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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-197

No. COA21-232

Filed 15 March 2022

Wake County, No. 19 CRS 214424

STATE OF NORTH CAROLINA

v.

ZEENALYN PATRICIA WILLIAMS

Appeal by defendant from judgment entered 11 December 2020 by Judge Rebecca W. Holt in Wake County Superior Court. Heard in the Court of Appeals 26 January 2022.

*Attorney General Joshua H. Stein, by Assistant Attorney General Alexander H. Ward, for the State.*

*Sharon L. Smith for defendant-appellant.*

ZACHARY, Judge.

¶ 1 Defendant Zeenalyn Patricia Williams appeals from the judgment entered upon her conviction for violating a valid protective order. On appeal, Defendant argues that the trial court erred in denying her motion to dismiss, because the warrant charging her with violation of a valid domestic violence protective order was facially invalid. After careful review, we affirm.

## ***Background***

¶ 2 Defendant and Randolph Thompson engaged in a brief romantic relationship in 2003 or 2004, resulting in the birth of their daughter, L.T. ("Lisa").[1] Mr. Thompson petitioned the Wake County District Court for a domestic violence protective order against Defendant in 2018. Lisa was living with Mr. Thompson at the time that he filed his petition.

¶ 3 Mr. Thompson's petition came on for hearing on 31 October 2018. Finding that Defendant had harassed and threatened to kill Mr. Thompson and that she "exposed [Lisa] to a substantial risk of physical or emotional injury[,]" the trial court ordered, *inter alia*, that Defendant have no contact, either direct or indirect or by any means, with Mr. Thompson or Lisa. The domestic violence protective order also granted Mr. Thompson temporary custody of Lisa, and prohibited Defendant from receiving visitation until she underwent a mental health assessment or a subsequent custody order was issued. The order, which named Mr. Thompson as the sole "Petitioner/Plaintiff," was effective until 31 October 2019. The trial court left blank the section beneath Mr. Thompson's name in the order in which the court could list any "minor family member(s)" as additional petitioners.

[1] We use a pseudonym to protect the identity of the minor child and for ease of reading.

¶ 4 Between 31 July 2019 and 5 August 2019, Defendant contacted Mr. Thompson numerous times via text message, phone call, and voicemail. Mr. Thompson asked Defendant to stop contacting him, but Defendant told him that "she wasn't afraid of the police" and that she did not care if he called law enforcement. On 5 August 2019, Mr. Thompson reported Defendant's repeated violations of the protective order to the Raleigh Police Department, and gave officers screenshots from his cell phone of Defendant's text messages and the log of her calls to him.

¶ 5 That same day, law enforcement officers obtained a warrant for Defendant's arrest pursuant to N.C. Gen. Stat. § 50B-4.1(a) for violation of a valid protective order. The warrant, which named Mr. Thompson as the only witness, alleged that Defendant "unlawfully and willfully did knowingly violate a valid protective order entered pursuant to Chapter 50B of the General Statutes" that was "issued by JUDGE DUNSTON [on] 10/31/2018 by . . . TEXTING AND CALLING THE VICTIM NUMEROUS TIMES OVER THE COURSE OF SIX DAYS[.]"

¶ 6 This matter came on for trial in Wake County District Court on 19 February 2020. Defendant appeared with counsel and pleaded guilty to the charge of violating a valid protective order. On 24 February 2020, Defendant appealed the judgment entered upon her conviction to Wake County Superior Court.

¶ 7 On 11 December 2020, this matter came on for trial in Wake County Superior Court. Defendant waived her right to a jury trial. At the close of the State's evidence,

and again at the close of all evidence, Defendant moved to dismiss the case. She argued as one ground for her motion that the charging instrument was invalid because it did not identify the victim by name. The trial court denied the motion both times; regarding the sufficiency of the warrant, the court concluded that the document provided Defendant with adequate notice of the charge against her.

¶ 8 The trial court subsequently found Defendant guilty of violating a valid protective order, a Class A1 misdemeanor. The court sentenced Defendant to 45 days in jail, suspended the sentence, placed Defendant on supervised probation for a period of 18 months, and ordered that Defendant pay court costs of $398.50 and seek mental health treatment. Defendant timely filed notice of appeal.

## ***Discussion***

¶ 9 On appeal, Defendant argues that the trial court erred in denying her motion to dismiss because the warrant was facially invalid, in that it did not sufficiently identify the alleged victim. We disagree.

