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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-415

Filed 5 February 2025

Wake County, Nos. 19CR223713-910, 19CR223714-910, 21CR208217-910,
21CR208222-910, 21CR212920-910

STATE OF NORTH CAROLINA

v.

JESSE NATHAN METCALF

Appeal by defendant from judgments entered 12 September 2023 by Judge
Claire V. Hill in Wake County Superior Court. Heard in the Court of Appeals 15
January 2025.

*Attorney General Jeff Jackson, by Special Deputy Attorney General Tamika L.
Henderson, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Wyatt
Orsbon, for Defendant.*

PER CURIAM.

Jesse Nathan Metcalf (“Defendant”) appeals from judgments entered upon a
jury’s verdict of guilty of two counts of communicating a threat, witness intimidation,
discharging a firearm, extortion, threatening a court officer, stalking, and resisting a

public officer. We vacate Defendant's judgments imposing consecutive probation terms and remand for re-sentencing.

I. Background

Defendant was convicted by a jury of two counts of communicating a threat, witness intimidation, discharging a firearm, extortion, threatening a court officer, stalking, and resisting a public officer.

Defendant was found to be a prior record level I, with 0 prior record level points. Defendant's convictions for discharging a firearm, communicating threats, and resisting a public officer were consolidated for judgment, and he was sentenced to an active sentence of 16 to 29 months. Defendant was also sentenced to an active sentence of 16 to 29 months for his conviction for extortion, to run consecutive to the prior sentence.

Defendant's convictions for intimidating a witness and misdemeanor stalking were consolidated, and he was sentenced to a sentence of 13 to 25 months, which was suspended for 36 months of supervised probation. Defendant's convictions for threatening a court officer and communicating threats were consolidated, and he was sentenced to a sentence of 6 to 17 months, which was suspended for 36 months of supervised probation, said period to run consecutive to Defendant's other probationary sentence.

Defendant appeals.

II. Jurisdiction

Jurisdiction lies with this Court pursuant to N.C. Gen. Stat. §§ 7A-27(b) and 15A-1444(a) (2023).

III. Issues

Defendant argues the trial court erred in sentencing him to two consecutive probationary terms.

IV. Consecutive Probationary Sentences

A. Standard of Review

Although “[a] challenge to a trial court’s decision to impose a condition of probation is reviewed on appeal using an abuse of discretion standard,” *State v. Chadwick*, 271 N.C. App. 88, 89, 843 S.E.2d 263, 264 (2020) (citing *State v. Allah*, 213 N.C. App. 88, 98, 750 S.E.2d 903, 911 (2013)), “[a]n alleged error in statutory interpretation is an error of law, and thus our standard of review for this question is *de novo*.” *State v. Wainwright*, 240 N.C. App. 77, 79, 770 S.E.2d 99, 102 (2015) (citation omitted).

B. Analysis

Defendant argues and the State concedes the trial court violated N.C. Gen. Stat. § 15A-1346 (2023) by imposing consecutive probationary terms. *See State v. Canady*, 153 N.C. App. 455, 459-60, 570 S.E.2d 262, 265-66 (2002) (“A careful reading [of N.C. Gen. Stat. § 15A-1346] shows that any sentence of probation must run concurrently with any other probation sentences imposed on a defendant.”).

Defendant’s judgments imposing probationary terms are vacated and this

cause is remanded for additional proceedings. Defendant's convictions remain undisturbed.

V. Conclusion

The trial court erred by sentencing Defendant to two consecutive probationary terms. Defendant's judgments imposing consecutive probationary terms are vacated and remanded for resentencing. Defendant's convictions remain undisturbed. *It is so ordered.*

VACATED AND REMANDED.

Panel consisting of Judges: Tyson, Zachary, and Flood.

Report per Rule 30(e).