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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-385

Filed 7 October 2026

Forsyth County, Nos. 18CR061381-330, 19CR051576-330, 20CR001860-330,
20CR001861-330

STATE OF NORTH CAROLINA

v.

MARIO KENNARD BENNETT, Defendant.

Appeal by Defendant from order entered 18 March 2024 and judgment
entered 11 April 2024 by Judge L. Todd Burke in Forsyth County Superior Court.
Heard in the Court of Appeals 27 January 2026.

*Law Office of Christopher J. Heaney, PLLC, by Attorney Christopher J.
Heaney, for defendant-appellant.*

*Attorney General Jeff Jackson, by Special Deputy Attorney General Benjamin
Szany, for the State.*

STADING, Judge.

Mario Kennard Bennett (“Defendant”) appeals from final judgment entered from a jury verdict convicting him of violent habitual felon status and assigns error to the denial of his motion to suppress. For the reasons below, we hold no error. However, we remand for the limited purpose of the trial court making appropriate conclusions of law with respect to its order denying Defendant’s motion to suppress.

I. Background

On 2 May 2005, Defendant received a felony conviction for second-degree sexual offense when he was seventeen years old. This conviction arose from an offense committed on 9 August 2003, when Defendant was fifteen years old. For this offense, Defendant was incarcerated until he was twenty-two years old.

On 21 October 2012, while on probation, Defendant was charged with another offense at twenty-four years old. For this offense, Defendant pled guilty to second-degree kidnapping and assault by strangulation on 24 January 2018.¹ Defendant remained in active confinement until 4 November 2018.

On the morning of 12 December 2018, a woman (“Victim”) received a phone call from Defendant offering \$375.00 for sexual services. Victim’s “boyfriend” successfully arranged transportation to Defendant through a ride service. When Victim left to visit Defendant, she was wearing a red dress, gray knee-high boots, a tan leather jacket and carried a gray purse, phone, and knife with her. At this time, Victim had no injuries or bruises.

A few hours later, Victim’s “boyfriend” became concerned after his phone calls to her went unanswered. The “boyfriend” contacted Victim’s best friend to relay his concern. Having still not received a response from Victim, her best friend and another friend went to her last known whereabouts. Upon arriving at Defendant’s residence,

¹ The record also reveals Defendant was convicted for attempted possession of a firearm by a felon on 17 December 2010. Additionally, the record reveals Defendant was convicted for misdemeanor obstruction of justice on 28 August 2012, and failure to register as a sex offender on 9 October 2012.

where no one was present, one friend, who was a former escort, later recalled being sexually assaulted by Defendant at that residence. Upon this realization, Victim's friends called law enforcement at a nearby gas station.

During its investigation, law enforcement determined Defendant was on post-release supervision for another matter and listed Victim's last known whereabouts as his residence. Defendant's post-release supervision required him to wear an ankle monitor. Law enforcement visited Defendant's residence, where his mother allowed them inside, and contacted Defendant. When asked about Victim, Defendant denied knowing her and told law enforcement he was alone at his residence until about 5:00 p.m. on 12 December 2018. Defendant's ankle monitor, however, showed he left his residence multiple times on 12 December 2018. Evidence from the ankle monitor revealed Defendant left his residence at about 2:43 p.m. and returned at 3:01 p.m. Then, Defendant left again from 3:25 p.m. to 4:00 p.m. Finally, Defendant left his residence once more, at 5:30 p.m., went to Lowe's hardware, returned an hour later, and remained home until he left for work the next day at 7:00 a.m. Defendant returned home after finishing work at 10:30 a.m.

Law enforcement investigated where Defendant visited at approximately 2:45 p.m. on 12 December 2018. After determining Defendant visited a gas station, law enforcement procured surveillance footage, which showed Defendant dumping a trash bag in the dumpster. When searching this dumpster, law enforcement found a garbage bag containing the following items: a red dress; pair of boots; khaki-colored jacket; an empty phone case; gray purse; knife; women's underwear; Victim's debit

card, receipts, and passport; heavy-duty tape; Defendant's mail and debit card; and a used condom.

