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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1187

Filed 7 October 2026

Alamance County, Nos. 22CR001060-000, 22CR282811-000

STATE OF NORTH CAROLINA

v.

TIMOTHY LEE HINTON

Appeal by defendant from judgment entered 15 May 2025 by Judge Matthew B. Smith in Alamance County Superior Court. Heard in the Court of Appeals 15 September 2026.

Mark L. Hayes for defendant-appellant.

Attorney General Jeff Jackson, by Special Deputy Attorney General Ellen A. Newby, for the State.

FREEMAN, Judge.

Defendant appeals from judgment entered upon a jury verdict of three counts of Indecent Liberties with Child. On appeal, defendant argues that (1) he received ineffective assistance of counsel and (2) that remand is necessary for clarification as to sentencing. After careful review of the record, we deny defendant's ineffective assistance of counsel claim and remand to correct a clerical error.

I. Factual and Procedural Background

On 5 December 2022, a grand jury indicted defendant with two counts of indecent liberties with a child in 22CR282811-000 and one count of indecent liberties with a child in 22CR001060-000. These matters came on for trial on 12 May 2025 in Superior Court, Alamance County.

At trial, both victims testified. T.A.¹ testified that defendant frequently watched pornography and masturbated with her and her sister in the room. T.A. testified that defendant was watching pornography and masturbated while they were under the computer desk. T.A. further testified:

I remember he had a glass shower in his bathroom. And he used to make a game where me and my sister when the glass shower would fog up, to put our butts against the wall and we thought it was funny but he would touch himself to the sight of us.

M.A. similarly testified:

He used to make me and my sister go up under his computer desk while he would touch himself.

....

He used to have, like, a glass shower and he used to make me and my sister shower in there and he would make us put our butts up against the glass.

After the victims testified, an officer testified that he conducted forensic interviews of T.A. and M.A. and authenticated a thumb drive containing the

¹ Initials are used to protect the juveniles' identities. See N.C. R. App. P. 42(b).

interviews. The interviews were admitted without objection.

The State also called a doctor who testified as an expert in child abuse pediatrics (the Doctor). The Doctor performed medical evaluations on T.A. and M.A. The Doctor testified to the following: (1) T.A. said defendant “touched her body everywhere . . . on top of her clothing, under her clothing, and sometimes with her clothes off”; (2) T.A. claimed that defendant “put his fingers in her private part on multiple occasions” and “exposed his penis and told her to hold it while he moved her hand up and down”; (3) M.A. stated that defendant “touched her privates”; (4) M.A. claimed that defendant “touched her with his hands on top of her clothing, inside her clothing, and sometimes when her clothes were off” and that defendant “hurt her when he touched his genitals with her fingers.”

On 15 May 2025, the jury found defendant guilty of all three counts of indecent liberties with a child. During sentencing, the trial court announced the following:

THE COURT: Having been found by unanimous verdict guilty regarding or in the case 22 CR 001060, . . . the defendant is ordered to serve a term of not less than 16 not more than 29 months in the Department of Adult Corrections. That is an active sentence.

. . . .

In 22 CR 282811, jury returning a verdict of guilty to one count of indecent liberties -- well, at least on the first count returned a verdict of guilty of indecent liberties with a child. . . . In this matter he is ordered to serve a term of not less than 16 not more than 29 months. That is to run at the expiration of the first judgment. That is an active sentence.

. . . .

As to the second count in that matter, jury having returned a verdict of guilty, again Record Level One for sentencing purposes, the Court will order that he serve a term of not less than 16 not more than 29 months in the Department of Adult Corrections. That is an active sentence to run at the expiration of the second judgment.

Those are three consecutive active sentences of 16 to 29 months each.

On 23 May 2025, defendant gave written notice of appeal.

II. Jurisdiction

Defendant appeals from a final judgment of a Superior Court pursuant to N.C.G.S. § 7A-27(b)(1) (2025). Accordingly, this Court has jurisdiction over defendant's appeal.

III. Standard of Review

We review “whether a defendant was denied effective assistance of counsel de novo.” *State v. Wilson*, 236 N.C. App. 472, 475 (2014). Under a de novo review, we consider the matter anew and freely substitute our own judgment for that of the trial court. *State v. Williams*, 362 N.C. 628, 632–33 (2008).

IV. Discussion

On appeal, defendant contends that he did not receive the effective assistance of counsel and that remand is necessary for sentencing clarification. We address each argument in turn.

A. Ineffective Assistance of Counsel

Defendant contends that he “did not receive the effective assistance of counsel when his attorney failed to object to the forensic interview video and failed to object to a jury instruction that the video could be considered as substantive evidence.”

