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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-1111

Filed: 15 September 2020

Perquimans County, Nos. 17 CRS 50221, 18 CRS 50275

STATE OF NORTH CAROLINA

v.

JASON AARON STOKELY

Appeal by defendant from judgment entered 8 July 2019 by Judge Wayland J. Sermons, Jr., in Perquimans County Superior Court. Heard in the Court of Appeals 25 August 2020.

*Attorney General Joshua H. Stein, by Assistant Attorney General Jason Rosser, for the State.*

*Edward Eldred for defendant-appellant.*

ZACHARY, Judge.

Defendant Jason Aaron Stokely pleaded guilty to two drug charges. Because Defendant pleaded guilty, he has a limited right to appellate review. Defendant has filed a petition for writ of certiorari seeking review of an issue falling outside of this statutory right to appellate review. In that Defendant has failed to show merit or good and sufficient cause warranting the issuance of this extraordinary writ, in our

discretion, we deny Defendant’s petition for writ of certiorari and dismiss his appeal for lack of appellate jurisdiction.

***Background***

On 8 July 2019, Defendant appeared before the Honorable Wayland J. Sermons, Jr., in Perquimans County Superior Court for a probation violation hearing. Defendant’s probation officer had filed violation reports alleging that Defendant violated the terms of his supervised probation for a previous forgery conviction<sup>1</sup> by, *inter alia*, willfully absconding. Upon finding that Defendant had willfully absconded from supervision, the trial court revoked Defendant’s probation and activated his sentence of 6-17 months in the custody of the North Carolina Division of Adult Correction.

At the same hearing, Defendant entered an *Alford* plea<sup>2</sup> to the charges of felony possession of heroin and misdemeanor possession of drug paraphernalia. Counsel for Defendant informed the trial court that Defendant “has a heroin problem and is ready to take care of it,” and asked that the trial court recommend him for the Drug and Alcohol Recovery Treatment (“DART”) program.

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<sup>1</sup> The judgment for this offense is not found in the record on appeal.

<sup>2</sup> An *Alford* plea is a guilty plea in which the defendant does not admit to any criminal act, but admits that there is sufficient evidence to convince the judge or jury of the defendant’s guilt. *See North Carolina v. Alford*, 400 U.S. 25, 37, 27 L. Ed. 2d 162, 171 (1970); *State v. Baskins*, 260 N.C. App. 589, 592 n.1, 818 S.E.2d 381, 387 n.1 (2018), *disc. review denied*, 372 N.C. 102, 824 S.E.2d 409 (2019).

The trial court consolidated the convictions and entered judgment sentencing Defendant to 6-17 months' imprisonment, but suspended the sentence and placed Defendant on supervised probation for 30 months, to begin after completion of his sentence on the forgery conviction. Defendant was ordered to comply with several special conditions of probation, including a requirement that he "obtain substance abuse treatment from a[n] inpatient facility for not less than 12 months." Defendant appealed.

### ***Analysis***

In that Defendant entered an *Alford* plea, Defendant lacks a right of appeal to this Court.<sup>3</sup> Defendant therefore petitions this Court to issue its writ of certiorari to review whether "[t]he trial court abused its discretion by ordering a first-time drug offender, as a condition of probation, to complete a 12-month inpatient substance abuse treatment program after completing a 6–17-month active sentence."

However, Defendant does not present a strong argument for issuance of a writ of certiorari. The trial court was authorized to impose special terms of probation, including that Defendant "[a]ttend or reside in a facility providing rehabilitation,

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<sup>3</sup> "Except as provided in subsections (a1) and (a2) of this section and G.S. 15A-979, and except when a motion to withdraw a plea of guilty or no contest has been denied, the defendant is not entitled to appellate review as a matter of right when he has entered a plea of guilty or no contest to a criminal charge in the superior court, but he may petition the appellate division for review by writ of certiorari." N.C. Gen. Stat. § 15A-1444(e) (2019); *see also State v. Williams*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 829 S.E.2d 518, 521 ("A defendant entering an *Alford* plea has no statutory right to appeal the trial court's judgment."), *disc. review denied*, 373 N.C. 175, 833 S.E.2d 802 (2019).