On 14 December 2018, law enforcement executed a search warrant at Defendant's residence. There, law enforcement found a commercial mop, a bucket, and "some brown packing tape that was consistent with the tape that was found in the dumpster earlier" with rolls of tape in the basement bathroom trashcan. Law enforcement also found the presence of blood in Defendant's basement.

The next day, 15 December 2018, law enforcement investigated Defendant's work, where he had been on 13 December 2018. In a dumpster at Defendant's work, law enforcement found Victim's partially nude body hidden under trash bags wrapped in a green blanket. In this dumpster, law enforcement also found mail addressed to Defendant's residence and wood flooring consistent with Defendant's basement. Law enforcement procured footage from a nearby establishment showing a white Toyota minivan near the dumpster. When law enforcement searched this vehicle, they found a job application filled out by Defendant and green pieces of fabric consistent with the green blanket Victim's body was found in. Law enforcement found additional forensic evidence connecting Defendant to Victim's death.

On 26 October 2020, the Forsyth County Grand Jury indicted Defendant for first-degree murder, concealment of unnatural death, and violent habitual felon status. On 27 March 2023, Defendant was also indicted for interfering with an electronic monitoring device. Later, on 12 June 2023, the State obtained a

superseding indictment for concealment of unnatural death. Defendant pled not guilty to all charges.

Before trial, Defendant filed a motion for appropriate relief (“MAR”) in another case seeking to rescind his guilty plea and vacate his conviction. In doing so, Defendant challenged the legality of the ankle monitor previously imposed from that conviction. The trial court denied the MAR, and both the North Carolina Court of Appeals and Supreme Court declined review.

Defendant also moved to suppress the location data that arose from the ankle monitor. The trial court denied this motion, noting the same argument was previously reviewed in the MAR. Defendant also unsuccessfully moved to dismiss the violent habitual felon indictment on constitutional grounds.

At the conclusion of Defendant’s trial, the jury found him guilty of first-degree murder, concealment of an unnatural death, and interfering with an electronic monitoring device. The jury also found Defendant had attained violent habitual felon status. The jury recommended life imprisonment for first-degree murder. At sentencing, Defendant did not renew his objection to the violent habitual felon indictment. The court imposed a sentence of life without parole for concealment of unnatural death, interference with an electronic monitoring device, and violent habitual felon status. The court imposed a consecutive sentence of life without parole (“LWOP”) for first-degree murder. Defendant timely entered his notice of appeal.

II. Analysis

With respect to violent habitual felon status, Defendant contends the trial court erred in using juvenile conduct to impose a mandatory sentence of LWOP. Defendant also contends the trial court erred by not making adequate findings of fact and conclusions of law to support its denial of Defendant's motion to suppress.

A. Juvenile Conduct

1. Preservation

As an initial matter, Defendant maintains his argument is preserved for appellate review only because "jurisdictional defects can be raised at any time." *State v. Singleton*, 386 N.C. 183, 184, 900 S.E.2d 802, 805 (2024). Defendant asserts the trial court was without jurisdiction because the indictment was unconstitutional as it used juvenile conduct as a predicate for violent habitual felon status. He contends using juvenile conduct as a predicate for violent habitual felon status violates the Eighth Amendment to the United States Constitution and Article I, Section 27 of the North Carolina Constitution.

"The term jurisdiction refers to a court's power to decide a case or issue a decree. Such power is granted by the people who speak through their constitutions and statutes, not by an indictment drafted by a prosecutor." *Id.* at 196, 900 S.E.2d at 812 (internal quotations and citations omitted); *see also Lamar v. United States*, 240 U.S. 60, 64, 36 S. Ct. 255, 256 (1916) (citation omitted) ("Jurisdiction is a matter of power, and covers wrong as well as right decisions."). With respect to indictments, "jurisdictional defects are rare, only arising where an indictment wholly fails to allege

a crime against the laws or people of this State.” *Singleton*, 386 N.C. at 184, 900 S.E.2d at 805. As to constitutional issues within indictments, the North Carolina Supreme Court has stated:

[I]t does not follow that a violation of a defendant’s constitutional right . . . reflexively implicates jurisdictional concerns. Criminal defendants possess many constitutional rights—such as the right to be free from unreasonable searches and seizures, the right to remain silent, the right to effective counsel, the right to a speedy trial, the right to confront the witnesses against them, the right against excessive bail—yet violations of these rights do not deprive a court of jurisdiction.

