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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-216

Filed 19 March 2025

Cleveland County, No. 23 CRS 331184

STATE OF NORTH CAROLINA

v.

LISA ANN MEJIA, Defendant.

Appeal by Defendant from judgment entered 29 August 2023 by Judge Justin N. Davis in Cleveland County Superior Court. Heard in the Court of Appeals 29 August 2024.

*Attorney General Joshua H. Stein, by Assistant Attorney General Reginaldo E. Williams, Jr., for the State.*

*Center for Death Penalty Litigation, by Ryan Kuchinski, for Defendant-Appellant.*

CARPENTER, Judge.

Lisa Ann Mejia (“Defendant”) appeals from judgment after she entered an *Alford* plea to one count each of possession of methamphetamine and possession of drug paraphernalia. On appeal, Defendant argues, and the State concedes, the trial court’s written judgment contains two clerical errors warranting remand for correction. Specifically, Defendant asserts the written judgment incorrectly indicates

Defendant entered a guilty plea rather than an *Alford* plea and imposed jail and lab fees as monetary conditions of probation, contrary to the trial court's oral ruling. We agree and remand to the trial court for correction of both clerical errors.

### **I. Factual & Procedural Background**

On 25 June 2023, a Cleveland County grand jury indicted Defendant on one count each of possession with the intent to sell or deliver methamphetamine and possession of drug paraphernalia. On 30 August 2023, Defendant pleaded guilty to possession of methamphetamine and drug paraphernalia pursuant to *Alford*. As part of the plea agreement, the State agreed to consolidate the judgments and to a sentence within the presumptive range. Accordingly, the trial court sentenced Defendant within the presumptive range, suspended for twenty four months of supervised probation, with multiple costs payable as part of probation. After learning it would be "difficult for [Defendant] to pay fines and particularly the lab fee," the trial court agreed to waive the jail fees and impose the lab fee as a civil judgment rather than as a condition of probation. The trial court accepted Defendant's *Alford* plea and entered a written judgment that same day.

Because the box marked "plea" was checked instead of the box marked "pursuant to *Alford*," the written judgment indicated Defendant entered a guilty plea rather than an *Alford* plea. Similarly, the written judgment imposed both the jail and lab fees as conditions of probation contrary to the trial court's statements in open court. On 8 September 2023, Defendant filed a written notice of appeal.

## II. Jurisdiction

A defendant who enters a guilty plea or plea of no contest does not have a statutory right to appeal the trial court’s written judgment on the grounds of clerical error. *See* N.C. Gen. Stat. § 15A-1444(a) (2023); *see State v. Rogers*, 256 N.C. App. 328, 331, 808 S.E.2d 156, 159 (2017). A defendant may, however, petition this Court for discretionary review by writ of certiorari. N.C. Gen. Stat. § 15A-1444(g).

Here, Defendant has no right to appeal a clerical error in the judgment after the trial court accepted her *Alford* plea. *See* N.C. Gen. Stat. § 15A-1444(a). Thus, Defendant filed a petition for writ of certiorari (“PWC”), arguing error was committed below.<sup>1</sup>

“Certiorari is a discretionary writ, to be issued only for good and sufficient cause shown.” *State v. Grundler*, 251 N.C. 177, 189, 111 S.E.2d 1, 9 (1959). In order for us to grant a PWC, the petitioner must show (1) “merit or that error was probably committed below” and (2) “extraordinary circumstances” to justify the writ. *Cryan v. Nat’l Council of YMCAs of the U.S.*, 384 N.C. 569, 570, 887 S.E.2d 848, 849 (2023). Extraordinary circumstances are required because “a writ of certiorari ‘is not intended as a substitute for a notice of appeal.’” *Id.* at 572, 887 S.E.2d at 851 (quoting *State v. Ricks*, 378 N.C. 737, 741, 862 S.E.2d 835, 835 (2021)). Clerical errors within

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<sup>1</sup> Despite having no statutory right of appeal, Defendant filed notice of appeal. Defendant subsequently filed a PWC because her notice of appeal does not identify the court to which the appeal was taken and its service was not made on all adverse parties. *See* N.C. R. App. P. 4(d) (2023).

a written judgment after a defendant enters a plea agreement are sufficient circumstances to warrant the grant of a PWC. *See State v. Jarman*, 140 N.C. App. 198, 202, 535 S.E.2d 875, 878 (2000); *see State v. Smith*, 188 N.C. App. 842, 656 S.E.2d 695 (2008) (concluding that clerical errors in a written judgment after a defendant enters a plea agreement are sufficient circumstances to warrant granting a PWC).

For the reasons set forth below, Defendant has shown the trial court made clerical errors in its written judgment concerning Defendant's plea agreement. In our discretion, we allow Defendant's PWC.

### **III. Issue**

The sole issue on appeal is whether the trial court's judgment contained clerical errors warranting remand for correction.

### **IV. Analysis**

When determining whether a written judgment contains a clerical error, we review the record de novo. *State v. Allen*, 249 N.C. App. 376, 379, 790 S.E.2d 588, 591 (2016). Under de novo review, we substitute our judgment for that of the trial court and consider the matter anew. *State v. Williams*, 362 N.C. 628, 632–33, 669 S.E.2d 290, 294 (2008).

A clerical error is “an error resulting from a minor mistake or inadvertence, especially in writing or copying something on the record, and not from judicial reasoning or determination.” *Jarman*, 140 N.C. App. at 202, 535 S.E.2d at 878; *Allen*, 249 N.C. App. at 380, 790 S.E.2d at 591. Clerical errors can include situations where

“the trial court’s written judgment contradicts its findings in open court.” *State v. Brown*, 279 N.C. App. 630, 635, 865 S.E.2d 753, 757 (2021) (remanding after the trial court accepted an *Alford* plea to possession with intent to sell or deliver methamphetamine but the written judgment inadvertently noted marijuana instead of methamphetamine). When “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, 656 S.E.2d 695, 696 (2008) (quoting *State v. Linemann*, 135 N.C. App. 734, 738, 522 S.E.2d 781, 784 (1999)).

Here, the trial court accepted Defendant’s *Alford* plea after the plea colloquy. Yet, in contrast with the plea colloquy, the written judgment does not reflect an *Alford* plea. Specifically, in the written judgment, the trial court checked the box labeled “plea” and did not check the box labeled “pursuant to *Alford*.” Because the error contradicts the trial court’s plea colloquy with Defendant, the error is the result of a “minor mistake or inadvertence.” See *Jarman*, 140 N.C. App. at 202, 535 S.E.2d at 878.

A second error exists in the “Monetary Conditions” section of the written judgment. After learning of Defendant’s “difficult[ies]” during the plea colloquy, the trial court indicated it would waive the jail fees and impose the lab fee as a civil judgment. These fees, however, are listed in the monetary conditions of the written judgment as conditions of Defendant’s probation. Again, because this error does not

reflect the trial court's statements made during the plea colloquy, the error was the result of a "minor mistake or inadvertence." *See Jarman*, 140 N.C. App. at 202, 535 S.E.2d at 878.

Accordingly, we remand for the correction of these clerical errors. *See Smith*, 188 N.C. at 845, 656 S.E.2d at 696.

### **V. Conclusion**

Because the trial court's written judgment contains clerical errors, we remand to the trial court for correction.

REMANDED.

Judges ARROWOOD and WOOD concur.

Report per Rule 30(e).