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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-503

Filed 17 December 2024

Johnston County, Nos. 21 CRS 050524–25, 259–60

STATE OF NORTH CAROLINA

v.

EBBIE JERRELL QUICK, Defendant.

Appeal by Defendant from judgment entered 5 July 2022 by Judge G. Bryan Collins, Jr. in Johnston County Superior Court. Heard in the Court of Appeals 24 January 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Lisa B. Finkelstein, for the State.

The Sweet Law Firm, PLLC, by Attorney Kaelyn N. Sweet, for the defendant-appellant.

STADING, Judge.

Ebbie Jerrell Quick (“Defendant”) appeals from the trial court’s judgment after he was convicted of assault inflicting physical injury on a law enforcement officer, assault on a law enforcement officer, and resisting a public officer. At sentencing,

Defendant admitted to having attained habitual felon status. For the reasons set forth below, we conclude Defendant received a fair trial free from prejudicial error.

I. Background

On 8 February 2021, Johnston County Sheriff's Deputy Kaleb Smith responded to a 911 call concerning a domestic disturbance. The 911 operator noted the following details from the call:

A neighbor and her boyfriend are in her house fighting. The caller said the male was beating the hell out of the female. The male subject broke the door to the bedroom. Female was in the bedroom. She is now outside with the male, and he is screaming in the background. He possibly lives at P13.¹

Upon arrival, Deputy Smith saw Defendant's girlfriend who had "obvious injuries" to her face: her "jawline was red, there was a[n] open scrape of fresh blood," and her lip was "busted and bleeding." She informed Deputy Smith Defendant had followed her to P1², a nearby neighbor's home, forced his way inside, chased her throughout the home, and punched her in the face after breaking down a bedroom door. These events occurred in front of the neighbor and the children of Defendant's girlfriend. Deputy Smith confirmed the neighbor's door was broken after investigating the premises. After Deputy Smith observed the visible injuries and the property damage, he learned Defendant was at the P13 residence. Before continuing

¹ P13 identifies a mobile home "lot" where Defendant and his girlfriend resides.

² P1 identifies the nearby neighbor's mobile home "lot" where the assault and property damage occurred.

STATE V. QUICK

Opinion of the Court

his investigation, Deputy Smith called and waited for backup from his supervisor, Sergeant Joseph Benson.

Deputy Smith and Sergeant Benson then walked up the steps of Defendant's home, knocked on the door, and identified themselves as Sheriff's deputies. Defendant opened the door, and the officers informed him they were investigating a domestic disturbance call. In response, Defendant "[g]ot loud," denied any involvement, and "got in a very defensive . . . fighting stance." Evidence tends to show both officers had decided to place Defendant under arrest after the initial investigation. In any event, they approached Defendant to speak with him. At this time, Defendant attempted to close the door and retreat back into the home but was informed that he was "under arrest." Sergeant Benson grabbed the door and prevented it from being shut. The officers followed Defendant into the home and repeated that he was under arrest while requesting him to "put his hands behind his back." Defendant actively resisted arrest, headbutted Sergeant Benson's forehead, and bit Deputy Smith's left hand. Defendant "became dead weight," necessitating that the officers carry him to the patrol car. Once securing Defendant, the officers transported him to the Johnston County Jail.

Between 1 March 2021 and 18 April 2022, Defendant was indicted for several offenses: breaking and entering with the intent to terrorize or injure; assault on a law enforcement officer; assault on a law enforcement officer inflicting physical injury; resisting a public officer; habitual misdemeanor assault; injury to personal property;

STATE V. QUICK

Opinion of the Court

assault on a female; and obtaining habitual felon status. On 27 June 2022, Defendant filed a motion to suppress his arrest arguing that his constitutional rights were violated. Citing the Fourth Amendment, Defendant claimed the officers' actions were unconstitutional "when [they] physically entered [his] home without an arrest warrant and without exigent circumstances." Defendant's motion was heard on 7 July 2022 and denied by the trial court's written order on 28 July 2022. The trial court concluded the officers had probable cause to arrest Defendant, and the arrest was "properly based upon exigent circumstances"

Defendant's trial commenced on 14 November 2022 wherein Defendant attempted to "renew[] his objection to the trial court's order denying his motion to suppress." Defendant's objection "was not renewed at the time the testimony regarding [his] arrest was offered." Rather, Defendant attempted to renew his objection during preliminary matters, which occurred before Deputy Smith gave his testimony:

[DEFENDANT'S ATTORNEY]: I think the Court of Appeals is gonna look strong and hard at that order on the exigent circumstances, because in my . . . research of the law is that was a first time that some of those things were found. So I don't think we should use that as a blueprint, Your Honor.

