of N.C. Gen. Stat. § 14-208.11(a)(2) (2017), failure to report in person to the sheriff’s office as a registered sex offender, in violation of N.C. Gen. Stat. § 14-208.11(a)(7) (2017), and attaining habitual felon status. On 5 November 2015, the trial court consolidated Defendant’s two substantive convictions for judgment and sentenced him as an habitual felon with a prior record level (“PRL”) VI to an active prison term of 117 to 153 months imprisonment.

STATE V. REYNOLDS

*Opinion of the Court*

In *Reynolds II*, this Court held Defendant's separate convictions under N.C. Gen. Stat. § 14-208.11(a)(2) and (7) amounted to double jeopardy, inasmuch as "in this particular instance *both* § 14-208.11(a)(2) and (a)(7) required defendant to inform the sheriff of his change of address pursuant to the requirements in [N.C. Gen. Stat.] § 14-208.9(a)." *Reynolds II*, \_\_\_ N.C. App. at \_\_\_, 800 S.E.2d at 705. Discerning "no legal or practical difference between the two subsections as applied here[,] . . . we vacate[d] one of defendant's convictions under North Carolina General Statute § 14-208.11 and remand[ed] for defendant to be resentenced on the remaining conviction." *Id.* at \_\_\_, 800 S.E.2d at 706.

On remand from *Reynolds II*, the trial court held a resentencing hearing on 2 November 2017 and entered judgment on Defendant's conviction of failing to report a new address under N.C. Gen. Stat. § 14-208.11(a)(2) as an habitual felon. The trial court found as a mitigating factor that Defendant had a support system in the community and sentenced him within the mitigated range based on his PRL VI to an active prison term of 87 to 117 months. Defendant filed *pro se* notice of appeal from the judgment on 15 November 2017.

**II. Jurisdiction**

Counsel appointed to represent Defendant on appeal has petitioned this Court to review the judgment by writ of *certiorari*, acknowledging defects in Defendant's *pro se* notice of appeal. *See* N.C. R. App. P. 21(a)(1) (2018). Specifically, Defendant's

STATE V. REYNOLDS

*Opinion of the Court*

notice fails to identify the judgment from which his appeal is taken, *see* N.C. R. App. P. 4(b) (2018), whether by the superior court file number, the entering judge, or the correct date of entry.<sup>1</sup> The notice also fails to designate the court to which the appeal is taken, *see id.*, and lacks a proper proof of service under N.C. R. App. P. 4(c) and 26(c). The State did not respond to Defendant's petition and has participated in the appeal without objection. In our discretion, we allow Defendant's petition to consider the merits of his appeal. *See State v. Hill*, 227 N.C. App. 371, 374, 741 S.E.2d 911, 914 (2013).

**III. Analysis**

Counsel appointed to represent Defendant is 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. She shows to the satisfaction of this Court her compliance 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), in advising Defendant of his right to file written arguments with this Court and providing him with the documents necessary for him to do so.

Defendant has filed *pro se* arguments challenging his conviction under N.C. Gen. Stat. § 14-208.11(a)(2) on the ground he did not experience a "change of address" within the meaning of the statute. Defendant further claims, without elaboration,

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<sup>1</sup> The notice erroneously lists the judgment's date of entry as 31 October 2017.

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*Opinion of the Court*

his conviction was the product of “ineffective counsel.” He asks his “remaining sentence be vacated.”

We conclude Defendant’s arguments are not properly before this Court on appeal from the resentencing judgment entered on 2 November 2017. In *Reynolds II*, this Court reviewed, and upheld, Defendant’s conviction and remanded to the trial court solely for a new sentencing hearing. *See Reynolds II*, \_\_\_ N.C. App. at \_\_\_, 800 S.E.2d at 708 (“Since we are vacating one conviction, we remand for resentencing. As to all other issues, we find no error.”). Because Defendant’s arguments do not pertain to the sentence he received on remand, they are dismissed.

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.

**IV. Conclusion**

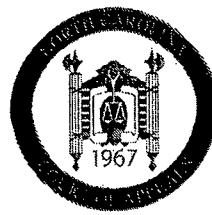
For the foregoing reasons and after a full examination of the record, we find no prejudicial error or meritorious argument for appeal.

NO ERROR.

Chief Judge McGEE and Judge INMAN concur.

Report per Rule 30(e).

2  
Appendix B



## North Carolina Court of Appeals

DANIEL M. HORNE JR., Clerk

Fax: (919) 831-3615  
Web: <https://www.nccourts.gov>

Court of Appeals Building  
One West Morgan Street  
Raleigh, NC 27601  
(919) 831-3600

Mailing Address:  
P. O. Box 2779  
Raleigh, NC 27602

No. COA18-445-1

STATE OF NORTH CAROLINA

v.

JOE ROBERT REYNOLDS

From Surry  
15CRS692 15CRS694

### ORDER

PETITION FOR DISCRETIONARY REVIEW to review the decision of the North Carolina Court of Appeals filed on the 14th of February 2019 was denied by order of the North Carolina Supreme Court on the 21st day of August 2019, and same has been certified to the North Carolina Court of Appeals.

IT IS THEREFORE CERTIFIED to the Clerk of Superior Court, Surry County, North Carolina that the North Carolina Supreme Court has denied the PETITION FOR DISCRETIONARY REVIEW filed by the Defendant in this cause.

WITNESS my hand and official seal this the 28th day of August 2019.

