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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1155

Filed 15 October 2024

Davidson County, Nos. 21 CRS 55551-53

STATE OF NORTH CAROLINA

v.

BRANDON DEAN YOUNGER, Defendant.

Appeal by defendant from order entered 2 May 2023 by Judge Tonia Cutchin in Davidson County Superior Court. Heard in the Court of Appeals 28 August 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Megan Shook, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Aaron Thomas Johnson, for defendant-appellant.

THOMPSON, Judge.

Defendant appeals from a judgment imposing satellite-based monitoring (SBM) against defendant. After careful review, we dismiss defendant's appeal.

I. Factual Background and Procedural History

Brandon Dean Younger (defendant) was indicted upon true bills of indictment by a Davidson County Grand Jury for statutory rape of a child by an adult, statutory sex offense of a child by an adult, and two counts of indecent liberties with a child. On 2 May 2023, defendant entered an *Alford* plea as to all three charges against him.

Pursuant to defendant's *Alford* plea, the trial court ordered defendant to, *inter alia*, submit to ten years of satellite-based monitoring. From this order, defendant entered oral notice of appeal at his plea hearing.

II. Discussion

A. Appellate jurisdiction

At the outset, we note that defendant has failed to properly invoke the jurisdiction of this Court by filing written notice of appeal from the trial court's order imposing SBM against defendant. In *State v. Brooks*, our Court considered whether oral notice of appeal from the trial court's SBM order was sufficient to confer jurisdiction on this Court. 204 N.C. App. 193, 194, 693 S.E.2d 204, 206 (2010). This Court explicitly determined, "we *must hold* that oral notice pursuant to N.C. R. App. P. 4(a)(1) is insufficient to confer jurisdiction on this Court." *Id.* at 194–95, 693 S.E.2d at 206 (emphasis added). "Compliance with the requirements for entry of notice of appeal is jurisdictional." *State v. Oates*, 366 N.C. 264, 266, 732 S.E.2d 571, 573 (2012). Finally, "when a defendant has not properly given notice of appeal, this Court is without jurisdiction to hear the appeal." *State v. McCoy*, 171 N.C. App. 636, 638, 615 S.E.2d 319, 320 (2005).

Because defendant has failed to properly notice his appeal, this Court is without jurisdiction to hear his appeal, and the appeal should be dismissed; however, although defendant has failed to properly notice his appeal, he has filed a petition for writ of certiorari with this Court pursuant to Rule 21(a)(1).

B. Petition for writ of certiorari

Pursuant to Rule 21(a)(1), this Court may issue a writ of certiorari to “review the merits of an appeal by certiorari even if the party has failed to file notice of appeal in a timely manner.” *Anderson v. Hollifield*, 345 N.C. 480, 482, 480 S.E.2d 661, 663 (1997) (citation omitted). However, “[a] writ of certiorari is an *extraordinary* remedial writ to correct errors of law . . . and its issuance is only appropriate when a defendant has shown merit in his arguments concerning the action to be reviewed” *State v. Diaz-Tomas*, 382 N.C. 640, 651, 888 S.E.2d 368, 377 (2022) (citation and internal quotation marks omitted) (emphasis in original), *cert. denied*, __ U.S. __, 143 S. Ct. 2638 (2023).

After careful review, we decline to issue the writ of certiorari in the instant case because defendant has not shown merit in his arguments concerning the imposition of SBM against defendant. Therefore, we allow the State’s motion to dismiss defendant’s appeal.

III. Conclusion

We conclude that defendant failed to properly notice his appeal because oral notice of appeal is insufficient to confer jurisdiction on this Court to review an order imposing SBM against a defendant. Moreover, defendant has not presented a meritorious argument on appeal; therefore, we decline to issue the writ of certiorari

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to address appellant's argument on appeal. For the aforementioned reasons, we dismiss defendant's appeal.

DISMISSED.

Chief Judge DILLON and Judge FLOOD concur.

Report per Rule 30(e).