An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA25-1142

Filed 4 November 2026

Randolph County, No. 22CR288848-750

STATE OF NORTH CAROLINA

v.

COLE MCKAY PARRIS, Defendant.

Appeal by Defendant from judgments entered 11 September 2024 by Judge Paul A. Holcombe, III in Randolph County Superior Court. Heard in the Court of Appeals 29 September 2026.

Attorney General Jeff Jackson, by Special Deputy Attorney General Daniel K. Covas, for the State.

Anne Bleyman for Defendant-Appellant.

CARPENTER, Judge.

Cole McKay Parris ("Defendant") appeals from judgments entered after a jury found him guilty of one count each of: possession with intent to manufacture, sell, or deliver methamphetamine; trafficking methamphetamine by possessing 400 grams or more; and possession of marijuana. On appeal, Defendant argues the trial court erred in denying his motion to dismiss for insufficient evidence. After careful review,

we discern no error.

I. Factual & Procedural Background

In October 2023, a grand jury indicted Defendant on one count each of: trafficking in opium or heroin; possession with intent to manufacture, sell, or deliver heroin; possession with intent to manufacture, sell, or deliver a schedule II controlled substance; trafficking in methamphetamine; and possession with intent to manufacture, sell, or deliver marijuana. The case proceeded to trial in September 2024, and the State dismissed the heroin-related charges. The evidence at trial tended to show the following.

After the Randolph County Sheriff's Office ("RCSO") conducted controlled drug buys at an address on Turnpike Road ("the premises"), RCSO began surveilling the premises. RCSO knew the premises was occupied by Defendant and his then-girlfriend. On 2 September 2022, the Probation and Parole Department conducted a visit with Defendant at the premises, which Defendant had previously registered as his residence. Four days later, a detective surveilling the premises observed Defendant and two other individuals leaving the premises. Defendant and the two individuals were subsequently stopped for a traffic violation.

After Defendant departed, RCSO executed a search warrant at the premises. While executing the search warrant, RCSO searched the master bedroom, finding both men's and women's clothes. RCSO also found a bag in the nightstand that contained methamphetamine and marijuana. Detective Carter took photographs

during the search, depicting: a black digital scale with residue; a notebook and ledger with customer names, weights, and drugs bought or owed; a small safe filled with bags and methamphetamine; keys to the safe; an inmate ID card for Defendant; mail sent to Defendant; Narcan; blue bottles containing a yellow liquid; and additional writings with codes and ciphers. A forensic scientist determined that one of the bags contained 449 grams of methamphetamine.

RCSO executed a search warrant for Defendant's phones, which officers seized during the traffic stop. Defendant's phones contained various photographs, depicting: money next to brown paper bags and clear bags; a digital scale with a "green leafy vegetable matter"; a hand holding the "green leafy vegetable matter"; a clear bag containing a crystalline, white substance; and a male who looked like Defendant holding money in the kitchen of the premises.

At the conclusion of the State's evidence, Defendant moved to dismiss all charges for insufficient evidence of possession, and the trial court denied the motion. Defendant called one witness, his now mother-in-law. The mother-in-law testified that: she moved out of the premises, leaving the premises to her daughter; Defendant was frequently at the premises; Defendant and her daughter used the master bedroom; and that she had no awareness of her daughter ever dealing drugs. Then, Defendant renewed his motion to dismiss, which the trial court denied.

The jury convicted Defendant on one count each of: possession with intent to manufacture, sell, or deliver methamphetamine; trafficking methamphetamine by

possessing 400 grams or more; and possession of marijuana. Thereafter, the trial court sentenced Defendant to a term of 225 to 282 months in custody of the Department of Adult Corrections for trafficking in methamphetamine. The trial court consolidated the remaining convictions and sentenced Defendant to a concurrent term of ten to twenty-one months imprisonment. Defendant appealed in open court.

