

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-905

Filed 19 August 2026

Mecklenburg County, Nos. 20 CR 238538-590, 20 CR 238539-590, 20 CR 238540-590, 20 CR 238541-590.

STATE OF NORTH CAROLINA

v.

CHAUNCEY DEKOTA HARDRICK, Defendant.

Appeal by Defendant from judgment entered by Judge George C. Bell in Mecklenburg County Superior Court. Heard in the Court of Appeals 4 June 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Clifton A. Neal, for the State.

Clarke Martin Law, by Attorney Clarke S. Martin, for Defendant–Appellant.

MURRY, Judge.

Chauncey D. Hardrick (Defendant) appeals his jury convictions for felony breaking and entering (B&E), felony larceny, and felony speeding to elude arrest. At the outset, he challenges his originating larceny indictment as defective enough to deprive the trial court of the subject-matter jurisdiction necessary to try him in the first instance. As to the merits of his appeal, he argues that the trial court erred by “allowing the trial to take place despite” his inability to stay awake throughout the proceedings. He also argues that his defense counsel was per se ineffective by “implicitly conceded[ing] . . . [his] guilt[] of fleeing to elude arrest.” For the reasons

below, this Court disagrees on all counts and thus (1) holds that the trial court had the subject-matter jurisdiction necessary to try Defendant for the crimes alleged in the grand jury indictments, (2) holds that the trial court did not err by allowing the trial to proceed despite Defendant's inability to stay awake throughout the proceedings, and (3) dismisses Defendant's ineffective assistance of counsel (IAC) claim.

I. Background

Around midnight of 14 December 2020, Defendant and an accomplice broke into a Lowe's Home Improvement store (Lowe's) in Pineville, N.C. They loaded various stock items into a shopping cart until about 2:00 AM, at which point a night-shift employee approached them. Defendant and his accomplice promptly fled the store with full cart and entered their separate cars. Onsite security footage captured all of these events.

Sergeant Heather M. Kimel with the Pineville Police Department worked the night shift as a patrol officer across the street from Lowe's when she saw them both loading Defendant's car with items from the cart. After she pulled up next to them and ordered them to stop, Defendant got into his car and quickly drove away. Sergeant Kimel promptly gave chase, pursuing him onto McMullen Creek Parkway and then N.C. Highway 51 (NC-51). While following Defendant with her dashcam on, Sergeant Kimel "estimated" that he reached upwards of 50 and 70 mph on McMullen (35-mph speed limit) and NC-51 (45-mph speed limit), respectively. Defendant

eventually pulled into his apartment complex, at which point he was arrested. Sergeant Kimel would later testify to these events in full at his trial.

On 7 December 2020, a grand jury indicted Defendant on one felony count each of B&E under N.C.G.S. § 15-54(a), larceny under N.C.G.S. § 14-72(a), (b)(2), and speeding to elude arrest under N.C.G.S. § 20-141.5(b).¹ The B&E indictment alleged that Defendant “willfully did feloniously break and enter a building, occupied by Lowe’s, located at 10625 McMullen Creek Parkway, Charlotte, [NC], with the intent to commit a felony therein.” (Ellipses omitted.) The larceny indictment further alleged that he “willfully did steal store merchandise such as tools, the personal property of Lowe’s, a legal entity capable of owning property,” and that he did so “pursuant to a violation of [§] 14-54.” (Ellipses omitted.) The speeding-to-elude-arrest indictment alleged that Defendant “did unlawfully, willfully, and feloniously operate a motor vehicle on a public street or highway, McMullen Creek Parkway, Charlotte, [NC], while fleeing and attempting to elude a law enforcement officer in the lawful performance of [her] duties,” and that he did so while “recklessly” “speeding in excess of fifteen m[ph] over the legal speed limit and was driving recklessly in violation (sic) of [§] 12-140.”