### *I. Standard of Review*

¶ 10 "A properly drafted criminal pleading provides the court with jurisdiction to enter judgment on the offense charged, while certain pleading defects deprive the court of jurisdiction." *State v. Bryant*, 267 N.C. App. 575, 577, 833 S.E.2d 641, 643 (2019). "A facially invalid indictment deprives the trial court of jurisdiction to enter judgment in a criminal case." *State v. Haddock*, 191 N.C. App. 474, 476, 664 S.E.2d

339, 342 (2008); *State v. Rankin*, 371 N.C. 885, 897, 821 S.E.2d 787, 797 (2018). Similarly, an arrest warrant is a criminal pleading, N.C. Gen. Stat. § 15A-921(3) (2021), which, if defective, deprives the trial court of subject-matter jurisdiction, *see State v. Garcia*, 146 N.C. App. 745, 747, 553 S.E.2d 914, 915 (2001) (concluding that the trial court lacked jurisdiction over a criminal case where the arrest warrant was defective).

¶ 11 Here, because Defendant's appeal arises out of an action initiated in district court, the trial court's jurisdiction in this case was solely dependent upon the arrest warrant. *See State v. Madry*, 140 N.C. App. 600, 601, 537 S.E.2d 827, 828 (2000). In that the subject-matter jurisdiction of the trial court is a question of law, which this Court reviews de novo, *State v. Collins*, 245 N.C. App. 478, 482–83, 783 S.E.2d 9, 13 (2016), we review the validity of an arrest warrant de novo.

*II. Requirements for a Valid Criminal Pleading: Legal Principles*

¶ 12 A warrant for arrest, citation, criminal summons, or magistrate's order "serves as the pleading of the State for a misdemeanor prosecuted in the district court[.]" N.C. Gen. Stat. § 15A-922(a); *see also id.* § 15A-921(3). "The warrant must contain a statement of the crime of which the person to be arrested is accused. No warrant for arrest, nor any arrest made pursuant thereto, is invalid because of any technicality of pleading if the statement is sufficient to identify the crime." *Id.* § 15A-304(c).

¶ 13 However, if an arrest warrant is used as a criminal pleading pursuant to N.C.

Gen. Stat. § 15A-921(3), it must contain a "plain and concise factual statement . . . which . . . asserts facts supporting every element of a criminal offense and the defendant's commission thereof with sufficient precision clearly to apprise the defendant . . . of the conduct which is the subject of the accusation." *Id.* § 15A-924(a)(5); *see Garcia*, 146 N.C. App. at 746, 553 S.E.2d at 914.

¶ 14 "Generally, a warrant which substantially follows the words of the statute is sufficient as a criminal pleading when it charges the essentials of the offense in a plain, intelligible, and explicit manner." *Garcia*, 146 N.C. App. at 746, 553 S.E.2d at 915 (citation and internal quotation marks omitted); *see* N.C. Gen. Stat. § 15-153 ("Every criminal proceeding by warrant . . . is sufficient in form for all intents and purposes if it express[es] the charge against the defendant in a plain, intelligible, and explicit manner . . . ."). If the words of the statute, however, do not set forth the elements of the offense, then they "must be supplemented by other allegations which plainly, intelligibly, and explicitly set forth every essential element of the offense as to leave no doubt in the mind of the defendant and the court as to the offense intended to be charged." *Garcia*, 146 N.C. App. at 746, 553 S.E.2d at 915 (citation omitted). "The purpose of this requirement is to ensure that a defendant may adequately prepare his defense and be able to plead double jeopardy if he is again tried for the same offense." *Madry*, 140 N.C. App. at 601, 537 S.E.2d at 828.

*III. Analysis*

¶ 15 Our General Statutes prohibit the violation of a valid protective order: "Except as otherwise provided by law, a person who knowingly violates a valid protective order entered pursuant to this Chapter . . . shall be guilty of a Class A1 misdemeanor." N.C. Gen. Stat. § 50B-4.1(a).

¶ 16 Defendant asserts that "[a] violation of a domestic violence protective order is, by its nature, a crime against a person"; as such, the charging document must explicitly name the alleged victim to provide Defendant with the constitutionally requisite notice of the charge against her. Although Defendant is correct that "[i]ndictments for crimes against the person must specifically state the name of the victim[,]" *State v. Oldroyd*, 271 N.C. App. 544, 545, 843 S.E.2d 478, 479, *temporary stay and supersedeas allowed*, 375 N.C. 282, 842 S.E.2d 93 (2020), her argument nonetheless fails.

