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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-767

No. COA22-147

Filed 15 November 2022

Pasquotank County, Nos. 01 CRS 51440, 97 CRS 4817, 98 CRS 193

STATE OF NORTH CAROLINA, Plaintiff,

v.

ALVIN JOHNSON, Defendant.

Appeal by Defendant from judgments entered 30 November 2020 by Judge Jerry R. Tillett in Pasquotank County Superior Court. Heard in the Court of Appeals 5 October 2022.

*Attorney General Joshua H. Stein, by Assistant Attorney General Michael T. Henry for the State of North Carolina.*

*Appellant Defender, Glenn Gerding by Assistant Appellant Defender Emily Holmes Davis, for Defendant.*

DILLON, Judge.

¶ 1 Defendant was convicted of two drug crimes in 1998 and two drug crimes in 2002, all in Pasquotank County Superior Court. Only one of the four judgments provided a sentencing range with the maximum exceeding a year.

¶ 2 Since 2019, as a result of a pending federal drug charge against him, Defendant has filed various motions in Pasquotank County for the 1998 and 2002 judgments to

reflect that *none* of them contain a sentence with a maximum term exceeding a year. Specifically, in 2018, Defendant pleaded guilty to a federal drug offense in federal court in the Eastern District of North Carolina. For sentencing purposes, he was designated a “career offender” due to his 2002 state court conviction containing a maximum possible sentence exceeding a year. *See* 18 U.S.C.S. app. § 4B1.2. (defining a prior felony conviction to include any “state conviction for an offense punishable by . . . imprisonment for a term exceeding one year”).

¶ 3

In 2019, the trial court in Pasquotank County concluded that Defendant was improperly sentenced in 2002. However, the trial court resentenced Defendant based on the 2019 sentencing grid which provided a maximum sentence exceeding a year, rather than under the 2002 guidelines which provided a shorter maximum sentence. Our Court issued an order remanding the matter, directing the trial court to correct this error.

¶ 4

On remand, in May 2020, the trial court revisited *all* the 1998 and 2002 judgments. The trial court amended one of the 1998 judgments, increasing the maximum sentence to over a year. Defendant had received a shorter maximum sentence based on a plea agreement he had entered in 1998. Further, the trial court failed to correct its prior mistake of sentencing Defendant under the 2019 guidelines for his 2002 convictions. In response, our Court entered a second order, directing the trial court to try again.

¶ 5 On remand, in November 2020, the trial court revised all the 1998 and 2002 judgments. Under these revisions, none of the judgments contained a maximum sentence exceeding a year. Defendant, however, has filed this present appeal, contending that the most recent revisions still contain errors.

## II. Analysis

¶ 6 Defendant completed his sentences for his 1998 and 2002 convictions long ago. The revisions to those judgments do not require Defendant to serve any more time or endure any more punishment for those crimes. And Defendant was ultimately not sentenced as a “career offender” for his 2018 federal drug conviction, as none of his Pasquotank County convictions currently show a maximum possible sentence exceeding a year.

¶ 7 In this appeal, Defendant has failed to articulate how any error made by the trial court in its most recent revisions could prejudice him in the future. Because Defendant has failed to meet his burden of showing prejudice, we affirm the trial court’s November 2020 order and judgments.

AFFIRMED.

Judge DIETZ concurs.

Judge ARROWOOD concurs in result only.

Report per Rule 30(e).