THE COURT: I'm not using that as a blueprint. I'm just trying to inform myself what –

[DEFENDANT'S ATTORNEY]: Thank you.

STATE V. QUICK

Opinion of the Court

THE COURT: -- evidence may or may not be coming so I can rule on evidentiary objections. That's the only –

[DEFENDANT'S ATTORNEY]: I understand.

THE COURT: -- purpose for it. Okay.

[DISTRICT ATTORNEY]: Thank you, Your Honor.

THE COURT: Anything else?

MS. SLAVIN: No, Your Honor.

[DEFENDANT'S ATTORNEY]: No, Your Honor.

Defendant then moved to dismiss the assault on a law enforcement officer and resisting arrest charges at the close of the State's evidence—contending the State had failed to prove that the warrantless arrest was lawful. The trial court denied Defendant's motion to dismiss. Defendant renewed his motion to dismiss the charges at the close of all evidence, which was also denied. After deliberations, the jury found Defendant guilty of assault inflicting physical injury on a law enforcement officer, assault on a law enforcement officer, and resisting a public officer. Defendant was acquitted of the remaining charges and gave notice of appeal in open court.

II. Jurisdiction

This Court has jurisdiction to consider Defendant's appeal under N.C. Gen. Stat. §§ 7A-27(b)(1), 15A-979(b), and 15A-1444(a) (2023).

III. Analysis

Defendant presents two issues for our consideration: (1) whether the trial court plainly erred by denying his motion to suppress the warrantless arrest for a lack of competent evidence demonstrating exigent circumstances; and (2) whether the trial court erred by denying his motion to dismiss the charges without competent evidence to support them. For the reasons below, we hold that the trial court did not commit error by denying either of Defendant's motions.

A. Motion to Suppress

Defendant argues that the trial court plainly erred by denying his motion to suppress because "there was insufficient competent evidence . . . that exigent circumstances existed to arrest him in his home without a warrant." Defendant concedes, and we agree that he failed to properly preserve this issue for appellate review and requests that we review the trial court's denial thereof for plain error. *See State v. Anthony*, 271 N.C. App. 749, 752, 845 S.E.2d 452, 455 (2020) ("Failure to object at trial waives appellate review, when evidence is tendered after counsel sought to exclude the evidence in a pre-trial motion to suppress or a motion *in limine*."); *see also State v. Larkin*, 237 N.C. App. 335, 339, 764 S.E.2d 681, 685 (2014) ("[W]e may review for plain error the denial of a defendant's pretrial suppression motion, if the defendant specifically and distinctly argues on appeal that the trial court committed plain error."). Accordingly, we proceed with plain error review. *See*

State v. Lawrence, 365 N.C. 506, 512, 723 S.E.2d 326, 330 (2012) (“Unpreserved error in criminal cases . . . is reviewed only for plain error.”).

When reviewing a trial court’s ruling on a motion to suppress, “the trial court’s ‘findings of fact are conclusive and binding on appeal if supported by competent evidence.’ This Court reviews the trial court’s conclusions of law *de novo*.” *State v. Dalton*, 274 N.C. App. 48, 51, 850 S.E.2d 560, 564 (2020) (citation omitted). However, “as noted above, because [D]efendant failed to object at trial, our standard of review of the admission of the challenged evidence is for *plain error*.” *Id.* (emphasis added).

For error to constitute plain error:

a defendant must demonstrate that a fundamental error occurred at trial. To show that an error was fundamental, a defendant must establish prejudice; that, after examination of the entire record, the error had a probable impact on the jury’s finding that the defendant was guilty. Moreover, because plain error is to be applied cautiously and only in the exceptional case, the error will often be one that seriously affects the fairness, integrity, or public reputation of judicial proceedings.

Lawrence, 365 N.C. at 518, 723 S.E.2d at 334 (citations and internal quotation marks omitted). “In conducting our review for plain error, we must first determine whether the trial court did, in fact, err in denying [the] [d]efendant’s motion to suppress.” *State v. Powell*, 253 N.C. App. 590, 594, 800 S.E.2d 745, 748 (2017); *State v. Oxendine*, 246 N.C. App. 502, 510, 783 S.E.2d 286, 292 (2016) (“The first step under plain error review is . . . to determine whether any error occurred at all.”). “In the second step, the defendant must show that any error was fundamental by establishing that the

error had a probable effect on the verdict.” *Oxendine*, 246 N.C. App. at 510, 783 S.E.2d at 292.

