

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

NO. COA11-1006
NORTH CAROLINA COURT OF APPEALS

Filed: 7 February 2012

STATE OF NORTH CAROLINA

v.

Wayne County
Nos. 10 CRS 52610
10 CRS 6001

WILLIAM CHRISTOPHER BELL

Appeal by defendant from judgment entered 11 April 2011 by Judge Arnold O. Jones, II in Wayne County Superior Court. Heard in the Court of Appeals 17 January 2012.

Attorney General Roy Cooper, by Special Deputy Attorney General J. Allen Jernigan, for the State.

Edward Eldred, Attorney at Law, PLLC, by Edward Eldred, for defendant-appellant.

HUNTER, Robert C., Judge.

Defendant was indicted for possession of a firearm by a felon, carrying a concealed weapon, resisting a law enforcement officer, assault on a government official, and having attained habitual felon status. Defendant filed a pre-trial motion to suppress all evidence obtained after an allegedly unlawful search of the motel room he occupied. The trial court conducted

a hearing on the motion to suppress on 11 April 2011, and denied defendant's motion. Following the denial of the motion to suppress, defendant gave oral notice of appeal. Thereafter, defendant pled guilty to possession of a firearm by a felon and having attained habitual felon status. The trial court sentenced defendant in the mitigated range to a term of 50 to 69 months imprisonment. Defendant did not give written or oral notice of appeal from the final judgment entered.

"An order finally denying a motion to suppress evidence may be reviewed upon an appeal from a judgment of conviction, including a judgment entered upon a plea of guilty." N.C. Gen. Stat. § 15A-979(b) (2009). We have held that this Court lacks jurisdiction to hear an appeal from the denial of a motion to suppress where the defendant failed to appeal from the judgment of conviction. *State v. Miller*, __ N.C. App. __, __, 696 S.E.2d 542, 543 (2010).

In this case, defendant gave oral notice of appeal from the denial of his motion to suppress, but he failed to give oral notice of appeal or file written notice of appeal from the final judgment as required by N.C.G.S. § 15A-979(b). "Our Court therefore does not have jurisdiction to hear [d]efendant's

appeal, and his appeal must be dismissed." *Miller*, __ N.C. App. at __, 696 S.E.2d at 543.

Defendant filed a petition for the issuance of a writ of certiorari seeking consideration of his appeal in the event we determined his oral notice of appeal was insufficient to confer jurisdiction. We decline to review defendant's appeal on a petition for writ of certiorari.

Defendant's sole argument on appeal is that the trial court erred in denying his motion to suppress because the officer violated his right of privacy by making a warrantless entry into the motel room in the absence of any exigent circumstances. We note defendant did not make this argument in his written motion to suppress, nor did he make this argument before the trial court at the suppression hearing. Instead, defendant argued the entry was unlawful because the "officers were acting solely on an anonymous, but unsubstantiated and uncorroborated tip, with no independent verification." "This Court will not consider arguments based upon matters not presented to or adjudicated by the trial tribunal." *State v. Eason*, 328 N.C. 409, 420, 402 S.E.2d 809, 814 (1991). Assuming, *arguendo*, that these arguments had been properly preserved, they have no merit.

Appeal dismissed; petition for writ of certiorari denied.

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Judges STEPHENS and ERVIN concur.

Report per Rule 30(e).