On 2 April 2024, Defendant, his counsel, and the State underwent jury

¹ The grand jury also indicted Defendant on felony count of attaining habitual-felon status under N.C.G.S. § 14-7.1. This particular charge is not the subject of this appeal.

selection for Defendant's trial on these charges. Amidst these proceedings, Defendant would periodically "fall in and out of sleep" at the table due to his alleged "sleep apnea" diagnosis. This occurred so extensively that, at one point, the trial court recessed the jury to address Defendant in an attempt to avoid "embarrass[ing him] in front of . . . the jury." It then afforded him the right to "stand and stretch any time he fe[lt]" he was about to fall asleep again. Defendant neither offered formal documentation of any diagnosis nor took the trial court up on its related offer.

When the matter came on for trial the next day, counsel sought to downplay in his opening arguments the eluding element by promising to reveal "why . . . he was driving like that" and that "it wasn't . . . to elude arrest" (among other tactics). In the closing arguments, counsel attempted to reframe Sergeant Kimel's "estimat[ion]" of Defendant's vehicle speeds by pointing to the relatively minor difference between the 50 mph speeding in McMullen's 35-mph zone. The jury nonetheless found Defendant guilty on all counts, and the trial court sentenced him to 77–105 months of imprisonment. Defendant timely appealed.

II. Jurisdictional Analysis

Defendant permissibly challenges the validity of the originating indictment for larceny charge "for the first time on appeal." *State v. Webber*, 190 N.C. App. 649, 650 (2008). He characterizes it as defective enough to rob the trial court of the subject-matter jurisdiction necessary to try him in the first place. We disagree.

In this jurisdiction, a valid indictment must contain a "plain and concise

factual statement” that “asserts facts supporting every element of [the] criminal offense and the defendant’s commission thereof” with enough detail to “clearly . . . apprise the defendant . . . of the conduct” for which he is charged.” N.C.G.S. § 15A-924(a)(5) (2025). Our Supreme Court “distinguish[es] between . . . two types of indictment defects”: the jurisdictional “failure to charge a crime” outright and the procedural “failure to allege” a crime with enough “precision . . . t[o] permit[] the defendant to prepare a defense and the [trial] court to render judgment.” *State v. Singleton*, 386 N.C. 183, 199 (2024). To merit the vacation of a criminal conviction for felony larceny, the indictment must “*wholly* fail[] to allege” its requisite elements. *Id.* (emphasis added). In this context, those elements are that Defendant allegedly (1) “possess[ed] stolen goods” (2) “without regard to the value of the property in question” (3) while “knowing that the goods are stolen,” N.C.G.S. § 14-72(a)–(b) (2025) (ellipses omitted), amidst the commission of felony B&E, *id.* § 14-54. The contextual elements of felony B&E are, in turn, that Defendant allegedly (1) “br[o]ke or enter[ed]” into (2) “any building” (3) “with intent to commit any . . . larceny therein.” *Id.* at 14-54(a).

The challenged indictment *prima facie* meets these various elements in full. In his brief, Defendant understandably (if inaccurately) cites to *State v. Speas*, 265 N.C. App. 351, 352 (2019), for the four *common law* elements of larceny. But much like how the N.C. Criminal Procedure Act “abrogate[s] any remnant of the common law jurisdictional indictment rule,” *Singleton*, 386 N.C. at 209, our statutory codification of felony larceny dictates the criminal elements, *see* N.C.G.S. §§ 14-54(a), -72(a)–(b),

against which “the defendant must prepare a defense,” *Singleton*, 386 N.C. at 199. The grand jury’s larceny indictment alleged that Defendant “willfully did steal store merchandise, the personal property of Lowe’s, a legal entity capable of owning property.” (Ellipses omitted; citing N.C.G.S. § 14-72(b)(2).) Its concurrent B&E indictment alleged he did so while “willfully break[ing] and enter[ing] a building, occupied by Lowe’s, with the intent to commit a felony therein” as part of the same transaction. (Ellipses omitted; citing *id.* § 15-54(a).) These recitations clearly provided Defendant with “notice of the charge[s]” before him and the trial court with information sufficient to “enter judgment” in response. *Singleton*, 386 N.C. at 213. Because the indictments did “not deprive the courts of jurisdiction,” we thus hold that the trial court had the necessary subject-matter jurisdiction to try him. *Id.* at 215.