1. Findings of Fact Supported by Competent Evidence

Defendant challenges the trial court’s Findings of Fact Nos. 16 and 24 as not supported by competent evidence: “(16) Deputy Smith and [S]gt. Benson made the decision to arrest [D]efendant for assaulting [his girlfriend] and for felony Breaking and Entering into her neighbor’s home on Lot P1[;]” and “(24) Defendant denied being involved and said he ‘wasn’t going back to jail.’”

First, we consider Finding of Fact No. 16—the officers had made the decision to arrest Defendant prior to approaching the home. Defendant argues that the officers had not yet made the decision to arrest him because Deputy Smith testified, “we didn’t tell him he was under arrest prior to closing the door.” However, Deputy Smith also testified, “I told [Sergeant Benson] that . . . I was going to place [Defendant] under arrest for the obvious indication of assault and the breaking and entering.” Sergeant Benson explained that he merely hoped to give Defendant “a chance to tell . . . his side of the story” before arresting him, and that “[w]hen he went retreating, [they] advised him he was under arrest.” Although there is competing evidence, Finding of Fact No. 16 is supported by “evidence that a reasonable mind might accept as adequate to support the finding.” *State v. Wiles*, 270 N.C. App. 592, 597, 841 S.E.2d 321, 325 (2020) (citation omitted); *see also State v. Williams*, 366 N.C. 110, 114, 726 S.E.2d 161, 165 (2012) (citations and quotation marks omitted) (“The

STATE V. QUICK

Opinion of the Court

trial court's findings of fact on a motion to suppress are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting.”).

We next turn to Finding of Fact No. 24— “Defendant denied being involved and said he ‘wasn’t going back to jail.” The record supports the finding Defendant had denied involvement when asked. Deputy Smith testified when he asked Defendant about “what happened . . . next door,” Defendant became angry and stated, “he didn’t have anything to do with it.” Sergeant Benson similarly testified Defendant stated, “he didn’t know what we were talking about . . . and he had nothing to do with it.” Accordingly, the fact that Defendant denied being involved is supported by competent record evidence. *See Wiles*, 270 N.C. App. at 597, 841 S.E.2d at 325.

Defendant also argues that he stated “he wasn’t going back to jail” *after* Sergeant Benson entered the mobile home as opposed to *before*. Defendant does not contest whether he made the statement; rather, he debates *when* he made the statement. Deputy Smith’s testimony at the suppression hearing provided that Defendant “started backing up, and saying that he wasn’t going to jail,” which occurred after the officers questioned him at the door and entered the home. Since this portion of Finding of Fact No. 24 is not supported by competent evidence, it “is not binding on this Court.” *State v. Otto*, 366 N.C. 134, 136, 726 S.E.2d 824, 827 (2012).

2. Conclusions of Law Supported by Findings of Fact

Defendant next challenges Conclusions of Law Nos. 5 and 6 by the trial court. In doing so, Defendant characterizes the conclusions as findings of fact. However, the trial court's order indicates that these are not findings of fact, but rather, conclusions of law. In relevant part, the trial court concluded:

(5) Defendant exhibited no concern for [his girlfriend], the neighbor, or the children present and his sudden withdrawal into the home when Deputy Smith and Sgt. Benson advised he was under arrest gave rise to a dangerous, emergency situation.

(6) The assault and Felony Breaking and Entering took place in a rural part of Johnston County, and, if Deputy Smith and Sgt. Benson left defendant's home to secure a warrant, they would be forced to leave defendant alone and in close proximity to the victims for a long period of time, with the opportunity to flee.

"In distinguishing between findings of fact and conclusions of law, '[a]s a general rule, . . . any determination requiring the exercise of judgment or the application of legal principles is more properly classified a conclusion of law.'" *State v. Sparks*, 362 N.C. 181, 185, 657 S.E.2d 655, 658 (2008) (citations omitted) (brackets and ellipses in original). By contrast, "[a]ny determination reached through logical reasoning from the evidentiary facts is more properly classified a finding of fact." *In re Helms*, 127 N.C. App. 505, 510, 491 S.E.2d, 672, 675 (1997) (citations and quotation marks omitted). "The labels findings of fact and conclusions of law employed by the lower court in a written order do not determine the nature of our standard of appellate

review.” *State v. Degraphenreed*, 261 N.C. App. 235, 239, 820 S.E.2d 331, 335 (2018) (citations and quotation marks omitted).

