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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-374

Filed 2 April 2025

Mecklenburg County, Nos. 21 CRS 2206, 21 CRS 2207

STATE OF NORTH CAROLINA

v.

JONQWESHA ANN GARLINS, Defendant.

Appeal by Defendant from judgment entered 5 September 2023 by Judge George C. Bell in Mecklenburg County Superior Court. Heard in the Court of Appeals 9 October 2024.

*Attorney General Joshua H. Stein, by Assistant Attorney General Christine M. Ryan, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Anne M. Gomez, for Defendant-Appellant.*

CARPENTER, Judge.

Jonqwesha Ann Garlins (“Defendant”) appeals from a restitution award imposed after she entered an *Alford* plea to one count each of burning of personal property and felonious breaking or entering. Defendant filed a petition for writ of certiorari (“PWC”) because she has no statutory right to appeal a restitution award

after entering an *Alford* plea. After careful review, we deny Defendant's PWC and dismiss her appeal.

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

On 15 February 2021, a Mecklenburg County grand jury indicted Defendant for one count each of burning of personal property and felonious breaking or entering. On 8 September 2023, the trial court held a hearing where Defendant entered an *Alford* plea to both charges. The evidence tended to show the following.

Defendant and Wilmot Browne were in an on-again, off-again romantic relationship from approximately 2019 to 2020. During their relationship, Defendant exhibited aggressive or violent behavior, including incidents where Defendant slashed Browne's tires and another where Defendant bit Browne's leg.

At approximately 6:00 am on 29 March 2020, Defendant called Browne and told him that she was going to "burn [his] S-H-I-T up" and shoot his daughter. Browne "thought she was just talking crazy" and went to work as usual. Shortly thereafter, Browne's neighbors observed Defendant enter Browne's apartment through the window carrying toilet paper and trash bags. The neighbors took a video of Defendant climbing in and out of the window and, immediately upon her departure from Browne's apartment, saw smoke and fire in the apartment.

The Charlotte Fire Department arrived to put out the fire and called Browne to notify him of the fire. The fire originated on Browne's mattress, where a pile of his belongings was also located. The fire department estimated \$15,000 worth of damage

to the apartment itself, but did not estimate the damage to the contents in the apartment. Because of the significant damage caused by the fire, Browne had to move out of his apartment and live in his car.

At the hearing, the trial court admitted photographs of the damage to the apartment and to Browne's personal property, along with a victim impact statement that Browne completed a week after the fire. Browne testified that, by starting the fire, Defendant damaged his clothes, shoes, furniture, television, cash, dishes, kitchen items, kitchen appliances, and a rug. Browne did not have receipts for the items because "[e]verything got burned up" in the fire. The trial court questioned Browne on the value of each damaged item, including the brand, where he purchased them, and their purchase price.

The trial court accepted Defendant's *Alford* plea and sentenced her to five to fifteen months imprisonment, suspended for twenty-four months of supervised probation. The State requested \$19,000 in restitution, which Defendant contested. After questioning Browne, the trial court found that Browne was owed the following restitution:

\$5,000 for the clothing and shoes, \$3,000 in cash. That's \$8,000. \$2,000 as reported for the living room set. That's \$10,000. And then the flat screen TV, \$500. \$10,500. Plus the kitchen stuff, \$2,000. So the Court will reduce the amount requested to \$12,500 . . . .

Defendant gave oral and written notice of appeal as to the restitution award.

## **II. Jurisdiction**

As an initial matter, we must address our jurisdiction. Upon entering an *Alford* plea, a defendant has no statutory right to appeal a restitution order. *See* N.C. Gen. Stat. § 15A-1444(e) (2023). Because Defendant appeals from a restitution order that was entered in conjunction with her *Alford* plea, we lack jurisdiction. For this reason, Defendant filed a PWC.

A PWC is a “prerogative writ[]” that we may issue to aid our jurisdiction. *See* N.C. Gen. Stat. § 7A-32(c) (2023). Issuing a PWC, however, is an extraordinary measure. *See Cryan v. Nat’l Council of YMCAs*, 384 N.C. 569, 572, 887 S.E.2d 848, 851 (2023). Accordingly, a petitioner must satisfy a two-factor test before we will issue a writ. *Id.* at 571, 887 S.E.2d at 851. “First, a writ of certiorari should issue only if the petitioner can show ‘merit or that error was probably committed below.’” *Id.* at 572, 887 S.E.2d at 851 (quoting *State v. Ricks*, 378 N.C. 737, 741, 862 S.E.2d 835, 839 (2021)). “Second, a writ of certiorari should issue only if there are ‘extraordinary circumstances’ to justify it.” *Id.* at 572–73, 887 S.E.2d at 851 (quoting *Moore v. Moody*, 304 N.C. 719, 720, 285 S.E.2d 811, 812 (1982)). “We require extraordinary circumstances because a writ of certiorari ‘is not intended as a substitute for a notice of appeal.’” *Id.* at 573, 887 S.E.2d at 851 (quoting *Ricks*, 378 N.C. at 741, 862 S.E.2d at 839).