II. Jurisdiction

This Court has jurisdiction under N.C. Gen. Stat. §§ 7A-27(b)(1) and 15A-1444(a) (2025).

III. Issue

The issue on appeal is whether the trial court erred in denying Defendant's motion to dismiss for insufficient evidence.

IV. Analysis

Defendant argues the trial court erred in denying his motion to dismiss. In particular, Defendant asserts the State did not show he had exclusive use of the premises, maintained the premises as a residence, or had some apparent proprietary interest in the premises or controlled substances. We disagree.

A. Standard of Review

This Court reviews the trial court's denial of a motion to dismiss *de novo*, *see State v. Miles*, 222 N.C. App. 593, 599, 730 S.E.2d 816, 822 (2012), meaning we "consider the matter anew and freely substitute our own judgment for that of the

lower tribunal," *State v. Williams*, 362 N.C. 628, 632–33, 669 S.E.2d 290, 294 (2008) (cleaned up). In reviewing a motion to dismiss, "the question for the Court is whether there is substantial evidence (1) of each essential element of the offense charged, or of a lesser offense included therein, and (2) of defendant's being the perpetrator of such offense." *State v. Powell*, 299 N.C. 95, 98, 261 S.E.2d 114, 117 (1980).

"Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *State v. Smith*, 300 N.C. 71, 78–79, 265 S.E.2d 164, 169 (1980). We view the evidence "in the light most favorable to the State, giving the State every reasonable inference therefrom, and resolving any contradictions or discrepancies in the State's favor." *Miles*, 222 N.C. App. at 599, 730 S.E.2d at 822. Therefore, "[a]s long as the evidence presented ultimately supports a reasonable inference of the defendant's guilt, the trial court should deny the motion to dismiss, regardless of whether the evidence also permits a reasonable inference of the defendant's innocence." *State v. Ford*, 388 N.C. 713, 720, 923 S.E.2d 549, 554 (2025) (citation omitted).

B. Possession

As a preliminary matter, each conviction in this case requires Defendant to possess the contraband. *See Powell*, 299 N.C. at 98, 261 S.E.2d at 117; N.C. Gen. Stat. § 90-95(h)(3b), (a)(1), and (a)(3) (2025). The crime of trafficking in methamphetamine requires the essential element of possession. *See* N.C. Gen. Stat. § 90-95(h)(3b); *State v. Shelman*, 159 N.C. App. 300, 305, 584 S.E.2d 88, 93 (2003).

Likewise, the crime of possession with the intent to manufacture, sell, or distribute a controlled substance requires the essential element of possession. *See id.* § 90-95(a)(1); *State v. Casey*, 59 N.C. App. 99, 116, 296 S.E.2d 473, 483 (1982) (citations omitted). Finally, the crime of simple possession requires possession. *See id.* § 90-95(a)(3).

" 'Constructive possession of contraband material exists when there is no actual personal dominion over the material, but there is an intent and capability to maintain control and dominion over it.' " *State v. Norris*, __ N.C. __, __, 933 S.E.2d 786, 792 (2026) (quoting *State v. Brown*, 310 N.C. 563, 558, 313 S.E.2d 585 (1984)). "If the defendant shared control of the location with another person, . . . 'the State must show other incriminating circumstances sufficient for the jury to find [that the] defendant had constructive possession.' " *Id.* at __, 933 S.E.2d at 792 (quoting *State v. Miller*, 363 N.C. 96, 99, 678 S.E.2d 592, 594 (2009)). " 'Whether incriminating circumstances exist to support a finding of constructive possession is a fact-specific inquiry.' " *Id.* at __, 933 S.E.2d at 792 (quoting *State v. Chekanow*, 370 N.C. 488, 496, 809 S.E.2d 546, 552 (2018)).

