

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA23-281

Filed 05 September 2023

Buncombe County, No. 19 CRS 81058

STATE OF NORTH CAROLINA

v.

JOHN PATRICK MOORER

Appeal by defendant from judgment entered 9 August 2022 by Judge Richard L. Doughton in Buncombe County Superior Court. Heard in the Court of Appeals 29 August 2023.

*Attorney General Joshua H. Stein, by Assistant Attorney General Elizabeth Grady Arnette, for the State.*

*Law Office of Sandra Payne Hagood, by Sandra Payne Hagood, for the defendant-appellant.*

PER CURIAM.

John Patrick Moorer (“Defendant”) was charged with driving under the influence (“DWI”). The jury returned a verdict of guilty as charged. The trial court entered judgment imposing an active sentence of 30 days imprisonment which was suspended for 12 months supervised probation. Defendant appealed.

STATE V. MOORER

*Opinion of the Court*

Defendant argues the trial court plainly erred by allowing the jury to view, without objection, a part of the arresting officer's body-worn camera footage, which he asserts was irrelevant and unfairly prejudicial to him. This argument has no merit.

"For error to constitute plain error, a defendant must demonstrate that a fundamental error occurred at trial." *State v. Lawrence*, 365 N.C. 506, 516, 723 S.E.2d 326, 333 (2012). A defendant must show "the error had a probable impact on the jury's finding that the defendant was guilty." *Id.* at 518, 723 S.E.2d at 334. Defendant has not met this burden.

The video, admitted into evidence without objection, directly relates to Deputy Gillstrap's testimony regarding his observations of Defendant during transport to the detention center and is neither unfairly prejudicial nor irrelevant. We find no plain or prejudicial error in the jury's verdict or in the judgment entered thereon. It is so ordered.

NO PLAIN ERROR.

Panel consisting of Judges Tyson, Carpenter, and Gore.

Report per Rule 30(e).