

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA22-820

Filed 16 May 2023

Alamance County, No. 20 CRS 53307

STATE OF NORTH CAROLINA

v.

JAMEEL BRYANT

Appeal by defendant by writ of certiorari from judgment entered 27 September 2021 by Judge Thomas H. Lock in Alamance County Superior Court. Heard in the Court of Appeals 11 April 2023.

*Attorney General Joshua H. Stein, by Assistant Attorney General Caden W. Hayes, for the State.*

*Stephen G. Driggers for defendant-appellant.*

ZACHARY, Judge.

Defendant Jameel Bryant appeals from a judgment entered upon his *Alford* plea<sup>1</sup> to taking indecent liberties with a child. After careful review, we remand for the

---

<sup>1</sup> An *Alford* plea is a guilty plea in which the defendant does not admit to any criminal act, but admits that there is sufficient evidence to convince the judge or jury of the defendant's guilt. *See North Carolina v. Alford*, 400 U.S. 25, 37, 27 L. Ed. 2d 162, 171 (1970); *State v. Baskins*, 260 N.C. App. 589, 592 n.1, 818 S.E.2d 381, 387 n.1 (2018), *disc. review denied*, 372 N.C. 102, 824 S.E.2d 409 (2019).

correction of a clerical error.

On 14 September 2020, the Alamance County grand jury returned an indictment charging Defendant with taking indecent liberties with a child. The matter came on for hearing in Alamance County Superior Court on 22 July 2021. Pursuant to a plea deal, Defendant entered an *Alford* plea of guilty in exchange for a sentence in the trial court’s discretion, but not to exceed 59 months. The trial court conducted a plea colloquy and accepted Defendant’s *Alford* plea.

On 27 September 2021, the matter came on for sentencing. The trial court sentenced Defendant to a term of 15 to 27 months in the custody of the North Carolina Division of Adult Correction, suspended that sentence, and placed Defendant on supervised probation for a term of 30 months. The judgment entered by the trial court indicates that Defendant pleaded guilty, but not pursuant to *Alford*. The trial court also ordered Defendant to pay costs, to not have any contact with the victim or any member of their immediate household, to register as a sex offender, and to not reside in a household with any minor child other than his own, among other penalties. Defendant timely filed notice of appeal.

On appeal, Defendant argues—and the State concedes—that the judgment must be remanded for the correction of a clerical error “to correctly indicate that [Defendant] entered an *Alford* plea to the offense of indecent liberties with a child.” As an initial matter, Defendant acknowledges that he “is not entitled to appellate review as a matter of right of the issue he raises as to the clerical error on the

judgment form[.]” *See* N.C. Gen. Stat. § 15A-1444(e) (2021). Accordingly, he filed with this Court a petition for writ of certiorari contemporaneous with his appellate brief.

“Certiorari is a discretionary writ, to be issued only for good and sufficient cause shown.” *State v. Grundler*, 251 N.C. 177, 189, 111 S.E.2d 1, 9 (1959) (italics omitted), *disc. review denied*, 362 U.S. 917, 4 L. Ed. 2d 738 (1960). “A petition for the writ must show merit or that error was probably committed below.” *Id.* Defendant’s petition here does show merit, and the State “concedes that certiorari is appropriate” for the limited purpose of reviewing Defendant’s clerical error issue. Accordingly, in our discretion, we allow Defendant’s petition and review his clerical error argument.

“Generally, when a defendant assigns error to the sentence imposed by the trial court our standard of review is whether the sentence is supported by evidence introduced at the trial and sentencing hearing.” *State v. Allen*, 249 N.C. App. 376, 379, 790 S.E.2d 588, 591 (2016) (citation and internal quotation marks omitted). “If the alleged sentencing error is only clerical in nature, it is appropriate to remand the case to the trial court for correction because of the importance that the record speak the truth.” *Id.* (citation and internal quotation marks omitted). This Court has defined a clerical error as “an error resulting from a minor mistake or inadvertence, especially in writing or copying something on the record, and not from judicial reasoning or determination.” *Id.* at 380, 790 S.E.2d at 591 (citation omitted).

As reflected in the trial court’s colloquy with Defendant at the plea hearing, as well as Defendant’s written answers in the transcript of his plea, Defendant entered

an *Alford* plea of guilty to the charge of taking indecent liberties with a child. Yet the judgment appealed from reflects that Defendant pleaded guilty, without recognition that his plea was entered pursuant to *Alford*. This error is clerical in nature, as it does not reflect an error of “judicial reasoning or determination.” *Id.* (citation omitted). Accordingly, “it is appropriate to remand the case to the trial court for correction because of the importance that the record speak the truth.” *Id.* at 379, 790 S.E.2d at 591 (citation omitted).

REMANDED FOR CORRECTION OF CLERICAL ERROR.

Judges MURPHY and CARPENTER concur.

Report per Rule 30(e).