In determining whether sufficient incriminating circumstances support constructive possession, five factors are relevant:

> (1) the defendant's ownership and occupation of the property . . . ;
> (2) the defendant's proximity to the contraband;
> (3) indicia of the defendant's control over the place where the contraband is found;

(4) the defendant's suspicious behavior at or near the time of the contraband's discovery; and
(5) other evidence found in the defendant's possession that links the defendant to the contraband.

Id. at __, S.E.2d at 792 (quoting *Chekanow*, 370 N.C. at 496, 809 S.E.2d at 552). We consider proximity "in terms of space and time." *Id.* at __, __ S.E.2d at 793 (quoting *Chekanow*, 370 N.C. at 496, 809 S.E.2d at 553). "A defendant's opportunity to place contraband in the place where it was found is additional indicia of control." *Id.* at __, 933 S.E.2d at 794 (cleaned up). "Because '[n]o factor controls, . . . courts must consider the totality of the circumstances.' " *Id.* at __, 933 S.E.2d at 792 (quoting *Chekanow*, 370 N.C. at 496, 809 S.E.2d at 552). Furthermore, "to show constructive possession by a defendant not present when a controlled substance was discovered, the State must present evidence that the defendant had exclusive use of the premises, maintained the premises as a residence, or had some apparent proprietary interest in the premises or the controlled substance." *State v. Hamilton*, 145 N.C. App. 152, 156, 549 S.E.2d 233, 235 (2001).

Here, viewed in the light most favorable to the State, *see Miles*, 222 N.C. App. at 599, 730 S.E.2d at 822, the State showed that Defendant maintained the premises as a residence or had some interest in the premises or the contraband, *see Hamilton*, 145 N.C. App. at 156, 549 S.E.2d at 235. The State's evidence demonstrated that: RCSO surveilled Defendant at the premises; Defendant's address with the Probation and Parole Department was registered at the premises; RCSO observed Defendant

leave the premises; RCSO discovered mail addressed to Defendant at the premises; and RCSO found Defendant's inmate ID in the premises.

Additionally, a search of Defendant's cellphone revealed photographs of Defendant with contraband similar to that found in the premises. Furthermore, Defendant's own witness testified Defendant lived in the premises with her daughter, Defendant was frequently at the premises, and she was not aware that the drugs were her daughter's. Thus, the State presented substantial evidence, *see Smith*, 300 N.C. at 78–79, 265 S.E.2d at 169, that Defendant maintained the premises as a residence, or had some apparent proprietary interest in the premises or the contraband, *see Hamilton*, 145 N.C. App. at 156, 549 S.E.2d at 235.

Moreover, the State presented substantial evidence of further incriminating circumstances indicative of constructive possession. *See Norris*, __ N.C. at __, 933 S.E.2d at 792 (quoting *Chekanow*, 370 N.C. at 496, 809 S.E.2d at 551). Specifically, the photographs found on Defendant's phone linked Defendant to the contraband. *See id.* at __, 933 S.E.2d at 792. The photographs depicted contraband similar to that found in the premises, including digital scales, Defendant with money, bags with methamphetamine, and "green leafy substances."

Accordingly, when viewed in the light most favorable to the State, *see Miles*, 222 N.C. App. at 599, 730 S.E.2d at 822, the State presented substantial evidence, *see Smith*, 300 N.C. at 78–79, 265 S.E.2d at 169, that Defendant maintained the premises as a residence or had some apparent proprietary interest in the premises or

the contraband, *see Hamilton*, 145 N.C. App. at 156, 549 S.E.2d at 235. While there may have been contradictions and inconsistencies in the State's evidence, the evidence presented ultimately supports a reasonable inference of the defendant's guilt, and the trial court properly denied Defendant's motion to dismiss. *See Ford,* 388 N.C. at 720, 923 S.E.2d at 554.

V. Conclusion

For the foregoing reasons, we conclude the trial court did not err in denying Defendant's motion to dismiss for insufficient evidence.

NO ERROR.

Judges COLLINS and FLOOD concur.

Report per Rule 30(e).