¶ 17 "The elements of an offense under N.C. Gen. Stat. § 50B-4.1 are: (1) there was a valid domestic violence protective order, (2) the defendant violated that order, and (3) did so knowingly." *State v. Williams*, 226 N.C. App. 393, 406, 741 S.E.2d 9, 19 (2013); *accord* N.C. Gen. Stat. § 50B-4.1(a). As explained above, "a warrant which substantially follows the words of the statute is sufficient as a criminal pleading when it charges the essentials of the offense in a plain, intelligible, and explicit manner." *Garcia*, 146 N.C. App. at 746, 553 S.E.2d at 915 (citation and internal quotation marks omitted). For the offense of violation of a valid protective order, the offense is

the violation of the order itself, *see* N.C. Gen. Stat. § 50B-4.1(a), and the name of the victim is not necessarily an essential element of the crime, *see, e.g.*, *Williams*, 226 N.C. App at 406, 741 S.E.2d at 19 (addressing the defendant's conviction of violating a valid protective order where a valid pleading alleged that the defendant violated the protective order by "being outside the victim's place of work"). Thus, because a warrant alleging the violation of a valid protective order is facially valid where it sufficiently informs the defendant of "the conduct which is the subject of the accusation[,]" N.C. Gen. Stat. § 15A-924(a)(5), a warrant for this offense may be facially valid without including the name of a victim, depending on the particular circumstances.

¶ 18 In the present case, the warrant clearly identified (1) a valid protective order that (2) Defendant allegedly violated (3) by knowingly texting and calling the victim, adequately notifying Defendant of the charge against her. *See id.* § 50B-4.1(a). Although the charging document failed to specify that Mr. Thompson was the "victim" who Defendant supposedly contacted in violation of the protective order, the warrant nonetheless provided sufficient other information: it listed all the essential elements of the offense ("[D]efendant . . . unlawfully and willfully did knowingly violate a valid protective order"); it specified the protective order that Defendant allegedly violated ("a valid protective order entered pursuant to Chapter 50B of the General Statutes" that was "issued by JUDGE DUNSTON [on] 10/31/2018"); it detailed the conduct that

allegedly constituted a violation of the order ("TEXTING AND CALLING THE VICTIM NUMEROUS TIMES OVER THE COURSE OF SIX DAYS"); it contained the name of the State's witness to the crime alleged, who was also the only Petitioner named in the order (Mr. Thompson); and it specified N.C. Gen. Stat. § 50B-4.1(a) as the statutory basis for the charge against Defendant.

¶ 19 Moreover, Defendant does not contend that she was prejudiced to any degree by the failure to name Mr. Thompson as the victim in the warrant. She was well familiar with Mr. Thompson, and makes no argument that she was confused or hindered in the preparation of her defense. While naming Mr. Thompson as the victim would have provided additional clarity, the warrant nevertheless adequately informed Defendant of "the conduct which [wa]s the subject of the accusation[,]" *id.* § 15A-924(a)(5), allowing her to prepare her defense. In addition, Mr. Thompson "testified at trial and identified [him]self in open court. Thus, we find Defendant is protected from double jeopardy." *State v. McKoy*, 196 N.C. App. 650, 658, 675 S.E.2d 406, 412, *disc. review denied and appeal dismissed*, 363 N.C. 586, 683 S.E.2d 215 (2009), *cert. dismissed*, 365 N.C. 339, 731 S.E.2d 835 (2011), *cert. dismissed*, 365 N.C. 405, 735 S.E.2d 329 (2012).

¶ 20 It is manifest that under these circumstances Defendant could "adequately prepare [her] defense and . . . plead double jeopardy if [s]he is again tried for the same offense" of violating the domestic violence protective order issued by Judge Dunston

by texting and calling Mr. Thompson, the Petitioner. *Madry*, 140 N.C. App. at 601, 537 S.E.2d at 828. Because the warrant "charges the essentials of [N.C. Gen. Stat. § 50B-4.1(a)] in a plain, intelligible, and explicit manner[,]" *Garcia*, 146 N.C. App. at 746, 553 S.E.2d at 915 (citation omitted), we conclude that the trial court did not err in denying Defendant's motion. Although "the allegations in the warrant could have been more precise, they are sufficient to identify the offense with which [D]efendant is charged, to protect [her] from double jeopardy, to enable [her] to prepare for trial, and to allow the court upon conviction to pronounce sentence." *State v. Sparrow*, 276 N.C. 499, 511, 173 S.E.2d 897, 905 (1970).

## ***Conclusion***

¶ 21 For the foregoing reasons, we conclude that the trial court did not err in denying Defendant's motion to dismiss, in that the warrant charging Defendant with the violation of a valid protective order was facially valid. Accordingly, we affirm.

AFFIRMED.

Judges DILLON and MURPHY concur.

Report per Rule 30(e).