

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-401

Filed 5 November 2024

Mecklenburg County, No. 21 CR 201994-590

STATE OF NORTH CAROLINA

v.

PIERRE RASHAD LEWIS

Appeal by defendant from judgment entered 8 November 2023 by Judge Matthew Osman in Superior Court, Mecklenburg County. Heard in the Court of Appeals 22 October 2024.

*Attorney General Joshua H. Stein, by Assistant Attorney General Benjamin Thomas Spangler, for the State.*

*Sarah Holladay, for defendant.*

ARROWOOD, Judge.

Pierre Rashad Lewis (“defendant”) appeals from judgment entered 8 November 2023 upon his conviction of possession of a firearm by a felon. On appeal, defendant argues N.C.G.S. § 14-415.1(a) is facially unconstitutional and unconstitutional as it applies to him. For the following reasons, we dismiss this

appeal.

I. Background

The evidence at trial tended to show the following:

On 20 January 2021, Detective Jason Walker and Detective William Hastings were looking for defendant on an unrelated matter. They first went to an address associated with defendant located at 2310 Pruitt Street in Mecklenburg County but did not see defendant's vehicle in front of the home. They then continued searching the neighborhood when they noticed a vehicle that matched the description of defendant's vehicle backing into a driveway on a street adjacent to Pruitt Street. The detectives waited on a nearby street until they saw defendant's car leave. The detectives then confirmed the vehicle belonged to defendant and pursued the car. When they saw the vehicle run through two stop signs, they initiated a traffic stop. While following defendant, the detectives observed defendant driving slowly and reaching towards the passenger seat.

When defendant stopped, Detective Walker approached the driver side of the vehicle and recognized defendant as the driver of the car. He was also able to detect a strong odor of marijuana coming from the car. Defendant told detectives he had a marijuana blunt in the car and gave the blunt to the officers. He also stated that he had his girlfriend's gun in the car under the driver's seat. Defendant was then handcuffed and the detectives proceeded to search the vehicle. Detective Hastings found a firearm in a holster between two brackets in the seat. Detective Hastings

then collected the firearm and defendant was placed under arrest for possession of a firearm by a felon.

Following an investigation after the arrest, Detective Hastings determined that defendant's girlfriend, Ms. Laportia Joel, owned the gun and that she had purchased it from Hyatt Coin and Gun Shop on Wilkinson Boulevard in Charlotte. When defendant was taken into custody, Detective Seth Adcox questioned defendant after defendant waived his Miranda rights. During this interrogation, defendant admitted that he received a call that morning from Ms. Joel, who informed him that she left her gun in his car underneath the passenger seat. Defendant told Detective Adcox that his fingerprints might be on the gun because he might have moved it a few days prior to the day of the arrest.

During the trial, the parties stipulated that defendant had been convicted of a felony on 16 June 2004 and another on 18 January 2005, making it illegal for him to possess a firearm on 20 January 2021. At no point during the trial did defendant's counsel raise any constitutional objections to N.C.G.S. § 14-415.1(a).

The jury found defendant guilty of possession of a firearm by a felon. The trial court found several mitigating factors and sentenced defendant to the bottom of the presumptive range of 13 to 25 months imprisonment. Defendant gave oral notice of appeal on 8 November 2023.

## II. Discussion

On appeal, defendant argues for the first time that N.C.G.S. § 14-415.1(a) is

unconstitutional on its face and as it applies to him because the statute violates the Second and Fourteenth Amendments of the United States Constitution and Article I, Section 30 of the North Carolina Constitution. Because defendant is raising this issue for the first time on appeal, we dismiss defendant's appeal.

"A constitutional issue not raised at trial will generally not be considered for the first time on appeal." *Anderson v. Assimios*, 356 N.C. 415, 416 (2002) (citing *State v. Nobles*, 350 N.C. 483, 495 (1999)). Defendant requests that this Court exercise its discretion to invoke Rule 2 of the Rules of Appellate Procedure to reach the merits of this case. Under Rule 2, "[t]o prevent manifest injustice to a party . . . either court of the appellate division may . . . suspend or vary the requirements or provisions of any of these rules in a case pending before it . . . upon its own initiative[.]" N.C.R. App. P. 2. "Rule 2 relates to the residual power of our appellate courts to consider, *in exceptional circumstances*, significant issues of importance in the public interest or to prevent injustice which appears manifest to the Court and only in such instances." *State v. Campbell*, 369, N.C. 599, 603 (2017) (emphasis in original) (citation omitted).

Here, defendant challenges the constitutionality of N.C.G.S. § 14-415.1(a) for the first time on appeal. Specifically, defendant states the law is facially unconstitutional under the Second and Fourteenth Amendment of the United States Constitution and is also unconstitutional as applied to him. Defendant acknowledges that he failed to raise this constitutional issue during the trial and asks this Court to exercise its discretionary powers to prevent "manifest injustice." From our review of

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the record, defendant has failed to show that this case falls into an exceptional circumstance requiring us to review this case under Rule 2, and we decline to exercise or exceed our discretion under Rule 2 to do so. Accordingly, we dismiss defendant's appeal.

III. Conclusion

For the foregoing reasons, this appeal is dismissed.

DISMISSED.

Judges ZACHARY and GRIFFIN concur.

Report per Rule 30(e).