Defendant argues that the trial court erred in imposing restitution in the amount of \$12,500. In particular, Defendant asserts that the restitution amount was unsupported by the evidence because the State primarily relied on Browne’s

testimony and did not provide documentation corroborating the items damaged and values alleged by Browne. We disagree.

We review de novo whether there is competent evidence to support a restitution award. *State v. Hussain*, 291 N.C. App. 253, 261, 895 S.E.2d 447, 453 (2023). Under a de novo review, this Court “considers the matter anew and freely substitutes its own judgment’ for that of the lower tribunal.” *State v. Williams*, 362 N.C. 628, 632–33, 669 S.E.2d 290, 294 (2008) (quoting *In re Greens of Pine Glen Ltd. P’ship*, 356 N.C. 642, 647, 576 S.E.2d 316, 319 (2003)). “Competent evidence is evidence that a reasonable mind might accept as adequate to support the finding.” *State v. Chukwu*, 230 N.C. App. 553, 561, 749 S.E.2d 910, 916 (2013) (internal quotation marks and citation omitted).

“When sentencing a defendant convicted of a criminal offense, the court shall determine whether the defendant shall be ordered to make restitution to any victim of the offense in question.” N.C. Gen. Stat. § 15A-1340.34(a) (2023). In the evaluation of the amount of restitution owed to a victim, the trial court must consider “the value of the property on the date of the damage, loss, or destruction” or “the value of the property on the date of sentencing. . . .” N.C. Gen. Stat. § 15A-1340.35(b)(1) and (2). “However, the award does not have to be supported by specific findings of fact or conclusions of law, and the quantum of evidence needed to support the award is not high.” *State v. Hillard*, 258 N.C. App. 94, 97, 811 S.E.2d 702, 704 (2018) (citation omitted). “Rather, when there is some evidence that the amount awarded is

appropriate, it will not be overruled on appeal.” *Id.* at 97, 811 S.E.2d at 704 (citation omitted). Although the evidence necessary to support a restitution award is not a particularly high bar, the award “must be based on something more than a guess or conjecture.” *State v. Lucas*, 234 N.C. App. 247, 258, 758 S.E.2d 672, 680 (2014) (quoting *State v. Daye*, 78 N.C. App. 753, 758, 338 S.E.2d 557, 561 (1986)).

Here, the restitution award is supported by competent evidence from Browne’s testimony, Browne’s victim impact statement, and the crime scene photos. Browne testified that the following items were destroyed in the fire: clothing, including several designer shirts and pairs of designer shoes; multiple pieces of furniture; dishes and kitchen appliances; a mattress; a rug; and a television. Browne also lost cash that was stored under his bed and did not have insurance covering the contents of his residence. In addition, Browne did not have receipts to prove the value of the items destroyed because “[e]verything got burned up” in the fire and his bank closed so he could not obtain new bank statements. Furthermore, Browne testified that the crime scene photos accurately reflected the damage the fire caused to his residence and personal property.

Because there were no receipts to prove the value of Browne’s personal property, the trial court conducted an inquiry into the specific items, and their respective values, that Browne lost in the fire. Browne provided descriptions of the items, such as their sizes, brands, and where he purchased them, as well as value estimates to the trial court. The trial court had a full opportunity to evaluate

Browne's credibility during his testimony.

"[A] reasonable mind" would accept the combination of the crime scene photos and Browne's testimony "as adequate to support the [restitution award]." *See Chukwu*, 230 N.C. App. at 561, 749 S.E.2d at 916 (internal quotation marks and citation omitted). Further, the trial court's inquiry into the value of Browne's personal property demonstrates the restitution evaluation was "more than a guess or conjecture." *See Lucas*, 234 N.C. App. at 258, 758 S.E.2d at 680 (quoting *Daye*, 78 N.C. App. at 758, 338 S.E.2d at 561). Therefore, the trial court's restitution award was supported by competent evidence, and Defendant has not shown merit or that error was probably committed below. *See Cryan*, 384 N.C. at 572–73, 887 S.E.2d at 851. Thus, we deny Defendant's PWC. *See* N.C. Gen. Stat. § 15A-1444(e).

### **III. Conclusion**

In sum, we deny Defendant's PWC because she has not shown merit or that error was probably committed below. Accordingly, we dismiss for lack of jurisdiction.

DISMISSED.

Chief Judge DILLON and Judge COLLINS concur.

Report per Rule 30(e).