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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-238

Filed 7 May 2025

Guilford County, No. 22 CRS 28638

STATE OF NORTH CAROLINA

v.

ALEXXA MCKNIGHT, Defendant.

Appeal by Defendant from judgment entered 13 July 2023 by Judge Stephanie L. Reese in Guilford County Superior Court. Heard in the Court of Appeals 9 October 2024.

Attorney General Jeff Jackson, by Assistant Attorney General Wendy J. Lindberg, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Nicholas C. Woomer-Deters, for Defendant-Appellant.

CARPENTER, Judge.

Alexxa McKnight (“Defendant”) appeals from the trial court’s judgment revoking her probation and activating her suspended sentence. On appeal, Defendant argues the trial court lacked jurisdiction to revoke her probation because the probation violation reports provided inadequate notice. Alternatively, Defendant

argues the trial court abused its discretion by revoking her probation. After careful review, we affirm.

I. Factual & Procedural Background

On 4 March 2019, a Guilford County grand jury indicted Defendant for one count of accessory after the fact to first-degree murder. On 17 August 2021, Defendant pleaded guilty and the trial court sentenced her to fifty to seventy-two months' imprisonment, suspended for twenty-four months of supervised probation.

On 20 May 2022, Defendant's Probation Officer, Michaela Pittman, filed a probation violation report alleging Defendant tested positive for marijuana and cocaine and was charged with two criminal offenses: driving while license revoked and possessing a Schedule I controlled substance. On 27 July 2022, Officer Pittman filed another probation violation report alleging Defendant tested positive for cocaine and failed to obtain a substance abuse assessment.

On 15 December 2022, Defendant appeared before the trial court for a probation revocation hearing. The trial court determined Defendant willfully violated the terms of her probation by testing positive for drugs and failing to obtain a substance abuse assessment. Accordingly, the trial court required Defendant to serve three days in custody with her release scheduled for 18 December 2022 at 5:00 p.m. The trial court also modified the conditions of Defendant's probation.

In December 2022, Defendant learned she was pregnant. Shortly after, Officer Pittman imposed an additional condition on Defendant to "wear a device that permits

the [Defendant's] compliance to be monitored electronically.” According to Officer Pittman, she took this step “because [Defendant] was homeless at that time.” Officer Pittman provided Defendant with several options for housing assistance in Guilford County, but Defendant was not interested in staying in a homeless shelter.

On 29 December 2022, Defendant met with Officer Pittman for a scheduled appointment. At the meeting, Defendant tested positive for cocaine. Defendant told Officer Pittman that she was planning to go to Alamance County which Officer Pittman thought “would be more stable,” based on her conversations with Defendant. But on 17 January 2023, when Defendant told Officer Pittman that she would be “hopping around” in Alamance County, Officer Pittman told Defendant that if she did not have a stable residence in Alamance County, she was to return to Guilford County.

On 7, 14, 18, and 20 January 2023, the battery on Defendant's ankle monitor died. On 24 January 2023, Defendant missed a scheduled appointment with Officer Pittman. When Defendant missed the appointment, Officer Pittman started the absconding process which included going to Defendant's last known address, an apartment in Guilford County, and making contact with those who lived there. Officer Pittman arrived at the apartment and the current residents told her that Defendant “did not live there at any point in time.” Officer Pittman also called a friend of Defendant's with whom Defendant said she previously resided. Defendant's friend advised Officer Pittman that Defendant “had never lived with her[.]”

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On 30 January 2023, Officer Pittman filed a probation violation report alleging Defendant: (1) tested positive for marijuana and cocaine in late December 2022; (2) failed to report to her supervising officer on several occasions in December 2022 and January 2023; (3) allowed the battery on her ankle monitor to die on several occasions and remain dead as of 20 January 2022; (4) failed to obtain substance abuse treatment; (5) failed to obtain a substance abuse assessment; (6) was charged with driving while license revoked and interfering with electronic monitoring; and (7) was charged with felony possession of a Schedule I controlled substance. Also on 30 January 2023, a Guilford County magistrate judge issued an Order for Arrest for Felony Probation Violation Out of County for Defendant.

On 6 February 2023, Defendant called Officer Pittman and informed her that she had been robbed of all of her belongings, including her phone and the charger for her ankle monitor. During the call, Officer Pittman told Defendant that she “needed to come back to Guilford County and report to the office.” But by that time, Officer Pittman had transferred Defendant’s case to another team who was attempting to locate Defendant. Officer Pittman informed the team that Defendant had contacted her. On 21 February 2023, Defendant called Officer Pittman and Officer Pittman instructed Defendant, again, to report to the probation office. Also on 21 February 2023, Officer Pittman filed an addendum to the 30 January 2023 report which alleged, in sum, that Defendant absconded supervision. All violation reports were filed after the administration of an Oath by a Deputy or Assistant Clerk of Court

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attesting that the probation officer had read the reports and the allegations were true and correct to the best of her knowledge. The verification and oath is attached as the first page of each filed report.

