

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-90

Filed 16 September 2026

Caldwell County, No. 25CR000047-130

STATE OF NORTH CAROLINA

v.

ROBERT LEWIS MILLER, III

Appeal by Defendant from an order entered on 14 July 2025 by Judge Gary M. Gavenus in Caldwell County Superior Court. Heard in the Court of Appeals 25 August 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Raymond W. Goodwin, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Callie S. Thomas, for the Defendant.

WOOD, Judge.

Robert Lewis Miller, III (“Defendant”) appeals from an order entered following a probation revocation hearing. On appeal, Defendant contends the trial court erred by modifying Defendant’s probation to include a term requiring that he be immediately arrested if he tested positive for any controlled substance. After careful

review of the record, we conclude Defendant has failed to preserve his argument for appellate review.

I. Factual and Procedural Background

On 9 May 2023, Defendant pleaded guilty to felony larceny in Cleveland County Superior Court. He was sentenced to 15 to 27 months of imprisonment, suspended for 30 months of supervised probation.

On 27 January 2025, probation officer Jay Taylor (“Taylor”) filed a probation violation report alleging Defendant had violated his probation by testing positive for methamphetamines and amphetamines and by failing to pay court and supervision fees. Taylor filed another report on 31 March 2025 alleging additional probation violations for failing to report for supervision and two instances of committing a new criminal offense, misdemeanor possession of drug paraphernalia and felony possession of a Schedule I controlled substance.

On 14 July 2025, the trial court held a probation revocation hearing in Caldwell County Superior Court. Defendant admitted to the violations in the first report as well as failing to report for supervision in the second report. Defendant denied both violations of committing a new criminal offense. A copy of the incident report for the new criminal offenses was entered into evidence over Defendant’s objection. Because the arresting officer who created the incident report was unable to be in court, Taylor testified to the details of the new offenses from the report.

The trial court then extended Defendant's probation for 18 months, added attorney's fees, and ordered a split sentence of 121 days of imprisonment in the North Carolina Department of Adult Corrections. Additionally, the trial court ordered that upon his release from incarceration Defendant be drug tested every two weeks and stated, "I'm going to further order that an order for his arrest will issue should he test positive for any controlled substance. He'll be held in lieu of a \$50,000 secured bond." Defendant did not raise an objection to any of the trial court's orders.

II. Analysis

On appeal, Defendant contends the trial court erred by modifying his probation to include a term requiring that he be immediately arrested if he tests positive for any controlled substance. However, Defendant did not object at sentencing and

Rule 10 of the North Carolina Rules of Appellate Procedure, [] provides that "in order to preserve an issue for appellate review, a party must have presented to the trial court a timely request, objection, or motion, stating the specific grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the context.

State v. Stephens, 301 N.C. App. 527, 544, 923 S.E.2d 869, 880 (2025) (quoting N.C. R. App. P. 10(a)(1)). This Court has long held when a "defendant failed to object at sentencing to the probationary condition at issue, [] his present challenge thereto has not been preserved for our review." *State v. Hilbert*, 145 N.C. App. 440, 445, 549 S.E.2d 882, 885 (2001); *see also Stephens*, 301 N.C. App. at 544, 923 S.E.2d at 880.

In *Hilbert*, the trial court included drug testing as a condition to probation and

ordered that upon a positive or refused drug test the defendant may be subject to immediate arrest and placed under a \$100,000.00 secure bond. *Hilbert*, 145 N.C. App. at 445, 549 S.E.2d at 885. Similar to the case at bar, the defendant filed an appeal challenging the probation condition despite not objecting to the condition at sentencing. *Id.* at 445, 549 S.E.2d at 885-86. Because the defendant failed to object at sentencing to the probation condition he subsequently challenged on appeal, this Court concluded the issue was not preserved for appellate review. *Id.* at 445-46, 549 S.E.2d at 885-86; *see also Stephens*, 301 N.C. App. at 544, 923 S.E.2d at 880.

Because Defendant's sole argument on appeal was not properly preserved, the appeal must be dismissed. *In re Hutchinson*, 218 N.C. App. 443, 446, 723 S.E.2d 131, 133 (2012).

III. Conclusion

For the reasons set forth above, we conclude Defendant has failed to preserve the sole issue raised on appeal. Therefore, this appeal is dismissed.

DISMISSED.

Judges STADING and FREEMAN concur.

Report per Rule 30(e).