III. Analysis

As to the merits, Defendant first argues that the trial court erred by “allowing the trial to take place despite . . . [him] falling asleep” throughout the proceedings. He next argues that his defense counsel was per se ineffective to a constitutionally deficient degree. For the reasons below, we disagree on both counts. Thus, we hold that the trial court did not err and dismiss his IAC claim.

A. Confrontation

First, Defendant argues that the trial court erred by permitting the trial to proceed despite allowing him to regularly falling asleep during jury selection. He believes that his “inability to control his sleep apnea . . . constituted a lack of capacity

to participate in his trial.” We disagree.

This case implicates at least “four principles” of due process that attach to our State’s criminal defendants. *State v. Sides*, 456. They proscribe that a criminal defendant:

- (1) Cannot be tried unless he is competent to stand trial;
- (2) Has a constitutional right to be present during his entire trial;
- (3) May voluntarily waive his constitutional right to be present; and
- (4) That this waiver is only valid if the defendant is competent.

Id. (brackets omitted). North Carolina further recognizes both “the constitutional and statutory right[] to a competency hearing” at any point during a criminal trial. *State v. Wilkins*, 930 (citing *State v. Young*, 291 N.C. 562, 567 (1977)); see *State v. Jefferson*, 288 N.C. App. 257, 261–62 (2023) (“The right of the defendant to be present at criminal proceedings is protected by both the Federal and State Constitutions.” (brackets omitted)).

Any officer of the court or the defendant himself “may . . . raise at any time on motion” “[t]he question of [his] capacity to proceed” with the trial, N.C.G.S. § 15A-1002(a) (2025), but only the latter can “waive th[is] right” “[i]n a non-capital felony case[],” *State v. Shackelford*, 59 N.C. App. 357, 358 (1982). The trial court must conduct this hearing only if it finds “substantial evidence . . . indicating that the [defendant] may be mentally incompetent.” *State v. Young*, 291 N.C. 562, 568 (1977). And although this question of “substantial evidence” entails “a fact-intensive inquiry that . . . hinge[s] on the unique circumstances . . . [of] each case, *States v. Sides*, 376

N.C. 449, 466 (2020), a defendant still cannot prejudice himself through “error resulting from his own conduct,” N.C.G.S. § 15A-1443(c).

Defendant’s behavior before the trial court implicates this statutory limitation of due process. To the extent one could characterize sleep apnea as a “mental illness or defect,” *id.* § 15A-1001(a), the trial court readily accommodated Defendant’s temporary propensity to fall asleep (only) during jury selection. To avoid “embarrass[ing him] in front of the rest of the jury” pool, the trial court inquired about Defendant nodding off only after excusing the pool for a fifteen-minute break. It made clear that he could “stand and stretch any time he fe[lt]” the need to stay awake amidst the proceedings. And during this colloquy, the State confirmed that Defendant provided “no documentation to support” his alleged sleep apnea prior to the proceedings. Based on these facts, the trial court exercised sound discretion in not holding a formal competency hearing on Defendant’s mental capacity. *See State v. Staten*, 172 N.C. App. 673, 682 (2005). Thus, we hold that the trial court did not err by declining to hold that hearing *sua sponte*.

B. Ineffective Assistance of Counsel

Second, Defendant argues that his defense counsel committed a *Harbison* error amounting to per se IAC by “implicitly conced[ing] . . . [his] guilt[] of fleeing to elude arrest.” Having reviewed this claim *de novo*, we disagree here as well. *State v. Nunnally*, 929 S.E.2d 548, 554 (N.C. 2026) (clarifying *Harbison* errors).

Both the Federal and State Constitutions protect a criminal defendant’s right

to effective assistance of counsel at trial. *See id.* (first quoting U.S. Const. amend. VI; and then quoting N.C. Const. art. I, § 23). Under the Federal *Strickland* test to which our State Constitution adheres, a defendant “must show that counsel’s conduct fell below an objective standard of reasonableness.” *State v. Braswell*, 312 N.C. 553, 561–62 (1985) (quoting *Strickland v. Washington*, 466 U.S. 668, 688 (1984)). To meet this burden, he must first demonstrate that his “counsel made errors so serious” as to “not function[] as the ‘counsel’ guaranteed by the [Federal] Sixth Amendment” and that, second, this deficiency so “prejudiced the defense as to deprive [him] of a fair trial.” *Id.* at 562 (ellipses omitted) (lockstepping state constitutional standard with *Strickland*). We insist on this constitutionally “‘stringent rule’ because . . . doing so w[ould] ‘encourage convicted defendants to assert frivolous claims.’” *Nunnally*, 929 S.E.2d at 559 n.1 (Newby, C.J., concurring) (quoting *Braswell*, 312 N.C. at 562).

