

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-341

Filed 19 November 2024

Cleveland County, No. 22CRS51352

STATE OF NORTH CAROLINA

v.

ANGELA PATTERSON ADAMS

Appeal by defendant from judgment entered 5 September 2023 by Judge Steve R. Warren in Superior Court, Cleveland County. Heard in the Court of Appeals 27 September 2024.

*Attorney General Joshua H. Stein, by Assistant Attorney General Meghan Melloy, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Brandon Mayes, for defendant-appellant.*

PER CURIAM.

Defendant appeals from a judgment revoking her probation and activating her suspended sentence as she was found to have violated her probation by absconding. We affirm the revocation, but remand to the trial court for correction of a clerical error on the judgment form.

On 4 October 2022, Defendant pled guilty to drug-related charges and was

sentenced to an active term of imprisonment which was suspended for 30 months of supervised probation. Following sentencing, Defendant was instructed to remain in the courtroom to complete her intake with a probation officer. However, before Defendant's intake, the courtroom was evacuated for security reasons and Defendant did not return once the courtroom was reopened.

Two probation violation reports were filed against Defendant: (1) a report on 18 October 2022 stating that "Defendant failed to return to the courtroom for intake as instructed" on 4 October 2022 and (2) a report on 9 November 2022 stating that, despite numerous attempts, probation officers had no contact with Defendant since she left the courtroom on 4 October 2022 and alleging that Defendant violated North Carolina General Statute Section 15A-1343(b)(3a) by absconding supervision. Defendant was arrested on 29 June 2023 after probation officers received a tip regarding Defendant's current address.

At a hearing on 5 September 2023, the trial court found that Defendant violated her probation conditions by absconding from supervision, pursuant to North Carolina General Statute Section 15A-1343(b)(3a). The trial court revoked her probation and activated her sentence.

On the judgment form (AOC-CR-607), the trial court checked the box stating that "[e]ach violation is, in and of itself, a sufficient basis upon which this Court should revoke probation and activate the suspended sentence." Defendant contends that the trial court erred in checking this box because the 18 October 2022 probation

violation report did not allege that Defendant violated North Carolina General Statute Section 15A-1343(b)(3a) and, thus, the 18 October 2022 probation violation report alone was not a sufficient basis for revoking her probation and activating the suspended sentence. Defendant asks this Court to remand the judgment to the trial court to correct the clerical error, and the State concedes.

Because the violation alleged in the 9 November 2022 probation violation report alone was sufficient to revoke Defendant's probation and activate her suspended sentence, *see* N.C. Gen. Stat. § 15A-1343(b)(3a) (2023), the trial court did not err in its judgment. However, we remand to the trial court for the limited purpose of correcting the clerical error in checking the box which indicated that each probation violation report individually was sufficient grounds to revoke Defendant's probation and activate her sentence. *See State v. Smith*, 188 N.C. App. 842, 845, 656 S.E.2d 695, 696 (2008) ("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." (citation and quotation marks omitted)); *State v. Newsome*, 264 N.C. App. 659, 665, 828 S.E.2d 495, 500 (2019) ("When the trial court incorrectly checks a box on a judgment form that contradicts its findings and the mistake is supported by the evidence in the record, we may remand for correction of this clerical error in the judgment." (citation omitted)).

AFFIRMED AND REMANDED FOR CORRECTION OF CLERICAL ERROR.

STATE V. ADAMS

*Opinion of the Court*

Panel consisting of Judges STROUD, TYSON, and WOOD.

Report per Rule 30(e).