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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-1032

Filed 12 September 2023

Buncombe County, No. 17 CRS 89663

STATE OF NORTH CAROLINA

v.

LAURA CHRISTIAN GILES, Defendant.

Appeal by defendant from judgment entered 24 March 2022 by Judge Bradley B. Letts in Buncombe County Superior Court. Heard in the Court of Appeals 23 August 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General Jeanne Hill Washburn, for the State.

Sean P. Vitrano, for the Defendant.

PER CURIAM.

Defendant was found guilty by a jury of driving while impaired. See N.C. Gen. Stat. § 20-138.1(a) (2021). The trial court entered judgment imposing 12 months of supervised probation on 24 March 2022. Defendant appeals.

I. Analysis

A. Motion to Dismiss

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Defendant argues the trial court erred when it denied her motion to dismiss because her confession was insufficient to show she drove the vehicle. We disagree.

It is well settled that “an extrajudicial confession, standing alone, is not sufficient to sustain a conviction of a crime.” *State v. Parker*, 315 N.C. 222, 229, 337 S.E.2d 487, 491 (1985). There must be corroborative evidence, independent of the defendant’s confession, which tends to prove the commission of the crime charged. *State v. Bass*, 253 N.C. 318, 322, 116 S.E.2d 772, 775 (1960).

In *State v. Trexler*, our Supreme Court held that the trial court did not err by denying the defendant’s motion to dismiss when the defendant admitted that he wrecked his car after drinking, left the scene, and returned a short time later. *State v. Trexler*, 316 N.C. 528, 533, 342 S.E.2d 878, 881 (1986). The trial court found that the following independent evidence was sufficient to show that defendant drove the vehicle: (1) an overturned automobile was lying in the middle of the road, (2) when the defendant returned to the scene, he appeared to be impaired as a result of drinking alcohol, (3) the defendant later measured a 0.14 on a breathalyzer, and (4) the wreck was otherwise unexplained. *Id.* at 533, 342 S.E.2d at 881.

Here, the State provided substantial independent corroborative evidence apart from Defendant’s confession to show that she drove while impaired. *See id.* For example, the vehicle was found in the exact location Defendant had indicated, and it was found parked across multiple parking spaces, corroborating Defendant’s impairment. The investigating officer confirmed Defendant’s statement that the

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vehicle was owned by a family member. In addition, only Defendant had a valid license among those found at the scene, which tends to suggest that she was driving the vehicle. Further, Defendant was found standing outside of the open driver's side door. Finally, Defendant's statements about her timeline were corroborated by the testimony of the methadone clinic director and records from the methadone dispensary.

Viewed in the light most favorable to the State, we hold that the State presented substantial evidence of each element of the crime for which Defendant was convicted. The corroborating evidence beyond Defendant's confession suggests that Defendant's statements are trustworthy and revealed that Defendant was the perpetrator.

Therefore, we hold that the trial court did not err by denying Defendant's motion to dismiss her impaired driving charge.

B. Clerical Error

Defendant next argues the trial court made a clerical error when it did not properly check a certain box on the sentencing form. We agree that this was a clerical error.

Section 20-179(r) of our General Statutes states:

[w]hen a judge determines in accordance with the above procedures that a defendant should be placed on supervised probation, the judge *shall* authorize the probation officer to modify the defendant's probation by placing the defendant on unsupervised probation upon the

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completion by the defendant of the following conditions of the suspended sentence.

N.C. Gen. Stat. § 20-179(r) (2021) (emphasis added). These conditions include community service, payment of any fines, court costs, and fees, or any combination of these conditions. *Id.*

In *State v. Adams*, this Court remanded to the trial court for resentencing because the trial court's sentencing of the defendant to 12 months supervised probation, regardless of whether he had performed the required community service, paid his court fines, costs, and fees, and obtained a substance abuse assessment before the 12 months had elapsed, was not authorized by § 20-179(r). *State v. Adams*, 287 N.C. App. 174, 176, 882 S.E.2d 150, 152 (2022).

Here, the trial court placed Defendant on supervised probation for 12 months under the following conditions: (1) payment of a \$100 fine, (2) loss of driver's license, (3) completion of a substance abuse assessment, all treatment recommendations, and all necessary paperwork, (4) completion of 24 hours of community service, and (5) taking all prescribed medication.

Although Defendant has not yet completed these conditions and is not yet eligible for modification of her sentence, Section 20-179(r) requires the trial court to authorize the probation officer to modify Defendant's probation from supervised to unsupervised if the conditions are completed. While the trial court had the opportunity to check the box on page 2 to authorize the probation officer to do this, it

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did not check this box or otherwise notate this authorization in the judgment. Therefore, the trial court's failure to check the box constituted a clerical error. *See State v. Graham*, 287 N.C. App. 477, 498, 882 S.E.2d 719, 733 (2023) (noting that a clerical error is "an error resulting from a minor mistake or inadvertence").

"When, on appeal, a clerical error is discovered in the trial court's judgment or order, it is appropriate to remand the case to the trial court for correction." *State v. Smith*, 188 N.C. App. 842, 845, 656 S.E.2d 695, 696 (2008). We remand to the trial court for correction of the clerical error in the judgment.

NO ERROR IN PART, REMANDED IN PART.

Panel consisting of:

Judges DILLON, MURPHY, and RIGGS.

Report per Rule 30(e).