On 10 April 2023, Defendant called Officer Pittman to inform her that she was aware there was a warrant out for her arrest, but she did not have bail money and wanted to get treatment for her substance abuse problems. On 27 May 2023, officers with the Burlington Police Department arrested Defendant. By this time, Officer Pittman had not seen Defendant in person since the 29 December 2022 meeting and had not heard from Defendant since the 10 April 2023 phone call.

On 10 July 2023, Defendant appeared before the trial court for a probation revocation hearing. At the outset, the State and defense counsel discussed the allegations in Officer Pittman's 30 January 2023 probation violation report and the 21 February 2023 addendum. When the State asked defense counsel if Defendant was admitting or denying the violations, defense counsel said: "[Defendant] would admit except for on[e] violation for - - the one that was filed, I believe it's January 30th, number 7, which is still a pending charge in Alamance County." The State agreed to strike allegation number 7 and then, after defense counsel asked to be heard regarding "some additional information," the State agreed to strike allegation 6 from the 30 January 2023 violation report. The trial court then heard from Officer Pittman, a friend of Defendant's, and Defendant.

At the close of the hearing, the trial court found that Defendant had willfully

violated the terms of her probation by absconding supervision. The trial court activated the sentences originally suspended on 17 August 2021, with 500 days of credit for time served. On 14 July 2023, Defendant filed written notice of appeal.

II. Jurisdiction

As an initial matter, we address whether this Court has jurisdiction to hear Defendant’s appeal. The State filed a motion to dismiss Defendant’s appeal, arguing this Court lacks jurisdiction because Defendant waived her right to a probation revocation hearing by admitting, through counsel, to her probation violations. We disagree.

When the trial court, “as a result of a finding of a violation of probation, activates a sentence or imposes special probation . . . the defendant may appeal under [N.C. Gen. Stat. §] 7A-27.” N.C. Gen. Stat. § 15A-1347(a) (2023). On the other hand, a defendant lacks a right to appeal if she “waive[d] a revocation hearing.” N.C. Gen. Stat. § 15A-1347(b). If a probationer “admits to willfully violating a condition of [her] probation in court, the State does not need to present evidence to support the violations.” *See State v. Brown*, 279 N.C. App. 630, 633–34, 865 S.E.2d 753, 756 (2021).

The State asserts that Defendant’s admissions, through counsel, “effectively waive[d] her right to a hearing . . . mak[ing] this appeal improper.” The State also argues the trial court’s judgment which reflects that a hearing was held was “merely a clerical error by the Clerk in checking the wrong box on the judgment form.”

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Here, although Defendant admitted the allegations on the record, she did not waive her right to a hearing, evidenced by the fact that a hearing took place. If Defendant had waived her right to a hearing, the presentation of evidence and questioning of witnesses would not have occurred. *See Brown*, 279 N.C. App. at 633–34, 865 S.E.2d at 756. In *Brown*, after the defendant admitted to willfully violating a condition of his probation, the trial court found he violated his probation, revoked his probation, and activated his sentence. 279 N.C. App. at 632, 865 S.E.2d at 755. Here, after defense counsel stated “[D]efendant will admit,” the trial court proceeded with the hearing, questioning Officer Pittman, another witness, and Defendant. After questioning the witnesses, the trial court revoked Defendant’s probation and activated her suspended sentence.

The State places considerable emphasis on the fact that Officer Pittman was not sworn in and did not “testify,” which, according to the State, indicates the trial court did not conduct a hearing. As the State correctly observes, however, “a probation revocation hearing is not a formal trial” *State v. Sellers*, 185 N.C. App. 726, 727, 649 S.E.2d 656, 656 (2007). Thus, the State’s assertion that the trial court “simply conducted a colloquy with Officer Pittman” does not establish that a probation revocation hearing did not occur. Lastly, the trial court’s judgment form does not indicate waiver, but instead found that “a hearing was held before the Court” The State provides no support for its assertion that this was merely a “clerical error.” Therefore, we deny the State’s motion to dismiss.

Accordingly, we have jurisdiction under N.C. Gen. Stat. §§ 7A-27(b)(4) and 15A-1347(a) (2023).

III. Issues

The issues are whether the trial court had jurisdiction to revoke Defendant's probation, and alternatively, whether the trial court abused its discretion by revoking Defendant's probation.

IV. Analysis

A. Jurisdiction to Revoke Probation

First, Defendant asserts that the trial court did not have jurisdiction to revoke her probation because Officer Pittman's reports "were not specific enough to provide [her] reasonable notice . . . about what conduct she allegedly engaged in that would constitute absconding." We disagree with Defendant.

