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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 24-80

Filed 15 October 2024

Haywood County, Nos. 22 CRS 293-300

STATE OF NORTH CAROLINA,

v.

WILLIAM BOBBY BURNETTE, Defendant.

Appeal by defendant from judgment entered 19 July 2023 by Judge Peter B. Knight in Haywood 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.

Drew Nelson for Defendant-Appellant.

PER CURIAM.

Defendant William Bobby Burnette appeals from the trial court's judgment entered on 19 July 2023. On appeal, Defendant argues the trial court made a clerical error in the judgment. The State concedes the error. After careful review, we agree and remand for the trial court to correct the clerical error.

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I. Background

On 19 July 2023, Defendant was convicted of three counts of statutory rape of a child under the age of fifteen, three counts of committing a statutory sex offense with a child under the age of fifteen, and eight counts of taking indecent liberties with a child. The trial court issued four separate judgments consolidating multiple offenses. The first judgment form was for case number 22 CRS 293, and sentenced Defendant to a term of 240-348 months. The second judgment form was for case number 22 CRS 294, and sentenced Defendant to a term of 240-348 months. The second sentence was set to begin after the expiration of the first sentence. The third judgment form was for case number 22 CRS 297, and sentenced Defendant to a term of 240-348 months. The third sentence was set to begin after the expiration of the second sentence. Finally, the fourth judgment form was set for case number 22 CRS 298, and sentenced defendant to a term of 240-348 months. There was no indication of when the fourth sentence was set to begin. Defendant, through counsel, gave proper notice of appeal on 19 July 2023.

II. Analysis

We review clerical errors de novo. *See State v. Hauser*, 271 N.C. App. 496, 503 (2020). Under a de novo review, this Court “considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.” *State v. Williams*, 362 N.C. 628, 632–33 (2008) (citation omitted).

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“A clerical error is a minor error that does not alter the court’s reasoning.” *State v. Jarman*, 140 N.C. App. 198, 202 (2000). “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 because of the importance that the record speak the truth.” *State v. Smith*, 188 N.C. App. 842, 845 (2008) (citation omitted).

Here, the fourth judgment form failed to indicate when the term of imprisonment would begin to run. The trial court did indicate orally that the judgment would run “concurrent to the last-entered judgment.” Therefore, it is appropriate for this case to be remanded to correct this clerical error in order that the “record speak the truth.” *Id.*

III. Conclusion

We remand the matter for the trial court to correct the clerical error contained in the fourth judgment consistent with this opinion.

REMANDED.

Panel consisting of Chief Judge DILLON and Judges FLOOD and THOMPSON.

Report per Rule 30(e).