“A defendant’s right to counsel includes the right to the effective assistance of counsel.” *State v. Braswell*, 312 N.C. 553, 561 (1985). “There exists a strong presumption that counsel’s conduct falls within the wide range of professional assistance, but this presumption is rebuttable.” *State v. Gillard*, 386 N.C. 797, 867 (2024) (cleaned up). To show ineffective counsel, a defendant “must show that his counsel’s conduct fell below an objective standard of reasonableness.” *Braswell*, 312 N.C. at 561–62. For this burden to be met, a defendant must satisfy a two-part test:

First, the defendant must show that counsel’s performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the “counsel” guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel’s errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

Gillard, 386 N.C. at 867 (quoting *Strickland v. Washington*, 466 U.S. 668, 687 (1984)).

“Prejudice is established by showing ‘that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.’” *State v. Campbell*, 359 N.C. 644, 690 (2005) (quoting

Strickland, 466 U.S. at 694).

“When counsel’s performance is subjected to judicial scrutiny on appellate review, this Court must be highly deferential and indulge a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” *State v. Banks*, 210 N.C. App. 30, 49 (2011) (cleaned up). “Counsel is given wide latitude in matters of strategy, and the burden to show that counsel’s performance fell short of the required standard is a heavy one for defendant to bear.” *State v. Sutton*, 169 N.C. App. 90, 94 (2005).

Trial counsel’s strategic decisions about whether to make particular objections . . . are quintessential trial-level strategic choices and are afforded substantial deference on appeal. Appellate courts have repeatedly recognized trial counsel may reasonably decline to object or to request a limiting instruction when such action would call attention to damaging evidence and/or accentuate its significance in the jury’s mind.

State v. Walker, 2025 N.C. App. LEXIS 762 at *9 (2025) (first citing *Strickland*, 466 U.S. at 689–91; and then citing *State v. Fletcher*, 354 N.C. 455 (2001)).

Here, forensic interviews of T.A. and M.A. were admitted without objection. The decision to not object in this case or ask for a limiting instruction is the type of trial-level strategic choice that we afford substantial deference on appeal.

Furthermore, defendant has not shown prejudice. Both victims testified that they were under defendant’s desk while he watched pornography and masturbated. Further, there was testimony that defendant would have the victims press their

naked butts against shower glass while he masturbated. The Doctor testified that both victims stated that defendant touched their bodies and private parts and had them touch his genitals.

In light of this testimony, we cannot say that a limiting instruction on the video would have made the result of the proceeding different. Thus, defendant has not demonstrated prejudice. Accordingly, we hold that defendant has failed to demonstrate ineffective assistance of counsel.

B. Clerical Error in Sentencing

Defendant contends that remand is necessary for clarification as to sentencing. The State agrees, contending that the case should be remanded due to a clerical error.

“ ‘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’ and ‘include[s] mistakes such as inadvertent checking of boxes on forms or minor discrepancies between oral rulings and written orders.’ ” *State v. Thompson*, 254 N.C. App. 220, 226 (2017) (quoting *In re D.D.J.*, 177 N.C. App. 441, 444 (2006)).

Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the judge at any time on his own initiative or on the motion of any party and after such notice, if any, as the judge orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate division, and thereafter while the appeal is pending may be so corrected with leave of the appellate division.

N.C.G.S. § 1A-1, Rule 60.

“The discovery of a clerical error in the trial court’s order requires this Court to ‘remand the case to the trial court for correction because of the importance that the record speak the truth.’” *In re I.W.P.*, 259 N.C. App. 254, 260 (2018) (quoting *In re J.C.*, 235 N.C. App. 69, 73 (2014)).

Here, the trial court stated orally that the second sentence was “to run at the expiration of the first judgment” and the third sentence was “to run at the expiration of the second judgment.” Further, the court concluded sentencing by saying, “Those are three consecutive active sentences of 16 to 29 months each.”

However, the record does not reflect consecutive sentencing. The bottom of the judgment sheets have a checkbox stating: “The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below.” The judgment sheet for the first count of 22CR282811-000 references 22CR001060-000, yet leaves the checkbox unchecked. With that checkbox checked, the judgment sheets would reflect the trial court’s oral sentencing.

Because the trial court’s oral sentencing does not reflect what was entered in the record, we remand to correct the clerical error.

V. Conclusion

For the foregoing reasons, we deny defendant’s ineffective assistance of counsel claim and remand to correct the clerical error.

REMANDED.

STATE V. HINTON

Opinion of the Court

Judges ZACHARY and FLOOD concur.

Report per Rule 30(e).