

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-700

Filed 04 April 2023

Mecklenburg County, Nos. 20CRS219950, 20CRS219947, 20CRS014182

STATE OF NORTH CAROLINA

v.

JOSEPH BRADLEY JONES

Appeal by Defendant from judgment entered 24 March 2022 by Judge Hugh B. Lewis in Mecklenburg County Superior Court. Heard in the Court of Appeals 25 January 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General Kerry M. Boehm, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Katy Dickinson-Schultz, for Defendant.

COLLINS, Judge.

Defendant appeals from judgment entered upon a jury verdict finding him guilty of carrying a concealed weapon.¹ Defendant argues that the trial court erred

¹ Defendant was also found guilty of possessing a firearm as a felon and habitual felon status. Defendant does not appeal these convictions.

by denying his motion to dismiss the charge because the State presented insufficient evidence that the weapon was concealed. Because the State presented sufficient evidence that the weapon was concealed, the trial court did not err by denying Defendant's motion to dismiss.

I. Factual Background and Procedural History

On a motion to dismiss for insufficient evidence, the evidence is viewed in the light most favorable to the State. *State v. Golder*, 374 N.C. 238, 249, 839 S.E.2d 782, 790 (2020). The State's version of the facts is as follows:

On 8 June 2020, Sergeants Wayne Goode and Thomas Bisignano attempted to stop a vehicle containing three occupants, including Defendant. When the vehicle failed to stop, Goode and Bisignano engaged in a pursuit that extended several miles before the vehicle crashed. After the crash, one occupant was detained in the vehicle while the other two, including Defendant, exited the vehicle and ran from Goode and Bisignano. Bisignano detained one of the fleeing occupants after a short chase, and Goode continued to pursue Defendant as Defendant ran towards a nearby elementary school.

Defendant ran into an "overgrown, brushy area" and became "entangled in vines." Goode was attempting to extricate Defendant, who was "grabbing the vines above him" in an effort to escape, when Goode noticed the butt of a pistol protruding from the left pocket of Defendant's pants. Upon noticing the pistol, Goode drew his firearm and ordered Defendant "not to touch the gun and to keep his hands up."

Goode removed the pistol from Defendant's pocket and threw it into the grass so that it no longer presented a threat. Shortly thereafter, backup officers arrived and assisted Goode in detaining Defendant and securing the pistol.

On 22 June 2020, a grand jury indicted Defendant for carrying a concealed weapon and possession of a firearm by a felon. On 12 October 2020, a grand jury indicted Defendant for attaining habitual felon status. Defendant was tried during the week of 21 March 2022. At trial, the State presented evidence that on 8 June 2020, Defendant was wearing a pair of khaki pants over a pair of green sweatpants, and Goode believed the pistol was in the pocket of the sweatpants. Goode did not see the pistol prior to his struggle with Defendant in the brush. At the close of the State's evidence, Defendant moved to dismiss the charges against him, which was denied. Defendant renewed his motion to dismiss at the close of all evidence, which was also denied.

On 24 March 2022 the jury returned guilty verdicts on all charges. Defendant was sentenced to 60 days' imprisonment for carrying a concealed weapon, and a consecutive 110 to 144 months' imprisonment for possession of a firearm by a felon and attaining habitual felon status. Defendant gave notice of appeal in open court.

II. Discussion

A. Standard of Review

"In ruling on a motion to dismiss, the trial court need determine only whether there is substantial evidence of each essential element of the crime and that the

defendant is the perpetrator.” *Golder*, 374 N.C. at 249, 839 S.E.2d at 790 (citations omitted). “Substantial evidence is [the] amount . . . necessary to persuade a rational juror to accept a conclusion.” *Id.* (citations omitted). “In evaluating the sufficiency of the evidence to support a criminal conviction, the evidence must be considered in the light most favorable to the State; the State is entitled to every reasonable intendment and every reasonable inference to be drawn therefrom.” *Id.* at 249-50, 839 S.E.2d at 790 (quotation marks and citations omitted). “Whether the State presented substantial evidence of each essential element of the offense is a question of law; therefore, we review the denial of a motion to dismiss de novo.” *Id.* at 250, 839 S.E.2d at 790 (citations omitted).

B. Carrying a Concealed Weapon

Defendant argues that State presented insufficient evidence to support a conviction for carrying a concealed weapon. Specifically, Defendant argues that the State did not present substantial evidence that the weapon was concealed.

N.C. Gen. Stat. § 14-269(a1) provides, “It shall be unlawful for any person willfully and intentionally to carry concealed about his or her person any pistol or gun” N.C. Gen. Stat. § 14-269(a1) (2022). A weapon is concealed if it is “hidden from the observation of persons who were in full view of the defendant and near enough to him to see it if it were not concealed.” *State v. Williamson*, 238 N.C. 652, 654, 78 S.E.2d 763, 765 (1953) (citation omitted).

Here, the State presented evidence that Defendant was wearing a pair of khaki

pants over a pair of green sweatpants, and that Goode believed the pistol was underneath the khaki pants in the front pocket of Defendant's sweatpants. The State also presented evidence that Goode did not see the pistol until he was struggling with Defendant, who was "grabbing the vines above him" in an effort to escape. This evidence, viewed in the light most favorable to the State, is sufficient to persuade a reasonable juror to accept that the pistol only became visible due to Defendant's struggle to escape the brush, and that the pistol was otherwise "hidden from the observation of persons who were in full view of the defendant and near enough to him to see it if it were not concealed." *Williamson*, 238 N.C. at 654, 78 S.E.2d at 765. Accordingly, the trial court did not err by denying Defendant's motion to dismiss the concealed carry charge for insufficient evidence.

III. Conclusion

Because the State presented substantial evidence that the pistol was concealed, the trial court did not err by denying Defendant's motion to dismiss the charge of carrying a concealed weapon.

NO ERROR.

Judges ARROWOOD and WOOD concur.

Report per Rule 30(e).