Daniel M. Horne Jr.  
Clerk, North Carolina Court of Appeals

Copy to:  
Ms. Amanda S. Zimmer, Assistant Appellate Defender, For Reynolds, Joe Robert  
Mr. William P. Hart, Assistant Attorney General, For State of North Carolina  
Mr. Joe Robert Reynolds, Pro Se, For Reynolds, Joe Robert

# Appendix C

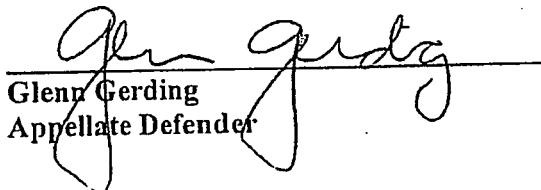
## APPOINTMENT OF APPELLATE COUNSEL BY THE APPELLATE DEFENDER

STATE OF NORTH CAROLINA )  
 )  
 v. )  
 )  
 JOE ROBERT REYNOLDS )  
 15 CRS 692, 94 )  
 Surry County )

Defendant having been convicted of a criminal offense in this action and having given notice of appeal to the North Carolina Court of Appeals, and the Trial Court having appointed the Office of the Appellate Defender as appellate counsel for the defendant, the Appellate Defender appoints the attorney named below as appellate counsel to perfect defendant's appeal, pursuant to IDS Rule Part 3. The original of this Appointment Notice has been mailed to the Clerk of Superior Court for filing.

**Appointed Appellate Counsel:** **Amanda S. Zimmer**  
**Assistant Appellate Defender**  
**123 West Main Street, Suite 500**  
**Durham, North Carolina 27701**  
**Telephone 919-354-7210**  
**Facsimile 919-354-7211**  
**Email amanda.s.zimmer@nccourts.org**

This the 28th day of December, 2017.

  
\_\_\_\_\_  
**Glenn Gerdig**  
**Appellate Defender**

In addition to the appointed appellate counsel named above, the Office of the Appellate Defender has provided a copy of this Appointment Notice to all parties as listed on the Appellate Entries, including the defendant and the court reporter.

**ATTENTION CLERK OF COURT. File this Appointment Notice in your office.**

# Appendix A

SEVENTEEN-B DISTRICT

No. 155P17-3

## Supreme Court of North Carolina

STATE OF NORTH CAROLINA

v

JOE ROBERT REYNOLDS

From Surry  
( 13CRS050435 13CRS815 )  
From N.C. Court of Appeals  
( 14-1019 16-149 18-445 )  
From Surry  
( 15CRS692-694 )

### ORDER

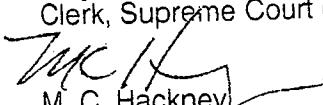
Upon consideration of the petition filed by Defendant on the 6th of July 2018 in this matter for a writ of certiorari to review the order of the Superior Court, Surry County, the following order was entered and is hereby certified to the Superior Court of that County:

"Dismissed by order of the Court in conference, this the 20th of September 2018."

s/ Morgan, J.  
For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 27th day of September 2018.



Amy L. Funderburk  
Clerk, Supreme Court of North Carolina  
  
M. C. Hackney  
Assistant Clerk, Supreme Court Of North Carolina

Copy to:

North Carolina Court of Appeals

Ms. Amanda S. Zimmer, Assistant Appellate Defender, For Reynolds, Joe Robert - (By Email)

Appendix E



## North Carolina Court of Appeals

DANIEL M. HORNE JR., Clerk

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Raleigh, NC 27601  
(919) 831-3600

Mailing Address:  
P. O. Box 2779  
Raleigh, NC 27602

From Surry  
(-15CRS692-15CRS694.)

No. 18-445

STATE OF NORTH CAROLINA

v.

JOE ROBERT REYNOLDS

### ORDER

The following order was entered:

The motion filed in this cause on the 21st of June 2018 and designated '[to withdraw Petition for Writ Certiorari]' is allowed. Defendant's pro se petition for writ of certiorari filed 13 June 2018 shall be dismissed.

By order of the Court this the 22nd of June 2018.

WITNESS my hand and official seal this the 22nd day of June 2018.

Daniel M. Horne Jr.  
Clerk, North Carolina Court of Appeals

Copy to:

Ms. Amanda S. Zimmer, Assistant Appellate Defender, For Reynolds, Joe Robert  
Mr. Glenn Gerding, Appellate Defender  
Mr. William P. Hart, Jr., Assistant Attorney General, For State of North Carolina  
Mr. Joe Robert Reynolds, For Reynolds, Joe Robert  
Hon. Teresa O'Dell, Clerk of Superior Court

# Appendix B



## North Carolina Court of Appeals

DANIEL M. HORNE JR., Clerk

Fax: (919) 831-3615  
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Court of Appeals Building  
One West Morgan Street  
Raleigh, NC 27601  
(919) 831-3600

Mailing Address:  
P. O. Box 2779  
Raleigh, NC 27602

From Surry  
( 15CRS692-694 )

No. 16-149

STATE OF NORTH CAROLINA

v.

JOE ROBERT REYNOLDS

### ORDER

The following order was entered:

The motion filed in this cause on the 17th of May 2016 and designated 'Defendant-Appellant's Motion to Withdraw as Private Assigned Counsel and to Appoint the Appellate Defender' is allowed. Amanda S. Zimmer is permitted to withdraw as counsel of record. The Office of the Appellate Defender is directed to appoint substitute counsel, and substitute counsel shall notify this Court of the appointment.

A copy of this order shall be mailed to the Office of the Appellate Defender.

By order of the Court this the 18th of May 2016.

WITNESS my hand and official seal this the 18th day of May 2016.

Daniel M. Horne Jr.  
Clerk, North Carolina Court of Appeals

Copy to:  
Ms. Amanda S. Zimmer, Attorney at Law, For Reynolds, Joe Robert  
Mr. William P. Hart, Jr., Assistant Attorney General  
Hon. Teresa O'Dell, Clerk of Superior Court