Id. at 200, 900 S.E.2d at 815 (citing *United States v. Cotton*, 535 U.S. 625, 630, 122 S. Ct. 1781, 1785 (2002)); *see also United States v. Williams*, 341 U.S. 58, 68–69, 71 S. Ct. 595, 601 (1951) (“Though the trial court or an appellate court may conclude that the statute is wholly unconstitutional, or that the facts stated in the indictment do not constitute a crime or are not proven, it has proceeded with jurisdiction . . .”).

Turning to this case, the constitutionality of the indictment does not affect jurisdiction. *See Singleton*, 386 N.C. at 200, 900 S.E.2d at 815. Regardless, this Court has previously held the use of juvenile conduct for violent habitual felon status is constitutional. *See State v. McDougald*, 284 N.C. App. 695, 710, 876 S.E.2d 648, 660 (2022), *disc. rev. denied*, 384 N.C. 34 (2023).² Consequently, Defendant’s argument is unpreserved.

² Despite Defendant’s invitation to reconsider *McDougald*, “[when] a panel of the Court of Appeals has decided the same issue, albeit in a different case, a subsequent panel of the same court is bound by that precedent, unless it has been overturned by a higher court.” *In re Civil Penalty*, 324 N.C. 373, 384, 379 S.E.2d 30, 37 (1989).

2. Rule 2

While conceding the absence of a jurisdictional defect renders the issue unpreserved, Defendant requests that we invoke Rule 2 of the North Carolina Rules of Appellate Procedure. For the reasons below, we decline to do so.

It is well-settled that “when a defendant fails to raise a constitutional argument at the trial court level, it is unpreserved for appellate review pursuant to” N.C. R. App. P. 10. *State v. McClinton*, 301 N.C. App. 99, 109, 922 S.E.2d 190, 198 (2025) (citation modified); *see also State v. Lloyd*, 354 N.C. 76, 86–87, 552 S.E.2d 596, 607 (2001) (noting that “constitutional issues not raised and passed upon at trial will not be considered for the first time on appeal”); *State v. Meadows*, 371 N.C. 742, 749, 821 S.E.2d 402, 407 (2018) (“Because defendant failed to argue to the sentencing court that the sentence imposed violates the Eighth Amendment, she may not raise that argument on appeal.”).

That said, Rule 2 “allows us to set aside Rule 10, and consider” a defendant’s unpreserved constitutional argument when certain criteria are met. *McClinton*, 301 N.C. App. at 110, 922 S.E.2d at 199; *State v. Griffin*, 298 N.C. App. 85, 93, 914 S.E.2d 8, 13 (2025). Rule 2 states:

To prevent manifest injustice to a party, or to expedite decision in the public interest, either court of the appellate division may, except as otherwise expressly provided by these rules, suspend or vary the requirements or provisions of any of these rules in a case pending before it upon application of a party or upon its own initiative, and may order proceedings in accordance with its directions.

N.C. R. App. P. 2.

“The text of Rule 2 provides two instances in which an appellate court may waive compliance with the appellate rules: (1) ‘[t]o prevent manifest injustice to a party’; or (2) ‘to expedite decision in the public interest.’” *State v. Hart*, 361 N.C. 309, 315, 644 S.E.2d 201, 205 (2007) (cleaned up). “Rule 2 relates to the residual power of our appellate courts to consider, in exceptional circumstances, significant issues of importance in the public interest or to prevent injustice which appears manifest to the Court and only in such instances.” *Id.* at 315–16, 644 S.E.2d at 205 (cleaned up). “The exercise of Rule 2 [is] intended to be limited to occasions in which a fundamental purpose of the appellate rules is at stake, which will necessarily be rare occasions.” *Id.* at 316, 644 S.E.2d at 205 (cleaned up); *see also State v. Ricks*, 378 N.C. 737, 738, 862 S.E.2d 835, 837 (2021) (“an appellate court may only invoke Rule 2 when injustice appears manifest to the court or when the case presents significant issues of importance in the public interest.”).

