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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-812

Filed 18 June 2024

Wake County, No. 19 CRS 216568

STATE OF NORTH CAROLINA

v.

THOMAS RANDALL STRICKLAND, Defendant.

Appeal by defendant from judgment entered 3 November 2022 by Judge William R. Pittman in Wake County Superior Court. Heard in the Court of Appeals 29 May 2024.

*Attorney General Joshua H. Stein, by Assistant Attorney General Steven C. Wilson, Jr., for the State.*

*Kimberly P. Hoppin for defendant-appellant.*

PER CURIAM.

Defendant Thomas Randall Strickland was convicted of driving while impaired. He appeals, contending that the trial court erred during sentencing. Specifically, Defendant argues that the trial court sentenced him to an imprisonment period that exceeds the statutory allowance. We agree.

Though Defendant failed to object during sentencing, this issue is nonetheless

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preserved for appellate review. *See* N.C. Gen. Stat. § 15A-1446(d)(18) (2023).

Here, the record shows that the trial court intended to sentence Defendant to a Level Four Punishment after balancing aggravating and mitigating factors. *See id.* § 20-179(d)–(f) (2023). A Level Four Punishment carries a maximum of 120 days of imprisonment. *Id.* § 20-179(j). The trial court, however, announced a sentence imprisoning Defendant “to a minimum and maximum term of six months[,]” which is the appropriate imprisonment sentence for a Level Three Punishment. *See id.* § 20-179(i). This was error. We note the State concedes the error that the trial court incorrectly imposed a sentence with an imprisonment period in excess of the maximum permitted for a Level Four sentence.

We, therefore, remand for resentencing in accordance with N.C. Gen. Stat. § 20-179.

REMANDED FOR RESENTENCING.

Panel consisting of Chief Judge DILLON and Judges ARROWOOD and HAMPSON.

Report per Rule 30(e).