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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-998

Filed 2 April 2025

Stanly County, No. 19 CRS 50475

STATE OF NORTH CAROLINA

v.

ADRIAN DEMETRIUS HEARNE, Defendant.

Appeal by defendant from judgment entered 20 March 2024 by Judge Claire V. Hill in Stanly County Superior Court. Heard in the Court of Appeals 19 March 2025.

Attorney General Jeff N. Jackson, by Special Deputy Attorney Marissa K. Jensen, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Emily Holmes Davis, for defendant-appellant.

FLOOD, Judge.

Defendant Adrian Hearne appeals from the trial court's judgment revoking his probation for absconding. On appeal, Defendant argues the trial court's judgment contains a clerical error that must be corrected on remand. After careful review, we conclude there was no clerical error. We therefore deny Defendant's request for

remand.

I. Factual and Procedural Background

On 8 July 2019, a grand jury indicted Defendant for possession with intent to sell or deliver marijuana, felony possession of marijuana, and felony maintaining a dwelling. On 12 October 2021, Defendant pleaded guilty to all the charges at a hearing before the trial court. The trial court sentenced Defendant to five to fifteen months' imprisonment, suspended the sentence, and placed him on twenty-four months' probation.

On 16 May 2023, Defendant's probation officer, Officer Kathryn Tobias, filed a violation report (the "First Report"). In the First Report's first paragraph, Officer Tobias alleged that Defendant had willfully violated the conditions of his probation because "Defendant has failed to report for three different scheduled office appointments" on 4 April 2023, 10 May 2023, and 16 May 2023. On 23 May 2023, Officer Tobias filed a second violation report (the "Second Report") for absconding and failing to: pay court costs; pay supervision fees; and enroll in Treatment Accountability for Safer Communities ("TASC"), a substance abuse program. In the first paragraph of the Second Report, Officer Tobias stated that "Defendant has missed multiple office appointments and failed to report any place where he may be residing[,] and that "Defendant has made his whereabouts unknown and is avoiding supervision [and] thus has absconded." Officer Tobias also stated she had last seen Defendant on 6 March 2023.

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On 18 March 2024, the trial court held a hearing on the violation allegations contained in the Second Report. Officer Tobias testified that, upon last seeing Defendant on 6 March 2023, she informed Defendant the next appointment date was to be on 4 April 2023; Defendant, however, failed to appear on that date. She also stated that, after Defendant failed to appear on 4 April 2023, she informed him of the next appointment date of 10 May 2023, on which he failed to appear, and then informed him of the following appointment date of 16 May 2023, on which he again failed to appear. Officer Tobias further testified that she offered to come to Defendant's location, but he never provided her with his location. Officer Tobias subsequently went to Defendant's previous addresses, but did not find him there. Finally, Officer Tobias testified that, from 6 March 2023 until 23 May 2023, she never saw Defendant in person.

On 20 March 2024, continuing with the hearing, the trial court found that Defendant "did violate willfully the terms and conditions of his probation." Specifically, the trial court found Defendant committed the violation of absconding by "willfully avoiding supervision or by willfully making the supervisee's whereabouts unknown to the supervising probation officer[.]" as alleged in the first paragraph of the Second Report.

On 21 March 2024, the final day of the hearing, the trial court made several supplemental findings, including that "Defendant did not demonstrate an inability to comply with the terms of probation regarding his residence and contact with his

probation officer.” In its written order, the trial court stated that, per the first paragraph of both the First Report and the Second Report, Defendant willfully violated probation. Consequently, the trial court revoked Defendant’s probation and activated his sentence. Defendant timely appealed.

II. Jurisdiction

This Court has jurisdiction to address Defendant’s appeal pursuant to N.C.G.S. § 15A-1347 (2023).

III. Analysis

On appeal, Defendant argues that this Court should remand the case to correct a clerical error contained in the written judgment, wherein the trial court indicated that Defendant willfully failed to report as alleged in the first paragraph of the First Report, instead of just committing the willful violation of absconding, as alleged in the first paragraph of the Second Report. We disagree.

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.” *State v. Taylor*, 156 N.C. App. 172, 177 (2003) (citation omitted). “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.” *State v. Newsome*, 264 N.C. App. 659, 665 (2019).

Here, the trial court did not check a box in the judgment form that contradicted

its findings. *See id.* at 665. By stating that Defendant “has missed multiple office appointments and failed to report any place where he may be residing . . . [and] thus has absconded,” the absconding violation alleged in the first paragraph of the Second Report encompasses the violation of Defendant’s failure to report as alleged in the first paragraph of the First Report. Additionally, on the final day of the hearing, the trial court found that “Defendant did not demonstrate an inability to comply with the terms of probation regarding his residence and contact with his probation officer,” making the violation of Defendant’s failure to report willful. Accordingly, the trial court was presented with competent evidence to make a judicial determination that Defendant willfully failed to report, as stated in the first paragraph of the First Report, and thus its inclusion of such determination in the judgment did not constitute a clerical error. *See Taylor*, 156 N.C. App. at 177; *Newsome*, 264 N.C. App. at 665. Accordingly, we deny Defendant’s request for remand.

IV. Conclusion

Upon review, we conclude that the trial court did not make a clerical error by including a willful failure to report the violation in its written judgment. Accordingly, we deny Defendant’s request to remand.

NO ERROR.

Judges ARROWOOD and WOOD concur.

Report per Rule 30(e).