“This assessment—whether a particular case is one of the rare instances appropriate for Rule 2 review—must necessarily be made in light of the specific circumstances of individual cases and parties, such as whether substantial rights of an appellant are affected.” *State v. Campbell*, 369 N.C. 599, 603, 799 S.E.2d 600, 602 (2017). Put differently, “precedent cannot create an automatic right to review via Rule 2. Instead, whether an appellant has demonstrated that his matter is the rare case meriting suspension of our appellate rules is always a discretionary determination to be made on a case-by-case basis.” *Id.* at 603, 799 S.E.2d at 603.

In this case, Defendant contends that this Court should invoke Rule 2 since his substantial rights have been impacted. After noting Rule 2 is discretionary, Defendant provides: “[b]ecause an unconstitutional sentence of [LWOP] was imposed, this is an exceptional case affecting [Defendant’s] substantial rights and requires extraordinary judicial action.” Our review leads us to conclude that Defendant has failed to demonstrate sufficient error warranting our discretionary invocation of Rule 2 to prevent manifest injustice. *See Griffin*, 298 N.C. App. at 93, 914 S.E.2d at 14 (“Although a constitutional right is a substantial right, Defendant has failed to demonstrate error relating to a substantial right.”); *see also State v. Bishop*, 255 N.C. App. 767, 770, 805 S.E.2d 367, 370 (2017). As discussed, this Court has previously held the use of juvenile conduct for violent habitual felon status is constitutional. *See State v. McDougald*, 284 N.C. App. 695, 710, 876 S.E.2d 648, 660 (2022). Accordingly, in our discretion, we decline to invoke Rule 2.

3. Ineffective Assistance of Counsel (“IAC”)

Alternatively, Defendant argues that he received IAC on account of his trial attorneys’ failure to preserve his constitutional challenges to the violent habitual felon indictment. Specifically, Defendant maintains he suffered IAC by his trial attorneys’ failure to renew his objection at the time of sentencing.

“Whether a defendant received IAC at trial is a question of law reviewable *de novo*.” *State v. Parker*, 290 N.C. App. 650, 653, 893 S.E.2d 544, 547 (2023) (citation omitted). “Under a *de novo* review, the court considers the matter anew and freely

substitutes its own judgment for that of the lower tribunal.” *State v. Clemons*, 274 N.C. App. 401, 409, 852 S.E.2d 671, 676 (2020) (citation omitted).

“A defendant’s right to counsel, as guaranteed by the Sixth Amendment to the United States Constitution, includes the right to effective assistance of counsel.” *State v. Todd*, 369 N.C. 707, 710, 799 S.E.2d 834, 837 (2017). Our jurisprudence establishes “a two-pronged test for determining whether a defendant has received ineffective assistance of counsel.” *Id.* That test provides:

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. Unless a defendant makes both showings, it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable.

Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064 (1984). “Thus, both deficient performance and prejudice are required for a successful ineffective assistance of counsel claim.” *Todd*, 369 N.C. at 711, 799 S.E.2d at 837.

“IAC claims brought on direct review will be decided on the merits when the cold record reveals that no further investigation is required, i.e., claims that may be developed and argued without such ancillary procedures as the appointment of investigators or an evidentiary hearing.” *State v. Fair*, 354 N.C. 131, 166, 557 S.E.2d 500, 524 (2001). That said, “should the reviewing court determine that IAC claims

have been prematurely asserted on direct appeal, it shall dismiss those claims without prejudice to the defendant's right to reassert them during a subsequent MAR proceeding." *Id.* at 167, 557 S.E.2d at 525.

In this case, Defendant maintains he received IAC due to the failure of preserving a constitutional issue during sentencing. Here, Defendant's IAC claim may be decided on the merits since the cold record reveals no further investigation is required. *See Fair*, 354 N.C. at 166, 557 S.E.2d at 524. In support of his claim, Defendant argues that "[r]easonable attorneys preserve meritorious issues." Here, however, Defendant has failed to show the performance of his trial attorney was deficient and prejudicial. *See Todd*, 369 N.C. at 711, 799 S.E.2d at 837; *see also e.g., State v. Phillips*, 365 N.C. 103, 133, 711 S.E.2d 122, 144 (2011).