Although the first portion of Conclusion of Law No. 5 is properly classified as a finding of fact, the challenged portion, that “Defendant’s sudden withdrawal . . . gave rise to a dangerous emergency situation[.]” “requires the exercise of judgment” and “the application of legal principles.” *Sparks*, 362 N.C. at 185, 657 S.E.2d at 658 (citations omitted). The challenged portion of Conclusion of Law No. 5 is therefore a conclusion of law.

Contrary to Defendant’s contention, this portion of Conclusion of Law No. 5 is supported by multiple unchallenged findings of fact. Among them, unchallenged Finding of Fact No. 7, which states “when Deputy Smith arrived at Lot P1 [h]e observed [the girlfriend] was visibly upset and crying and had a red jawbone and a fresh scrape on her face with blood exposed. [The girlfriend] lifted her lip to show him it was red and bruised and she showed him bruising on the lower parts of her body[.]” Moreover, unchallenged Finding of Fact Nos. 8 through 10 show: the officers were responding to a 911 call after Defendant forced his way into his neighbor’s home; assaulted his girlfriend in front of several bystanders, including children. Unchallenged Finding of Fact No. 18 also notes: “Deputy Smith was aware from other law enforcement officers that [D]efendant is known to run from law enforcement[.]” Furthermore, unchallenged Finding of Fact No. 19 provides: “Sgt. Benson has interacted with [D]efendant on numerous occasions. In the past, when serving

Defendant with arrest warrants, the [D]efendant has run away from and fought Sgt. Benson.” In light of these unchallenged findings, contrary to Defendant’s urging, the trial court’s findings of fact adequately support the conclusion that “Defendant’s sudden withdrawal . . . gave rise to a dangerous emergency situation[.]”

Defendant also argues that a portion of Conclusion of Law No. 6—the officers “would be forced to leave [D]efendant along and in close proximity to the victims for a long period of time, with the opportunity to flee”—is not supported by competent evidence. Yet, we analyze this challenge as a conclusion of law since it requires “the exercise of judgment” *Sparks*, 362 N.C. at 185, 657 S.E.2d at 658 (citations omitted).

With respect to Conclusion of Law No. 6, Defendant first contends that “[e]ven with the concern for [the girlfriend], the deputies still had the option to obtain an arrest warrant.” However, the same unchallenged findings of fact that support Conclusion of Law No. 5—Findings of Fact Nos. 8, 9, 10, 18, and 19—also support Conclusion of Law No. 6. Moreover, unchallenged Finding of Fact No. 20, provides: “Sgt. Benson has . . . worked unrelated law enforcement calls . . . specifically at the trailer on Lot P13. He was aware that the Lot P13 has a front and back door[.]” Considering these unchallenged findings of fact, we hold that the trial court’s Conclusion of Law No. 6 is adequately supported by the trial court’s findings.

3. Legal Sufficiency of Conclusions of Law

Defendant also argues the trial court's Conclusion of Law No. 2 was erroneous. Citing *State v. Guevara*, 349 N.C. 243, 250, 506 S.E.2d 711, 716 (1998), and *United States v. Santana*, 427 U.S. 38, 43, 96 S. Ct. 2406, 2410 (1976), the trial court concluded:

Deputy Smith and Sgt. Benson had probable cause to arrest [D]efendant for assaulting [his girlfriend] and for Felony Breaking or Entering into Lot P1 and their entry into [D]efendant's home to arrest him, without a warrant, was properly based upon exigent circumstances and did not violate [D]efendant's Fourth Amendment rights.

Furthermore, Conclusion of Law No. 7 provides:

Based on the totality of the circumstances, including the short period of time between the 911 call and law enforcement entry into the home, the violent nature of the offenses, Deputy Smith and Sgt. Benson's knowledge of [D]efendant's history of fleeing from law enforcement, and the danger to law enforcement, civilians, and children near the home, Deputy Smith and Sgt. Benson lawfully entered [D]efendant's home to effect an arrest due to the presence of exigent circumstances.