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counseling, treatment, social skills, or employment training, instruction, recreation, or residence,” N.C. Gen. Stat. § 15A-1343(b1)(2), “[p]articipate in and successfully complete a Drug Treatment Court Program,” *id.* § 15A-1343(b1)(2b), and “[s]atisfy any other conditions determined by the court to be reasonably related to his rehabilitation,” *id.* § 15A-1343(b1)(10). Section 15A-1343 of our General Statutes provides trial courts with “substantial discretion in devising conditions” of probation. *In re Eldridge*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 836 S.E.2d 859, 863 (2019) (citation omitted), *disc. review denied*, \_\_\_ N.C. \_\_\_, 837 S.E.2d 883 (2020).

Under subsection (b1)(10), “[t]he extent to which a particular condition . . . is authorized . . . hinges upon whether the challenged condition bears a reasonable relationship to the offenses committed by the defendant, whether the condition tends to reduce the defendant’s exposure to crime, and whether the condition assists in the defendant’s rehabilitation.” *State v. Allah*, 231 N.C. App. 88, 98, 750 S.E.2d 903, 911 (2013), *disc. review denied*, 367 N.C. 808, 766 S.E.2d 676 (2014). Indeed, this Court has repeatedly affirmed the imposition of special conditions pursuant to section 15A-1343(b1)(10) where the condition devised was “reasonably related to [the defendant’s] rehabilitation.” N.C. Gen. Stat. § 15A-1343(b1)(10).<sup>4</sup>

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<sup>4</sup> See, e.g., *State v. Chadwick*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 843 S.E.2d 263, 265 (2020); *In re Eldridge*, \_\_\_ N.C. App. at \_\_\_, 836 S.E.2d at 863-64 (affirming numerous special conditions—including having the defendant write an essay to be submitted to the trial judge on the topic of “Respect for the Court System is Essential to the Fair Administration of Justice”—as being “reasonably related to the necessity of preventing further disruptions of the court by [the] defendant’s conduct, and the need to

“A petition for the writ must show merit or that error was probably committed below. *Certiorari* is a discretionary writ, to be issued only for good and sufficient cause shown.” *State v. Monroe*, 256 N.C. App. 565, 568, 822 S.E.2d 872, 874 (2017) (per curiam) (citation omitted). Failing to present a meritorious claim or show probable error in the proceeding below, Defendant has failed to present good cause for the issuance of a writ of certiorari.<sup>5</sup>

### ***Conclusion***

Defendant does not justify issuance of the extraordinary remedy he seeks. Accordingly, in our discretion, we decline to issue the writ of certiorari, and dismiss this appeal for lack of jurisdiction.

DISMISSED.

Judges STROUD and DIETZ concur.

Report per Rule 30(e).

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provide accountability without unduly infringing on his rights”); *State v. Pavkovic*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 833 S.E.2d 383, 390 (2019) (affirming an order prohibiting the defendant from coming within 1,500 feet of an abortion clinic while speaking in protest as reasonably related to the violation of a noise ordinance and as “assist[ing] in [the] defendant’s rehabilitation by discouraging future misconduct”); *Allah*, 231 N.C. App. at 98, 750 S.E.2d at 911; *State v. McGill*, 114 N.C. App. 479, 483-84, 442 S.E.2d 166, 168 (1994).

<sup>5</sup> If there is no treatment program available to Defendant that fits the condition imposed by the trial court, Defendant may move for modification of the condition without charge of violation. See N.C. Gen. Stat. § 15A-1344(d) (“At any time prior to the expiration or termination of the probation period or in accordance with subsection (f) of this section, the court may after notice and hearing and for good cause shown extend the period of probation up to the maximum allowed under G.S. 15A-1342(a) and may modify the conditions of probation.”).