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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-874

Filed 2 April 2024

Robeson County, Nos. 20CRS52567–68, 20CRS52572

STATE OF NORTH CAROLINA

v.

JOYNETTE JOHNSON, Defendant.

Appeal by defendant from judgment entered 3 April 2023 by Judge Tiffany Peguise-Powers in Robeson County Superior Court. Heard in the Court of Appeals 6 March 2024.

*Attorney General Joshua H. Stein, by Assistant Attorney General Raymond Wesley Goodwin, for the State.*

*Dysart Willis, by Andrew Nelson, for defendant-appellant.*

PER CURIAM.

Defendant was charged with breaking and entering a place of worship, larceny after breaking and entering, possession of a stolen motor vehicle, felony larceny, and injury to real property. Defendant pled guilty to breaking and entering a place of worship, larceny, and possession of a stolen vehicle. Pursuant to the plea agreement, the remaining charges were dismissed. Defendant was sentenced to ten to twenty-

one months' imprisonment for breaking and entering a place of worship and six to seventeen months for possession of a stolen motor vehicle and felony larceny. Defendant's sentences were suspended for twenty-four months, and she was placed on supervised probation. Defendant filed notice of appeal from her sentencing.

On appeal, Defendant argues this case must be remanded to correct her prior record level, as it was a clerical error that a prior record level II was entered instead of a prior record level I. We agree.

"Any person who wrongfully breaks or enters any building that is a place of religious worship with intent to commit a felony or larceny therein is guilty of a Class G felony." N.C. Gen. Stat. § 14-54.1(a) (2023). A person found guilty of felony possession of a stolen motor vehicle and felony larceny shall be punished as a Class H felon. N.C. Gen. Stat. §§ 14-71.2, 72(a) (2023). The presumptive range for a prior record level I who commits a Class G felony is ten to twenty-one months' imprisonment. N.C. Gen. Stat. § 15A-1340.17(c)–(d) (2023). The presumptive range for a prior record level I who commits a Class H felony is five to fifteen months' imprisonment. *Id.*

Here, Defendant was sentenced to ten to twenty-one months' imprisonment for breaking and entering a place of worship and six to seventeen months for possession of a stolen motor vehicle and felony larceny. These sentences fall within the presumptive ranges for a prior record level I. The Record supports the trial court finding Defendant to be a prior record level I for sentencing purposes. Further, the

trial court entered an appropriate level I sentence pursuant to structured sentencing guidelines. Notably, the sentence imposed by the trial court would not have been a permissible presumptive range sentence for a defendant who was found to be a prior record level II. As such, the trial court made a clerical error when it marked the judgment indicating Defendant was a prior record level II.

Accordingly, we hold the trial court erred in entering Defendant as a prior record level II and remand for correction of this clerical error.

REVERSED AND REMANDED.

Panel consisting of:

Judges STROUD, CARPENTER, and FLOOD.

Report per Rule 30(e).