As a general rule, searches and seizures within a home are presumptively unreasonable under the Fourth Amendment. *Payton v. New York*, 445 U.S. 573, 586, 100 S. Ct. 1371, 1380 (1980). But "in the presence of an emergency or dangerous situation described as an 'exigent circumstance,' officials may lawfully make a warrantless entry into a home[.]" *Guevara*, 349 N.C. at 250, 506 S.E.2d at 716. "An exigent circumstance is found to exist in the presence of an emergency or dangerous

situation.” *State v. Marrero*, 248 N.C. App. 787, 794, 789 S.E.2d 560, 566 (2016) (citation omitted). Even if the arresting officers have probable cause to suspect a crime’s commission, a warrantless intrusion into another’s home is not justified unless one of several “exigent circumstances” apply. *Guevara*, 349 N.C. at 250, 506 S.E.2d at 716 (citation omitted). Exigent circumstances have been found to include “hot pursuit of a fleeing felon, [] imminent destruction of evidence, [] the need to prevent a suspect’s escape, or the risk of danger to the police or to other persons” *Id.* (citation omitted).

Here, without considering the contents of Conclusion of Law No. 2 or the merits of exigency based on “hot pursuit,” we hold exigent circumstances existed for other valid reasons contained in Conclusion of Law No. 7. Specifically, “[D]efendant’s history of fleeing from law enforcement, and the danger to law enforcement, civilians, and children near the home” In *Guevara*, when the deputy had probable cause to arrest the defendant, the North Carolina Supreme Court held “the defendant’s actions, in suddenly withdrawing into his home and slamming the door, created the appearance that he was fleeing or trying to escape, and this coupled with the presence of a young child . . . created an exigent circumstance justifying . . . entry without a warrant.” 349 N.C. at 250–51, 506 S.E.2d at 717. And in *State v. Fuller*, our Court held that the trial court did not err by concluding that exigent circumstances were present because the defendant was a known flight risk to the officers and previously had demonstrated “assaultive behavior.” 196 N.C. App. 412, 419–20, 674 S.E.2d 824,

829–30 (2009). Similar here, when the officers had probable cause to arrest him³, Defendant suddenly withdrew into his house and attempted to close the door when asked about the reported offenses. *Guevara*, 349 N.C. at 250–51, 506 S.E.2d at 717. Moreover, Defendant had history of fleeing from law enforcement and the victims and children were nearby. *Fuller*, 196 N.C. App. at 419–20, 674 S.E.2d at 829–30.

Based upon the totality of the circumstances, the trial court correctly concluded that the officers lawfully entered Defendant’s home to effect an arrest “due to the presence of exigent circumstances.” *Guevara*, 349 N.C. at 250, 506 S.E.2d at 716; *see also Santana*, 427 U.S. at 44, 96 S. Ct. at 2410. “We, therefore, hold that the trial court did not err, much less commit plain error, in denying [D]efendant’s motion to suppress.” *Dalton*, 274 N.C. App. at 55, 850 S.E.2d at 566. And “[h]aving determined that the motion to suppress was properly denied, we do not address whether the alleged error had a probable impact on the jury’s determination that defendant was guilty.” *Id.*

B. Motion to Dismiss

Last, Defendant contends that the trial court erred by denying his motion to dismiss the charges for felony assault inflicting physical injury on a law enforcement officer, assault on a law enforcement officer, and resisting public officer. Specifically, Defendant maintains that the State failed to show the officers were either “making

³ Probable cause is discussed below in Section III. B.

or attempting to make a lawful arrest” and therefore his resist of the arrest was “legally justified.” Defendant thus argues that the State did not produce substantial evidence of an element of these challenged offenses.

Defendant properly preserved his motion to dismiss for appellate review. *See* N.C. R. App. P. 10(a)(1), (3) (“to preserve an issue for appellate review, a party must present[] to the trial court a timely . . . motion [that] stat[es] the specific grounds for the ruling the party desired the court to make”); *see also State v. Golder*, 374 N.C. 238, 246, 839 S.E. 2d 782, 788 (2020) (“our Rules of Appellate Procedure treat the preservation of issues concerning the sufficiency of the State’s evidence differently than the preservation of other issues under Rule 10(a).”).

