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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA21-778

Filed 1 October 2024

Mecklenburg County, No. 17 CRS 221491

STATE OF NORTH CAROLINA

v.

TRACY RENA EDWARDS, Defendant.

Appeal by the State from order entered 14 April 2021 and judgment entered 15 June 2021 by Judge Donnie Hoover in Mecklenburg County Superior Court. Heard in the Court of Appeals 10 August 2022.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Heidi M. Williams, for the State.

Tin, Fulton, Walker & Owen, PLLC, by Noell P. Tin and Emily D. Gladden, for defendant-appellee.

PER CURIAM.

On 12 April 2019, Defendant pleaded guilty to one count of Class F felony trafficking in opium or heroin in violation of N.C.G.S. § 90-95(h)(4) for an offense committed on 7 June 2017. She was given an active sentence of 70 to 93 months. During the course her incarceration and the subsequent COVID-19 pandemic, on 12 February 2021, Defendant, through counsel, filed a *Petition for Issuance of Writ of*

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Habeas Corpus. After allowing the State to respond, the trial court entered an order on 15 April 2021 issuing the writ, vacating Defendant’s prior judgment, and ordering her release from custody. On 20 April 2021, this Court allowed the State’s *Petition for Writ of Certiorari* “for the purpose of reviewing the order” The trial Court entered a new judgment for Defendant on 15 June 2021, and our Court subsequently allowed another *Petition for Writ of Certiorari* to review this judgment.

The two writs were ordered combined for review and originally scheduled to be heard before us on 10 August 2022; however, on 11 August 2022, we entered an order holding this matter in abeyance until our Supreme Court’s resolution of *State v. Daw*, No. 174PA21.

On 23 August 2024, our Supreme Court issued its opinion in *Daw*, holding that, “[w]hen an applicant for a writ of habeas corpus is ‘detained by virtue of the final order, judgment or decree of a competent tribunal of civil or criminal jurisdiction,’ the habeas court *must* summarily deny the application.” *State v. Daw*, No. 174PA21, slip op. at 19 (N.C. Aug. 23, 2024) (quoting N.C.G.S. § 17-4(2) (2023)). The mandate on *Daw* issued on 12 September 2024. We are bound by *Daw* to hold that the trial court erred in not summarily denying Defendant’s *Petition for Issuance of Writ of Habeas Corpus*. We vacate the trial court’s new judgment entered on 15 June 2021 and reverse its order entered on 15 April 2021.

VACATED IN PART; REVERSED IN PART.

Panel consisting of Judges MURPHY, CARPENTER, and STADING.

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Report per Rule 30(e).