Under our precedent, the lack of objection was neither erroneous nor prejudicial. *See State v. McDougald*, 284 N.C. App. 695, 710, 876 S.E.2d 648, 660 (2022). In *McDougald*, at thirty-three years old, a defendant was found guilty of second-degree kidnapping, misdemeanor breaking or entering, and assault on a female. *Id.* at 696–97, 876 S.E.2d at 652. Since the defendant had two prior convictions, the jury also found defendant guilty of violent habitual felon status, for which he received a mandatory LWOP sentence. *Id.* at 697, 876 S.E.2d at 652. One of the prior convictions used for violent habitual felon status occurred when defendant was sixteen years old. *Id.* Much like this case, defendant argued the application of the violent habitual felon status statute, and its mandatory LWOP sentence, was unconstitutional since juvenile conduct was used as a predicate for violent habitual

felon status. *Id.* at 705, 876 S.E.2d at 657. In holding defendant's sentence was constitutional, this Court reasoned the violent habitual felon statute and resulting LWOP sentence was not a punishment for the predicate offense committed as a juvenile; rather, it was a stiffened penalty for the latest offense committed as an adult. *Id.* at 709–10, 876 S.E.2d at 659–60.

As in *McDougald*, Defendant's juvenile conviction was used as a predicate offense for violent habitual felon status. However, much like *McDougald*, "the violent habitual felon statute, and resulting LWOP sentence, applied only to the last conviction." *Id.* at 710, 876 S.E.2d at 659 (citation omitted). Put differently,

Defendant is not being punished for a crime he committed as a juvenile, because sentence enhancements do not themselves constitute punishment for the prior criminal convictions that trigger them. Instead, Defendant is being punished for the recent offense he committed at thirty-three, an age unquestionably sufficient to render him responsible for his actions. Accordingly, . . . concerns about juveniles' diminished culpability and increased capacity for reform do not apply here.

Id. at 710, 876 S.E.2d at 659–60 (internal citations omitted) (quoting *United States v. Hunter*, 735 F.3d 172, 176 (4th Cir. 2013)). Here, as the lack of objection was not erroneous, Defendant has failed to show the performance of his trial attorney was deficient and prejudicial. Accordingly, Defendant's assignment of error is overruled.

4. *Insufficient evidence*

Defendant also contends there was insufficient evidence to sustain a violent habitual felon conviction. Specifically, Defendant maintains that since the juvenile conviction was used as a predicate offense for violent habitual felon status, which

under Defendant's view was unconstitutional, the other evidence proving one prior conviction was insufficient for violent habitual felon status. *See* N.C. Gen. Stat. § 14-7.7(a) (2025) ("Any person who has been convicted of two violent felonies . . . is declared to be a violent habitual felon."). For the reasons discussed above, we overrule Defendant's argument. *See* N.C. R. App. P. 10; *see also McDougald*, 284 N.C. App. at 710, 876 S.E.2d at 660.

B. Motion to Suppress

Next, Defendant contends the trial court erred in "fail[ing] to make adequate findings of fact or rulings of law to support its denial of [Defendant's] motion to suppress" the location data from Defendant's ankle monitor. After careful review, we remand to the trial court to make appropriate conclusions of law.

In determining whether evidence should be suppressed, the trial court "must set forth in the record his findings of facts and conclusions of law." N.C. Gen. Stat. § 15A-977(f) (2025); *see also id.* § 15A-974 (2025). That said, "our cases require findings of fact only when there is a material conflict in the evidence and allow the trial court to make these findings either orally or in writing." *State v. Bartlett*, 368 N.C. 309, 312, 776 S.E.2d 672, 674 (2015). Indeed, the purpose of making findings of fact is to effectuate appellate review. *See State v. Jordan*, 385 N.C. 753, 757, 898 S.E.2d 279, 282 (2024). "When there is no conflict in the evidence, the trial court's findings can be inferred from its decision." *Bartlett*, 368 N.C. at 312, 776 S.E.2d at 674 (citation omitted); *see also State v. Lovin*, 339 N.C. 695, 706, 454 S.E.2d 229, 235 (1995).

