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IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-643

No. COA21-92

Filed 16 November 2021

Cumberland County, Nos. 17 CRS 57328–29

STATE OF NORTH CAROLINA

v.

JOHNNY LINDQUIST

Appeal by defendant from amended order entered 28 August 2020 by Judge Claire V. Hill in Cumberland County Superior Court. Heard in the Court of Appeals 3 November 2021.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Sonya Calloway-Durham, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Aaron Thomas Johnson, for defendant-appellant.

ZACHARY, Judge.

¶ 1 Defendant Johnny Lindquist appeals from the trial court's amended order imposing lifetime satellite-based monitoring following his conviction of an "aggravated offense" as defined in N.C. Gen. Stat. § 14-208.6(1a) (2019). We affirm the trial court's order for the reasons enunciated by our Supreme Court in *State v. Hilton*, 2021-NCSC-115.

¶ 2 The instant case is Defendant's second appeal from the trial court's imposition of lifetime satellite-based monitoring. In *Lindquist I*, we vacated the trial court's satellite-based monitoring order due to "uncertainty surrounding a material basis of the trial court's decision and the significant Fourth Amendment interests at stake," and remanded the case to the trial court for clarification. *State v. Lindquist* (*Lindquist I*), 273 N.C. App. 163, 168, 847 S.E.2d 78, 81 (2020). On remand, the trial court amended its order to reflect the material basis of its decision, and again ordered that Defendant, who had been convicted of an "aggravated offense" as defined in N.C. Gen. Stat. § 14-208.6(1a), enroll in satellite-based monitoring for the remainder of his natural life. Defendant timely filed written notice of appeal from the amended order.

¶ 3 During the pendency of Defendant's appeal, our Supreme Court addressed the constitutionality of the imposition of lifetime satellite-based monitoring following a defendant's conviction for an aggravated offense as defined in N.C. Gen. Stat. § 14-208.6(1a). In *State v. Hilton*, the Court analyzed the totality of the circumstances to determine the reasonableness of the search imposed by satellite-based monitoring, "consider[ing] the government's purpose in conducting the search and the nature of the search balanced with the degree of intrusion upon the recognized privacy interest." 2021-NCSC-115, ¶ 14; *accord Grady v. North Carolina* (*Grady I*), 575 U.S. 306, 310, 191 L. Ed. 2d 459, 462 (2015) (per curiam); *State v. Grady* (*Grady III*), 372 N.C. 509, 538, 831 S.E.2d 542, 564 (2019).

¶ 4 The *Hilton* Court first concluded that the State has a "paramount interest in protecting the public—especially children—by monitoring certain sex offenders after their release[,]" 2021-NCSC-115 at ¶ 19, particularly those sex offenders who have been convicted of statutorily defined aggravated offenses, *id.* at ¶ 21. The Court then considered the efficacy of satellite-based monitoring in furthering the legislative purpose of the program, and determined that the satellite-based monitoring program protects the public from sex offenders by assisting law enforcement agencies in solving crimes and deterring recidivism. *Id.* at ¶¶ 22, 25, 27. Significantly, the Court stated that its recognition of the efficacy of satellite-based monitoring eliminates the need for the State to prove its "efficacy on an individualized basis." *Id.* at ¶ 28.

¶ 5 After review of the relevant case law, the Court further concluded that the privacy interests of an aggravated offender "remain impaired for the remainder of his life due to his status as a convicted aggravated sex offender[,]" *id.* at ¶ 30, and that "the imposition of lifetime [satellite-based monitoring] causes only a limited intrusion into that diminished privacy expectation[,]" *id.* at ¶ 36.

¶ 6 Therefore, the Court held that under the totality of the circumstances, "a search effected by the imposition of lifetime [satellite-based monitoring] upon a defendant due to his status as an aggravated offender is reasonable under the Fourth Amendment." *Id.* at ¶ 12.

¶ 7 In the case at bar, Defendant argues that the trial court erred in ordering his lifetime enrollment in the satellite-based monitoring program because "the State failed to prove that [satellite-based monitoring] would be a reasonable search" as applied to Defendant. However, it is undisputed that Defendant was convicted of an aggravated offense as defined in N.C. Gen. Stat. § 14-208.6(1a), as was the defendant in *Hilton*. And as our Supreme Court determined in *Hilton*, the categorical imposition of lifetime satellite-based monitoring following a defendant's conviction for an aggravated offense as defined in N.C. Gen. Stat. § 14-208.6(1a) does not constitute an unreasonable search under the Fourth Amendment. 2021-NCSC-115, ¶ 12.

¶ 8 Accordingly, we affirm the trial court's order imposing lifetime satellite-based monitoring on Defendant.

AFFIRMED.

Judges TYSON and ARROWOOD concur.

Report per Rule 30(e).