And as the Federal and State Supreme Courts have long recognized, certain “circumstances . . . so likely to prejudice the accused” may obtain at trial “that the cost of litigating their effect in a particular case is unjustified,” *State v. Harbison*, 315 N.C. 175, 179 (1985) (quoting *United States v. Cronin*, 466 U.S. 648, 658 (1984))—for example, the aptly named “*Harbison* error,” *State v. McAllister*, 375 N.C. 455, 463–72 (2020) (collecting cases). Relying in part on this federal suggestion, our Supreme Court held in *State v. Harbison* that IAC occurs “per se in violation of the [Federal] Sixth Amendment” whenever “the defendant’s counsel admits” his client’s “guilt to the jury without [his] consent.” *Harbison*, 315 N.C. at 180; accord *Nunnally*, 929

S.E.2d at 554 (majority op.) (applying to N.C. Const. art. I, § 23). This jurisdiction falls “among the minority . . . that . . . presume[s] prejudice under [*Strickland*’s] second prong” regarding conceded elements, *Nunnally*, 929 S.E.2d at 554, and has thus adjusted the scope of “admissions,” *id.* at 15, that raise this presumption, *contrast, e.g., McAllister*, 375 N.C. at 476 (“implied concession of guilt”), *with Nunnally*, 929 S.E.2d at 559 (distinguishing from *McAllister* to preclude “defendant stipulat[ions]”).

To commit a modern *Harbison* error, a defendant must “clearly” show in the record below, first, “that [he] did not consent to an[y] admission of guilt” before the jury” and, second, “that an admission of guilt” as to any necessary statutory element occurred in fact. *Nunnally*, 929 S.E.2d at 20. In this specific context, the trial counsel must have conceded at least one of the following: that Defendant (1) “operated a motor vehicle” (2) “on a street” (3) “while . . . attempting to elude a law enforcement officer” (4) “in the lawful performance of her duties”—all while (5) “recklessly” (6) “speeding in excess of fifteen mph . . . over the legal speed limit.” N.C.G.S. § 20-141.5(a)–(b)(1), (3) (brackets omitted). But “[a]dmitting a fact” is not the same as “an admission of guilt.” *State v. Wiley*, 355 N.C. 592, 620 (2002).

Defendant challenges only the first, fifth, and sixth elements on appeal. Although he contends that “*Harbison*, *McAllister*, and their progeny” place his counsel’s opening and closing arguments addressing these elements within the scope of prejudicial IAC, our Supreme Court’s recent *Nunnally* decision dictates a different

outcome here. In his opening, counsel made an ephemeral reference to some unknown reason why Defendant “was driving like that” and made sure to exclude the possibility that he “was[] fleeing to avoid arrest.” And in his closing, counsel characterized Sergeant Kimel’s “estimation of the speeds” as “approximately 50 mph” “in the 35-mph zone,” even though she further testified to witnessing Defendant “reach speeds of above 70 mph” in a 45-mph zone. (Brackets omitted.) This acknowledgement of an uncontested (and visually recorded) fact that Defendant drove a car that night does not “clearly demonstrate that an admission of guilt occurred.” *Nunnally*, 929 S.E.2d at 558–59. Thus, we dismiss his IAC claim because he cannot show a *Harbison* error occurred.

IV. Conclusion

For the reasons above, this Court (1) holds that the trial court had the subject-matter jurisdiction necessary to try Defendant for the crimes alleged in the grand jury indictments, (2) holds that the trial court did not err by allowing the trial to proceed despite Defendant’s inability to stay awake throughout the proceedings, and (3) dismisses Defendant’s claim of IAC.

NO ERROR; DISMISSED.

Judges GORE and FREEMAN concur.