“This Court reviews the trial court’s denial of a motion to dismiss *de novo*.” *State v. Smith*, 186 N.C. App. 57, 62, 650 S.E. 2d 29, 33 (2007). When a defendant moves for dismissal, the trial court must determine “whether there is substantial evidence (1) of each essential element of the offense charged, or of a lesser offense included therein, and (2) of defendant[] being the perpetrator of such offense. If so, the motion is properly denied.” *State v. Fritsch*, 351 N.C. 373, 378, 526 S. E.2d 451, 455 (2000). “Substantial evidence” is any “relevant evidence [that] a reasonable mind might accept as adequate to support a conclusion.” *State v. Smith*, 300 N.C. 71, 78, 265 S.E.2d 164, 169 (1980). In determining whether evidence is substantial, the trial court “must consider all evidence admitted, whether competent or incompetent, in the light most favorable to the State, giving the State the benefit of every reasonable

STATE V. QUICK

Opinion of the Court

inference and resolving any contradictions in its favor.” *State v. Rose*, 339 N.C. 172, 192, 451 S.E.2d 211, 223 (1994). “Contradictions and discrepancies . . . are for the jury to resolve” and do not merit summary dismissal. *State v. Every*, 157 N.C. App. 200, 204, 578 S.E.2d 642, 647 (2003) (citations omitted).

Under North Carolina law, a law-enforcement officer may execute a warrantless arrest for an offense not personally witnessed if the officer “has probable cause to believe” that the suspect committed (1) a felony, or (2) “a misdemeanor under . . . G.S. 14-33(c)(2)” against “the alleged victim” with whom the suspect has “a personal relationship” N.C. Gen. Stat. §15A-401(b)(2)(a), (d) (2023). “Probable cause requires only a probability or substantial chance of criminal activity, not an actual showing of such activity.” *State v. Teate*, 180 N.C. App. 601, 606–07, 638 S.E.2d 29, 33 (2006) (quoting *Illinois v. Gates*, 462 U.S. 213, 244 n.13, 103 S. Ct. 2317 (1983)). “Probable cause for an arrest has been defined to be a reasonable ground of suspicion, supported by circumstances strong in themselves to warrant a cautious man in believing the accused to be guilty.” *Id.* at 607, 638 S.E.2d at 33 (citation omitted). “Whether probable cause exists to justify an arrest depends on the ‘totality of the circumstances’ present in each case.” *State v. Sanders*, 327 N.C. 319, 339, 395 S.E.2d 412, 425 (1990).

The record demonstrates the officers satisfied the requirements for a warrantless arrest under N.C. Gen. Stat. § 15A-401(b)(2)(d). Upon arrival, Deputy Smith spoke with Defendant’s girlfriend and the neighbor. Deputy Smith learned:

Defendant and his girlfriend were in a personal relationship; Defendant assaulted his girlfriend; and Defendant broke into the neighbor's home at P1 and broke an interior door. Deputy Smith then observed corresponding visible signs of injury to Defendant's girlfriend and property damage to the neighbor's house. Although Deputy Smith was not present when the attack occurred, he had probable cause to believe that Defendant committed a misdemeanor assault against a female with whom he was in a relationship. *Id.* § 15A-401(b)(2)(d). Since this the arrest was lawful, the State produced substantial evidence of all elements of the challenged offenses.

Defendant incorrectly argues this case is analogous to *State v. Hewson* with respect to the right to resist an unlawful arrest. 88 N.C. App at 128, 362 S.E.2d at 575. In *Hewson*, the defendant was approached at his home by law enforcement for failure to pay child support. *Id.* at 129, 362 S.E.2d at 575. The officers announced that they had an order for the defendant's arrest for civil contempt, but when asked by him to see it, they stated that "the order was at the Sheriff's office." *Id.* In response, the defendant closed the door and refused to comply. *Id.* Thereafter, the officers entered the defendant's home through a different door, which was unlocked, and arrested him. *Id.* at 129–30, 362 S.E.2d at 575. Our Court held the officers had no authority to enter the home to arrest the defendant because "the order of arrest was issued for civil contempt, and the record discloses no basis for the officers' having probable cause to believe that defendant had committed a crime or that an exigent

circumstance existed.” *Id.* at 131, 362 S.E.2d at 576. But in the present matter, unlike *Hewson*, there was probable cause that a criminal offense was committed accompanied by exigent circumstances.

Our *de novo* review leads us to conclude that the trial court did not err by denying Defendant’s motion to dismiss because the arrest was lawful.

IV. Conclusion

For the reasons set forth above, we hold that the trial court did not plainly err when it denied Defendant’s motion to suppress his arrest, and did not err when it denied his motion to dismiss.

NO ERROR.

Judges TYSON and WOOD concur.

Report per Rule 30(e).