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IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-639

No. COA20-578

Filed 16 November 2021

Wake County, No. 19 CRS 204073

STATE OF NORTH CAROLINA

v.

DESMOND LAMAR CRANDALL, Defendant.

Appeal by Defendant from an order entered 15 June 2020 by Judge G. Bryan Collins in Wake County Superior Court. Heard in the Court of Appeals 8 September 2021.

Attorney General Joshua H. Stein, by Assistant Attorney General Neal T. McHenry, for the State.

Sigler Law PLLC, by Kerri L. Sigler, for Defendant-Appellant.

INMAN, Judge.

¶ 1 Defendant Desmond Lamar Crandall ("Defendant"), a convicted felon who was on probation when he was stopped for a misdemeanor traffic crime, appeals the trial court's order denying his motion to suppress evidence obtained in searches conducted during and following the stop. After careful review, we hold the trial court properly denied Defendant's motion because the terms of his probation allowed for searches of

his person and vehicle on reasonable suspicion of the commission of a crime, including misdemeanor traffic violations.

I. FACTUAL AND PROCEDURAL HISTORY

¶ 2 Defendant and the State stipulated to the following pertinent facts at the motion to suppress hearing:

¶ 3 On 1 March 2019, around 11:30 p.m., Officer J. Oliver with the Zebulon Police Department was on traffic enforcement duty along U.S. Route 264. He observed a Kia Sorento driving 86 m.p.h. in a 70 m.p.h. zone and activated his blue lights to initiate a traffic stop. Defendant, who was driving the Kia, promptly turned on his hazard lights and pulled over to the right shoulder of the road.

¶ 4 Officer Oliver was unable to access the North Carolina Division of Criminal Information database at the initiation of the stop, so he requested another Zebulon police officer, Officer J. Pulley, run the Kia's registration remotely. Officer Pulley's query returned John Allman as the registered owner of the car.

¶ 5 With the vehicle registration information in hand, Officer Oliver approached the vehicle, whereupon Defendant produced his license and registration. In confirming Defendant's identification, Officer Oliver learned that Defendant was on probation in Pitt County for felony possession with intent to sell and deliver a Schedule IV controlled substance and possession of a Schedule II controlled substance.

¶ 6 Officer Oliver requested Officer Pulley's assistance at the scene and, upon his arrival, the two discussed whether Defendant could be searched without a warrant as a condition of his probation. They eventually determined that Defendant and his vehicle could be searched without a warrant or probation officer present, so they called for backup and approached Defendant to conduct the searches. When asked to exit the vehicle, Defendant questioned why; Officer Pulley responded, "you're on probation and subject to warrantless searches . . . we can legally search you and the vehicle," eventually telling Defendant if he did not exit the vehicle he would go to jail. Defendant then complied with the officers' request.

¶ 7 Officer Pulley searched Defendant's person and found nothing. Another officer arrived with a dog to conduct an exterior sniff of the vehicle. The dog alerted on the driver's side door, so Officers Oliver and Pulley searched the vehicle. That search revealed a handgun in a laptop bag inside a gym bag in the rear of the car.

¶ 8 Defendant denied ownership of the firearm and stated that the gun belonged to a woman named Maggie Allman. Officer Oliver called Ms. Allman, who confirmed the gun belonged to her. Defendant was nonetheless arrested for possession of firearm by a felon and transported to the police station. During the arrest, Defendant admitted to having cocaine on his person in the crotch of his underwear.

¶ 9 A Wake County grand jury indicted Defendant for felony possession of cocaine, possession with intent to sell or deliver cocaine, possession of drug paraphernalia,

and possession of a firearm by a felon on 9 April 2019. Defendant filed a motion to suppress evidence of the firearm and cocaine procured as a result of the warrantless searches, which the trial court heard and denied on 13 November 2019. Per its written order, the trial court concluded that N.C. Gen. Stat. § 15A-1343(b)(14) (2019) explicitly permits warrantless searches of probationers based on a reasonable suspicion of criminal activity, and, because Defendant was pulled over for a Class 3 misdemeanor traffic violation, the searches of his person and vehicle were thus permissible.

¶ 10 Following the denial of his motion to suppress, Defendant plead guilty to possession of a firearm by a felon on 5 December 2019 and was sentenced to an active punishment of 11 to 23 months imprisonment. At the conclusion of sentencing, Defendant gave oral notice of appeal in open court.

II. ANALYSIS

¶ 11 Defendant contends that the trial court erred in denying his motion to dismiss, arguing that the stop was unlawfully extended under *Rodriguez v. United States*, 575 U.S. 348, 191 L. Ed. 2d 492 (2015). Defendant further asserts that the trial court erred in its application of Subsection 15A-1343(b)(14) because he was no longer driving when searched and thus could not have been reasonably suspected of engaging in a misdemeanor traffic violation at the time. We hold that the trial court properly determined Defendant and the vehicle were subject to warrantless searches

under that statute and thus committed no reversible error in concluding the searches did not violate Defendant's Fourth Amendment rights.