"This Court reviews *de novo* the issue of whether a trial court had subject matter jurisdiction to revoke a defendant's probation." *State v. Moore*, 420 N.C. App. 461, 462, 771 S.E.2d 766, 767 (2015). "Under *de novo* review, [this Court] considers the matter anew and freely substitutes its own judgment for that of the lower court." *State v. Hughes*, 265 N.C. App. 80, 82, 827 S.E.2d 318, 320 (2019) (citing *Sutton v. N.C. Dep't of Labor*, 132 N.C. App. 387, 389, 511 S.E.2d 340, 341 (1999)).

A violation of the regular condition of supervised probation to not abscond is a violation sufficient to warrant revocation. *See* N.C. Gen. Stat. § 15A-1344(a) (2023). A defendant on supervised probation "abscond[s]" if she "willfully avoid[s]"

supervision” or “willfully mak[es] [her] whereabouts unknown to the supervising probation officer” N.C. Gen. Stat. § 15A-1343 (b)(3a) (2023).

Before the trial court can revoke probation, “[t]he State must give the probationer notice of the hearing and its purpose, including a statement of the violations alleged.” N.C. Gen. Stat. § 15A-1345(e) (2023). “[A] statement of the violations alleged’ refers to a statement of what a probationer *did* to violate [her] conditions of probation.” *State v. Moore*, 370 N.C. 338, 341, 807 S.E.2d 550, 552 (2017) (quoting N.C. Gen. Stat. § 15A-1345(e) (2015)) (emphasis in original). The statement must include “the actions that a defendant has allegedly taken that constitute a violation of a condition of probation.” *Id.* at 34, 897 S.E.2d at 555. It is not necessary that the statement mention the “underlying conditions that were violated.” *Id.* at 341, 807 S.E.2d at 552.

“Just as with the notice provided by criminal indictments . . . , [t]he purpose of th[is] notice . . . is to allow the defendant to prepare a defense and to protect the defendant from a second probation violation hearing for the same act[.]” *Id.* at 342, 897 S.E.2d at 553 (quoting *State v. Hubbard*, 198 N.C. App. 154, 158, 678 S.E.2d 390, 393 (2009)); *see also State v. Singleton*, 386 N.C. 183, 185, 900 S.E.2d 802, 805 (2024) (explaining a bill of indictment contains a jurisdictional defect only if it “wholly fails to allege a crime against the laws or people of this State”). Stated differently, so long as the report includes a description of the defendant’s actions giving rise to the violation, the notice requirement is satisfied and the trial court has jurisdiction to

revoke probation. *See Moore*, 370 N.C. at 345, 897 S.E.2d at 555. In such an instance, the defendant has a “chance to prepare a defense because [she] will know what [she] is accused of doing.” *Id.* at 342, 907 S.E.2d at 553.

Here, the State sought to establish that Defendant violated her probation by absconding supervision. Officer Pittman’s 21 February 2023 addendum to the 30 January 2023 probation violation report alleged that:

1. The Defendant failed to make her whereabouts [known, making herself unavailable for supervision and thereby absconding supervision. As of [21 February 2023], the Defendant’s whereabouts are unknown and all efforts to locate have been unsuccessful.
2. On or about [21 February 2023] and after numerous attempts to contact the Defendant, the Defendant has refused to make herself available for supervision as instructed by the probation officer, thereby absconding supervision.

The addendum prepared by Officer Pittman was sufficient to put Defendant on reasonable notice that she had violated her probation by absconding. Officer Pittman’s allegations that Defendant “failed to make her whereabouts [known]” and “refused to make herself available for supervision as instructed by the probation officer” were statements of what Defendant “*did* to violate [her] conditions of probation.” *See Moore*, 370 N.C. at 341, 807 S.E.2d at 552 (emphasis in original). In other words, the allegations in the report described Defendant’s actions that constituted potential probation violations. *See id.* at 345, 897 S.E.2d at 555. Thus, the violation report contained a “statement of the specific violations alleged,” *see* N.C.

Gen. Stat. § 15A-1345(e), and was sufficient to provide Defendant with reasonable notice such that she could prepare a defense and avoid “a second probation hearing for the same act[.]” *see Moore*, 370 N.C. at 342, 897 S.E.2d at 553. Accordingly, the trial court had jurisdiction to revoke Defendant’s probation.

B. Absconding

Alternatively, Defendant argues that the trial court abused its discretion by revoking her probation. Specifically, Defendant asserts: (1) the allegations in Officer Pittman’s probation violation report were insufficient to support revocation of her probation because they were “technical violations;” and (2) the evidence was insufficient to show her conduct was willful. We disagree with Defendant.

