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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-1315

Filed: 2 October 2018

Perquimans County, No. 15 CRS 50368

STATE OF NORTH CAROLINA

v.

ANDREW JERMAINE JORDAN

Appeal by defendant from judgment entered 10 July 2017 by Judge Jerry R. Tillett in Perquimans County Superior Court. Heard in the Court of Appeals 27 September 2018.

Attorney General Joshua H. Stein, by Assistant Attorney General Ryan Zellar, for the State.

Julie C. Boyer for defendant.

DIETZ, Judge.

Defendant Andrew Jermaine Jordan appeals the trial court's judgment revoking his probation for absconding. As explained below, the State presented sufficient evidence that Jordan willfully made his whereabouts unknown to his supervising probation officer, including Jordan's own admission to the trial court that

he willfully violated the terms of his probation by absconding. Thus, the trial court acted well within its sound discretion in revoking Jordan's probation.

Facts and Procedural History

On 18 August 2016, Defendant Andrew Jermaine Jordan pleaded guilty to felonious possession of stolen property and the trial court sentenced him to 10 to 21 months in prison. The trial court suspended the sentence and placed Jordan on supervised probation for 36 months.

On 11 April 2017, the trial court held a probation violation hearing after Jordan tested positive for marijuana in a drug test. The trial court instructed Jordan to return to court the following day. After Jordan failed to appear the following day, the trial court issued an order for his arrest. Jordan's probation officer then attempted to contact Jordan but learned that he no longer lived at his last known address. Jordan also did not return the probation officer's phone calls.

On 8 May 2017, Jordan's probation officer filed a fourth violation report alleging that Jordan had absconded from supervision. On 20 June 2017, law enforcement located and arrested Jordan. The trial court held a probation violation hearing on 10 July 2017. Jordan, through his counsel, admitted to willfully violating the terms of his probation at the hearing and the State presented evidence concerning the probation officer's inability to locate Jordan following issuance of the arrest

warrant. The trial court determined that Jordan had absconded from supervision, revoked Jordan's probation, and activated his suspended sentence. Jordan appealed.

Analysis

Jordan argues that the trial court abused its discretion in revoking his probation because there was insufficient evidence that he absconded from supervision. We disagree.

"[A] proceeding to revoke probation is not a criminal prosecution and is often regarded as informal or summary. Thus, the alleged violation of a valid condition of probation need not be proven beyond a reasonable doubt." *State v. Murchison*, 367 N.C. 461, 464, 758 S.E.2d 356, 358 (2014) (citations omitted). On appeal, this Court reviews a trial court's determination that a defendant violated the conditions of probation for abuse of discretion. *Id.*

The trial court may revoke a defendant's supervised probation if the defendant absconds "by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer." N.C. Gen. Stat. §§ 15A-1343(b)(3a), 15A-1344(a). Here, after the trial court issued an arrest warrant for failure to appear, Jordan's probation officer tried to contact Jordan by phone but was unsuccessful. The officer then went to Jordan's last known address and learned that Jordan no longer resided there and had not resided there for several weeks. Jordan did not leave any information concerning a new address or residence. The officer also

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searched public records and checked with the local jail and hospital in an effort to locate Jordan but was unsuccessful. Finally, at the probation revocation hearing, Jordan admitted through counsel that he willfully violated the conditions of his probation by absconding as alleged in the probation violation report. In light of this evidence, the trial court acted well within its sound discretion in determining that Jordan absconded and, accordingly, revoking Jordan's probation. *State v. Trent*, __ N.C. App. __, __, 803 S.E.2d 224, 230 (2017); *State v. Sellers*, 185 N.C. App. 726, 728–29, 649 S.E.2d 656, 657–58 (2007).

Conclusion

We affirm the trial court's judgment revoking Jordan's probation and activating his suspended sentence.

AFFIRMED.

Judges STROUD and MURPHY concur.

Report per Rule 30(e).