1. Standard of Review

¶ 12 We review an order denying a motion to suppress to discern "whether competent evidence supports the trial court's findings of fact and whether the findings of fact support the conclusions of law." *State v. Biber*, 365 N.C. 162, 167-68, 712 S.E.2d 874, 878 (2011) (citation omitted). Questions of statutory interpretation are reviewed *de novo*. *State v. Skipper*, 214 N.C. App. 556, 557, 715 S.E.2d 271, 272 (2011).

2. The Trial Court Properly Denied Defendant's Motion

¶ 13 Defendant acknowledges in his brief that Subsection 15A-1343(b)(14) provides a valid exception to the Fourth Amendment's warrant requirement; thus, ultimate resolution of Defendant's appeal turns on whether the trial court properly applied that statute to the stipulated facts of this case. Per the statute, probationers must, as a condition of their probation, "[s]ubmit to warrantless searches by a law enforcement officer of the probationer's person and of the probationer's vehicle, upon a reasonable suspicion that the probationer is engaged in criminal activity . . . ." N.C. Gen. Stat. § 15A-1343(b)(14). Here, the trial court concluded that the searches conducted in this case fell within that language, as Defendant had been stopped for

a misdemeanor speeding violation.[1]

¶ 14 We hold that the trial court properly interpreted and applied Section 15A-1343(b)(14). Officer Oliver witnessed Defendant commit a misdemeanor, and Defendant was stopped in the investigation of that crime. *See Rodriguez*, 575 U.S. at 354, 191 L. Ed. 2d at 498 ("A seizure for a traffic violation justifies a police investigation of that violation."). Officer Oliver then learned that Defendant was a probationer as part of the "ordinary inquiries incident to the traffic stop," which were also part of Officer Oliver's investigatory mission. *Id.* at 355, 191 L. Ed. 2d at 499 (cleaned up). Defendant, as a condition of his probation, was thus subject to warrantless searches of his person and vehicle based on Officer Oliver's investigation into Defendant's reasonably suspected criminal activity, and those searches were statutorily authorized and constitutionally reasonable. N.C. Gen. Stat. § 15A-1343(b)(14); *see also U.S. v. Knights*, 534 U.S. 112, 121, 151 L. Ed. 2d 497, 506-07 (2001) ("When an officer has reasonable suspicion that a probationer subject to a search condition is engaged in criminal activity, there is enough likelihood that

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[1] N.C. Gen. Stat. § 20-176(a) (2019) provides that a violation of the speed restrictions found in Article 10 of the Motor Vehicle Act of 1937 "is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony." Article 10, in turn, declares that "[a] person who drives a vehicle on a highway at a speed that is either more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred or over 80 miles per hour is guilty of a Class 3 misdemeanor." N.C. Gen. Stat. § 20-141(j1) (2019). Defendant's violation of Subsection (j1) is thus meaningfully distinct from ordinary traffic infractions, which are statutorily defined as "*noncriminal* violation[s] of law not punishable by imprisonment." N.C. Gen. Stat. § 14-3.1 (2019) (emphasis added).

criminal conduct is occurring that an intrusion on the probationer's significantly diminished privacy interests is reasonable.").

¶ 15 Defendant's argument that he had already completed the traffic crime once he pulled over and thus was no longer "engag[ing] in criminal activity" within the plain language of the statute is unavailing. Defendant's reading would practically prohibit searches as a term of probation based on the reasonable suspicion of the commission of any crime that terminates upon initiation of a stop—even in cases where the stop was performed to conduct an investigatory search into the probationer's commission of that very crime. But the purposes of probation and its statutory conditions are designed to address a probationer's possible recidivism *generally*. *See, e.g.*, N.C. Gen. Stat. § 15A-1343(a) (2019) ("The court may impose conditions of probation reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so."); *Knights*, 534 U.S. at 120-21, 151 L. Ed. 2d at 506 ("The State has a dual concern with a probationer. . . . [One] is the concern, quite justified, that he will be more likely to engage in criminal conduct than an ordinary member of the community. . . . Its interest in apprehending violators of the criminal law, thereby protecting potential victims of criminal enterprise, may therefore justifiably focus on probationers in a way that it does not on the ordinary citizen."). Given that statutory terms of probation are concerned with the investigation into and deterrence against a probationer's potential criminal acts writ-large, rather than particular types or

categories of crimes, we decline to adopt Defendant's proffered reading that would untether this statutory term of probation from criminal activity that ceases upon interruption by police to investigate said reasonably suspected illegal conduct. *See State v. Barksdale*, 181 N.C. 621, 625, 107 S.E. 505, 507 (1921) ("[W]here a literal interpretation of the language of a statute will lead to absurd results, or contravene the manifest purpose of the Legislature, as otherwise expressed, the reason and purpose of the law shall control and the strict letter thereof shall be disregarded.").

III. CONCLUSION

¶ 16 For the foregoing reasons, we hold that the trial court properly applied Subsection 15A-1343(b)(14) to conclude that the search of Defendant, as a term of his probation, was lawful and did not violate his Fourth Amendment rights.

NO ERROR.

Judges DIETZ and GRIFFIN concur.

Report per Rule 30(e).