

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA11-993  
NORTH CAROLINA COURT OF APPEALS

Filed: 7 February 2012

STATE OF NORTH CAROLINA

v.

Burke County  
No. 10 CRS 51132

SHALBY ALIM HAQQ

Appeal by defendant from judgment entered 11 May 2011 by Judge Yvonne Mims Evans in Burke County Superior Court. Heard in the Court of Appeals 23 January 2012.

*Attorney General Roy Cooper, by Assistant Attorney General Daniel P. O'Brien, for the State.*

*Morrow Porter Vermitsky & Fowler, PLLC, by Benjamin D. Porter for defendant-appellant.*

ERVIN, Judge.

Defendant Shalby Alim Haqq appeals from a judgment based on a jury verdict convicting him of injury to personal property causing in excess of \$200.00 in damage. On appeal, Defendant contends that the record did not contain sufficient evidence to support a finding that he caused more than \$200.00 in property damage. After careful consideration of Defendant's challenge to the trial court's judgment in light of the record and the

applicable law, we conclude that Defendant is not entitled to any relief from the trial court's judgment.

## I. Factual Background

### A. Substantive Facts

#### 1. State's Evidence

On 19 May 2010, Defendant drove up while Elijah Reese and an acquaintance were standing near Mr. Reese's 1999 Grand Am in the parking lot of a convenience store. Defendant jumped out of his vehicle, yelled an obscenity, and became involved in an altercation with Mr. Reese and his acquaintance. After swinging a large rock at Mr. Reese, Defendant "dropped the rock inside" the Grand Am, cracking its dashboard and damaging its stereo. In addition, Defendant "bashed" the windshield of the Grand Am with another rock. According to Mr. Reese, it cost him \$225.00 to have the Grand Am's windshield replaced.

#### 2. Defendant's Evidence

Clarence Albert Brown, Jr., testified that he was sitting on his porch on the date in question when Defendant came to his house in a panic. According to Mr. Brown, a red Grand Am pulled up to his house, the occupants of the car yelled at Mr. Brown and Defendant, and the Grand Am drove off. Mr. Brown did not see any damage to the Grand Am's windshield.

### B. Procedural History

On 19 May 2010, a warrant for arrest charging Defendant with injury to real property causing damage in excess of \$200.00 and simple assault was issued. On 28 July 2010, Judge Robert E. Hodges found Defendant guilty of injury to real property causing damage in excess of \$200.00 and not guilty of simple assault in the Burke County District Court. Based upon Defendant's conviction, Judge Hodges sentenced Defendant to 120 days in the custody of the Department of Correction, suspended Defendant's sentence, and placed Defendant on unsupervised probation for a period of 24 months subject to certain terms and conditions. Defendant noted an appeal to the Burke County Superior Court for a trial *de novo*.

The charge against Defendant came on for trial before the trial court and a jury at the 9 May 2011 criminal session of the Burke County Superior Court. On 11 May 2011, the jury returned a verdict convicting Defendant of injury to personal property causing damage in excess of \$200.00. The trial court sentenced defendant to 45 days in the custody of the Sheriff of Burke County, suspended Defendant's sentence, and placed Defendant on supervised probation for eighteen months subject to certain terms and conditions. Defendant noted an appeal to this Court from the trial court's judgment.

## II. Legal Analysis

In his sole challenge to the trial court's judgment, Defendant contends that the trial court erred by denying his dismissal motion. More particularly, Defendant argues that the record evidence did not support a finding that he caused \$200.00 in damage to Mr. Reese's Grand Am. We disagree.

"Upon defendant's motion for dismissal, the question for the Court is whether there is substantial evidence (1) of each essential element of the offense charged, or of a lesser offense included therein, and (2) of defendant's being the perpetrator of such offense. If so, the motion is properly denied.'" *State v. Fritsch*, 351 N.C. 373, 378, 526 S.E.2d 451, 455 (quoting *State v. Powell*, 299 N.C. 95, 98, 261 S.E.2d 114, 117 (1980)), *cert. denied*, 531 U.S. 890, 121 S. Ct. 213, 148 L. Ed. 2d 150 (2000). "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *State v. Smith*, 300 N.C. 71, 78-79, 265 S.E.2d 164, 169 (1980). "In making its determination, the trial court must consider all evidence admitted, whether competent or incompetent, in the light most favorable to the State, giving the State the benefit of every reasonable inference and resolving any contradictions in its favor." *State v. Rose*, 339 N.C. 172, 192, 451 S.E.2d 211, 223 (1994), *cert. denied*, 515 U.S. 1135, 115 S. Ct. 2565, 132 L. Ed. 2d 818 (1995).

N.C. Gen. Stat. § 14-160 provides that:

(a) If any person shall wantonly and willfully injure the personal property of another he shall be guilty of a Class 2 misdemeanor.

(b) Notwithstanding the provisions of subsection (a), if any person shall wantonly and willfully injure the personal property of another, causing damage in an amount in excess of two hundred dollars (\$200.00), he shall be guilty of a Class 1 misdemeanor.

N.C. Gen. Stat. §§ 14-160 (a) and (b). Although Defendant asserts that the State failed to prove that he caused in excess of \$200.00 in property damage, Mr. Reese testified that he paid \$225.00 to replace the Grand Am's broken windshield. A rational trier of fact could conclude from this evidence that Defendant caused more than \$200.00 in property damage. Although Defendant argues that the State failed to elicit corroborating testimony or introduce documentary evidence supporting the amount of damage claimed by Mr. Reese, there is no requirement that such evidence be introduced in order to justify the denial of a motion to dismiss for insufficiency of the evidence. As a result, the trial court correctly denied Defendant's dismissal motion.

NO ERROR.

Judges ROBERT C. HUNTER and STEPHENS concur.

Report per Rule 30(e).