Even so, it remains the trial court's responsibility to make the conclusions of law. *See State v. Williams*, 267 N.C. App. 485, 489, 833 S.E.2d 223, 226 (2019); *see also State v. Faulk*, 256 N.C. App. 255, 263, 807 S.E.2d 623, 629 (2017); *see also State v. McFarland*, 234 N.C. App. 274, 284, 758 S.E.2d 457, 465 (2014). "Generally, a conclusion of law requires the exercise of judgment in making a determination, or the application of legal principles to the facts found." *McFarland*, 234 N.C. App. at 284, 758 S.E.2d at 465 (quotation marks and citation omitted). "It is the trial court that must make the required legal rulings in the first instance." *State v. Baskins*, 247 N.C. App. 603, 610, 786 S.E.2d 94, 99 (2016) (citing *State v. Salinas*, 366 N.C. 119, 123–24, 729 S.E.2d 63, 66–67 (2012)). "The trial court's failure to articulate or record its rationale from the bench supports a remand." *State v. Howard*, 259 N.C. App. 848, 855, 817 S.E.2d 232, 238 (2018).

Turning to this case, the trial court's written order denying the Defendant's motion to suppress found that "[t]he issues surrounding whether Defendant should have been subject to GPS monitoring while on post-release supervision . . . have been reviewed in a Motion for Appropriate Relief filed by Defendant;" and after that trial court denied the MAR, "both courts of appeal declined further review[.]" The trial court's order denying the motion to suppress also found that "[n]o new issues have been presented in the instant Motion to Suppress." Accordingly, the trial court's

order decreed: “[i]t is therefore ordered, adjudged and decreed . . . [t]hat the Motion to Suppress Evidence from GPS Ankle Monitor is hereby summarily DENIED.”³

We find the holdings of prior cases from our Court instructive. In *Williams*, a defendant moved to suppress evidence and cited several reasons underlying the challenge. 267 N.C. App. at 489–91, 833 S.E.2d at 226–27. At the conclusion of the motion hearing, the trial court announced, “after reviewing the motion to suppress, after reviewing the search warrant and the affidavit, after reviewing applicable case law, the statute law, and hearing testimony from the witness and hearing arguments of counsel, the Court denies the motion to suppress.” *Id.* at 487, 833 S.E.2d at 225. Additionally, the trial court did not make further findings of fact or conclusions of law and did not subsequently enter a written order. *Id.* at 488, 833 S.E.2d at 226. Ultimately, our Court declined to “find the trial court’s ‘conclusion’ [was] sufficient” as the ruling from the bench did not address all of the issues raised in the motion to suppress, and the mere denial of such motion is not the logical equivalent of a conclusion of law. *Id.* at 490, 833 S.E.2d at 227.

³ In addition to its written order, after hearing arguments from counsel, the trial court orally announced: “The Court hence shall summarily deny the matter in that the matter has already been addressed in the case itself through an MAR, which was appealed to the State Supreme Court.” While written determinations are preferred, findings of fact and conclusions may be either oral or written. See *State v. Oates*, 366 N.C. 264, 268, 732 S.E.2d 571, 574 (2012) (“While a written determination is the best practice, . . . [N.C. Gen. Stat. § 15A-977(f)] does not require that these findings and conclusions be in writing.”). Here, like its written order, the trial court’s oral determination did not include the required conclusion of law. See generally *State v. Baker*, 208 N.C. App. 376, 387, 702 S.E.2d 825, 832–33 (2010).

In *Faulk*, the trial court’s written order contained the following sole conclusion of law:

That [N.C. Gen. Stat. §] 15A-401(e) was not applicable to the arrest of Tiffany Faulk in the State of Maryland and the arrest and subsequent search was not in violation of the Fourth and Fourteenth Amendments of the United States Constitution, therefore, the motion to suppress filed by the Defendant in this matter on July 5, 2016 is hereby denied.

256 N.C. App. at 264, 807 S.E.2d at 629–30. This Court provided that “neither the trial court’s cursory explanation of its ruling nor the written order provides a rationale for [the] denial. Accordingly, we must remand the denial of the 14 July 2016 motion to suppress to the trial court to make necessary conclusions of law relevant to the challenged search warrant.” *Id.* at 264, 807 S.E.2d at 630.