For a probation revocation hearing, “the standard is ‘that the evidence be such as to reasonably satisfy the [trial court] in the exercise of [its] sound discretion that the defendant has willfully violated a valid condition of probation.’” *State v. Harris*, 361 N.C. 400, 404, 646 S.E.2d 526, 529 (2007) (quoting *State v. Hewett*, 270 N.C. 348, 353, 154 S.E.2d 476, 480 (1967)). Accordingly, this Court “review[s] a trial court’s decision to revoke a defendant’s probation for abuse of discretion.” *State v. Melton*, 258 N.C. App. 134, 136, 811 S.E.2d 678, 680 (2018). “A trial court abuses its discretion ‘when a ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision.’” *Id.* at 136, 811 S.E.2d at 680 (quoting *State v. Murchison*, 367 N.C. 461, 464, 758 S.E.2d 356, 358 (2014)).

As a regular condition of supervised probation, a defendant is required to

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report to their probation officer, permit their probation officer to visit them, answer their probation officers' "reasonable inquiries," and notify their probation officer of any change in address or employment. N.C. Gen. Stat. § 15A-1343(b)(3). The trial court cannot revoke a defendant's probation for failing to comply with section 15A-1343(b)(3) because a violation of this condition of probation does not warrant revocation. N.C. Gen. Stat. § 15A-1343(b)(3); *see* N.C. Gen. Stat. § 15A-1344(a). On the other hand, a violation of the regular condition of probation to not abscond is a violation sufficient to warrant revocation. *See* N.C. Gen. Stat. §§ 15A-1343 (b)(3a) and 15A-1344(a). Absconding means "willfully avoiding supervision" or "willfully making the defendant's whereabouts unknown to the supervising probation officer, if the defendant is placed on supervised probation." N.C. Gen. Stat. § 15A-1343 (b)(3a).

For example, in *State v. Jakeco Johnson*, we determined the defendant's conduct of missing one scheduled appointment with his probation officer after informing his probation officer that he lacked transportation, did not rise to the level of absconding. 246 N.C. App. 139, 145, 783 S.E.2d 21, 25 (2016). In *State v. Nicholas Johnson*, however, the defendant's conduct did rise to the level of absconding. 246 N.C. App. 132, 137, 782 S.E.2d 549, 553 (2016). There, the defendant "moved from his place of residence, without notifying or obtaining prior permission from his probation officer, [and] willfully avoided supervision for multiple months and failed to make his whereabouts known to his probation officer at any time thereafter." *Id.* at 137, 782 S.E.2d at 553. Importantly, in determining whether the evidence was

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sufficient to establish that the defendant absconded, this Court emphasized that defense counsel conceded that he was an absconder at the probation revocation hearing. *Id.* at 138, 782 S.E.2d at 554.

Here, even if the allegations in the 21 February 2023 addendum could be characterized as “technical violations” of probation, the evidence, including the allegations in the probation violation reports and the testimony at the probation revocation hearing, was competent evidence supporting the trial court’s conclusion that Defendant willfully absconded supervision.

Defendant missed a scheduled appointment with Officer Pittman on 24 January 2023. After she did not attend the meeting, Defendant went approximately three weeks without contacting Officer Pittman before Officer Pittman filed the 21 February 2023 addendum. During this timeframe, Officer Pittman made at least two attempts to get in touch with Defendant. She visited Defendant’s address of record and called Defendant’s friend. Despite these efforts, Officer Pittman was unable to locate Defendant. Additionally, Officer Pittman instructed Defendant to return to Guilford County when she learned that Defendant was “hopping around” in Alamance County and no longer had a stable residence. Instead of returning to Guilford County, Defendant was arrested in Alamance County on 27 May 2023. Officer Pittman had not seen Defendant in person since the 29 December 2022 meeting.

Finally, defense counsel admitted on the record that Defendant was an

absconder. *See Nicholas Johnson*, 246 N.C. App. at 138, 782 S.E.2d at 554. At the beginning of the hearing, defense counsel stated, aside from Defendant's new criminal charges, "[Defendant] would admit." Further, in closing, defense counsel stated: "Your Honor, we understand that she does have an absconding violation and that Your Honor would find that she did do that" Therefore, we conclude the evidence was sufficient to reasonably satisfy the trial court in the exercise of its sound discretion that Defendant absconded supervision. *See Hewett*, 270 N.C. at 353, 154 S.E.2d at 480. Accordingly, the trial court did not abuse its discretion by revoking Defendant's probation and activating her suspended sentence.

V. Conclusion

In sum, we conclude the trial court had jurisdiction to revoke Defendant's probation and its revocation for absconding was neither arbitrary nor unsupported by reason. Accordingly, we affirm the trial court's judgment revoking Defendant's probation.

AFFIRMED.

Chief Judge DILLON and Judge COLLINS concur.

Report per Rule 30(e).