Moreover, in *McFarland*, a defendant moved to suppress his statement and maintained that officers failed to properly give *Miranda* warnings. 234 N.C. App. at 281–82, 758 S.E.2d at 463. There, the trial court made findings of fact, but “never made a conclusion about whether defendant was in custody at the relevant time, nor did it ever apply the law it cited to the facts of th[e] case.” *Id.* at 283, 758 S.E.2d at 464. Instead, “[a]t the hearing, the trial court announced that it was going to deny the motion, but . . . did not give any explanation for denying defendant’s motion from the bench and did not include any conclusions of law in its written order.” *Id.* Therefore, our Court remanded the matter to allow the trial court to make appropriate conclusions of law. *Id.* at 285, 758 S.E.2d at 465.

Likewise, in *Baskins*, this Court reviewed an order denying a motion to suppress, which provided the following sole conclusion of law:

The temporary detention of a motorist upon probable cause to believe he has violated a traffic law (such as operating a vehicle with expired registration and inspection) is not inconsistent with the Fourth Amendment's prohibition against unreasonable searches and seizures, even if a reasonable officer would not have stopped the motorist for the violation. [citation omitted] [Detective] O'Hal was justified in stopping Defendant[s'] vehicle.

247 N.C. App. 603, 610, 786 S.E.2d 94, 99 (2016) (alterations in original). The Court explained that “[a]lthough we can imagine how the facts as found by the trial court would likely fit into the legal standards recited in the section of the order which is identified as ‘conclusions of law,’ based upon the trial court’s denial of the motion, it is still the trial court’s responsibility to make the conclusions of law.” *Id.* at 611, 786 S.E.2d 94, 100 (2016) (citation omitted). Since the conclusions of law were insufficient, we remanded the case to trial court to make “additional findings of fact and conclusions of law as necessary.” *Id.*

Here, while the trial court’s order included findings of fact, “the order lacks any conclusion applying legal principles to those facts, *i.e.*, it omits an appropriate determination in the first instance.” *Faulk*, 256 N.C. App. at 264, 807 S.E.2d at 630; *see also Williams*, 267 N.C. App. at 490, 833 S.E.2d at 227 (“[U]nder the motion and facts here, to call the trial court’s statement a ‘conclusion of law’ is too generous; it is a merely a denial of the motion.”). Indeed, the judge did not “provide any rationale . . . to explain or support his denial of Defendant’s motion.” *Howard*, 259 N.C. App. at

855, 817 S.E.2d at 238; *see also, e.g., McFarland*, 234 N.C. App. at 283, 758 S.E.2d at 464 (“[A]lthough the trial court made a number of relevant findings of fact, the trial court did not give any explanation for denying defendant’s motion from the bench and did not include any conclusions of law in its written order.”).

Thus, as in the previously discussed cases, we remand for the trial court to make appropriate conclusions of law to substantiate its ruling on Defendant’s motion to suppress. *See Howard*, 259 N.C. App. at 856, 817 S.E.2d at 238; *Faulk*, 256 N.C. App. at 264, 807 S.E.2d at 630; *McFarland*, 234 N.C. App. at 284, 758 S.E.2d at 465; *Baskins*, 247 N.C. App. at 611, 786 S.E.2d at 100.

III. Conclusion

Defendant’s constitutional assignments of error with respect to his violent habitual felon status, and resulting mandatory LWOP sentence, were not preserved for appellate review. Moreover, in our discretion, we decline Defendant’s request to invoke N.C. R. App. P. 2 to review the merits of Defendant’s constitutional arguments as it relates to his violent habitual felon status conviction. Further, we dismiss Defendant’s IAC claim with prejudice regarding his trial attorney’s failure to preserve this constitutional issue. With respect to Defendant’s argument about the trial court’s order denying his motion to suppress, we remand to the trial court to make appropriate conclusions of law.

NO ERROR IN PART; REMANDED IN PART.

Judges STROUD and FREEMAN concur.

Report per Rule 30(e).