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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-840

Filed 4 November 2026

Randolph County, No. 23CR286655-750

STATE OF NORTH CAROLINA

v.

DALLAS EUGENE WALKER

Appeal by defendant from judgment entered 26 March 2025 by Judge Jennifer Bedford in Randolph County Superior Court. Heard in the Court of Appeals 25 February 2026.

Center for Death Penalty Litigation, by Iqra Razzaq, for defendant-appellant.

Attorney General Jeff Jackson, by Assistant Attorney General Caroline Koenig, for the State.

FREEMAN, Judge.

Defendant appeals from judgement entered upon a jury verdict of guilty for possession of a firearm by a felon. On appeal, defendant challenges the sufficiency of the evidence for the conviction, arguing the trial court erred by denying defendant's motion to dismiss. After careful review, we conclude that defendant received a fair trial free from error.

I. Factual and Procedural Background

Dallas Eugene Walker (defendant) lived with his parents upon his release from prison on 12 May 2021. The three-bedroom residence was rented by defendant's parents. The first bedroom—identified as defendant's room by defendant's mother—was located on the far end of the house near the kitchen (First Bedroom). The First Bedroom contained storage and defendant's personal belongings, but it did not contain a bed. Defendant's nephew slept in the middle bedroom down the hallway (Second Bedroom). Defendant's mother identified the third bedroom (Third Bedroom) as her and her husband's bedroom. However, defendant's father slept in the living room due to health issues, and defendant's mother usually slept on the recliner in the living room. Defendant slept in the Third Bedroom when his mother slept in the living room.

Defendant was subject to post-release restrictions, including monthly visits by his parole officer (Parole Officer). On 20 April 2023, the Parole Officer conducted a routine search of defendant's residence. At trial, the Parole Officer testified about the search as follows: Defendant was present at the residence and gave the Parole Officer consent to search. Defendant identified the Third Bedroom as his, so the Parole Officer searched the Third Bedroom.

The Third Bedroom contained a pack of cigarettes and empty soda cans identified as defendant's. The Parole Officer found a total of five firearms in the Third Bedroom: A Taurus PT99 9-millimeter handgun and a Smith & Wesson .22 caliber

revolver were found in an unlocked dresser without cases; an M14 7.62 caliber rifle and a model 995 9-millimeter rifle were found in unlocked gun cases on the top shelf of the closet; and a Keystone Sporting Arms Davey Crickett .22 caliber rifle was found in an unlocked gun case in the bottom of the closet. Additionally, the keys to the living room gun safe were found in an unlocked jewelry box in the Third Bedroom. Defendant's mother testified that all the firearms in the residence belonged to her husband.

A grand jury indicted defendant with possession of a firearm by a felon. The case came on for trial on 24 March 2025. At the close of the State's evidence, defendant moved to dismiss the charge for insufficient evidence, which the trial court denied. On 26 March 2025, the jury found defendant guilty of possession of a firearm by a felon and defendant gave oral notice of appeal.

II. Jurisdiction

In criminal cases, appeal lies of right from a final judgment of a superior court, other than one based on a plea of guilty or nolo contendere, pursuant to N.C.G.S. §§ 7A-27(b)(1) and 15A-1444(a) (2025). Accordingly, we have jurisdiction to review defendant's appeal.

III. Standard of Review

We review the denial of a motion to dismiss for insufficient evidence de novo. *State v. Hunt*, 250 N.C. App. 238, 252 (2016). To survive a motion to dismiss, there need only be "substantial evidence (1) of each essential element of the offense

charged, and (2) that defendant is the perpetrator of the offense." *State v. Collins*, 283 N.C. App. 458, 465 (2022) (quoting *State v. Key*, 182 N.C. App. 624, 628–29 (2007)). Evidence is "substantial if it is enough to 'persuade a rational juror' of the defendant's guilt" and it "requires only that there be 'more than a scintilla of evidence.' " *State v. Bracey*, 388 N.C. 689, 692 (2025) (first quoting *State v. Blagg*, 377 N.C. 482, 488 (2021); and then quoting *State v. Winkler*, 368 N.C. 572, 574 (2015)).

Evidence must be viewed "in the light most favorable to the State, giving the State the benefit of every reasonable inference . . . ." *State v. Jackson*, 293 N.C. App. 135, 137 (2024) (quoting *State v. Rose*, 339 N.C. 172, 192 (1994)). "Any contradictions or discrepancies in the evidence are for the jury to resolve and do not warrant dismissal." *State v. Little*, 296 N.C. App. 424, 428 (2024) (quoting *State v. Olson*, 330 N.C. 557, 564 (1992)). "[S]o long as the evidence supports a reasonable inference of the defendant's guilt, a motion to dismiss is properly denied even though the evidence also permits a reasonable inference of the defendant's innocence." *State v. Bradshaw*, 366 N.C. 90, 93 (2012) (quoting *State v. Miller*, 363 N.C. 96, 99 (2009)). However, "evidence which raises no more than a surmise, suspicion, or conjecture of guilt is insufficient to withstand the motion to dismiss . . . ." *State v. Johnson*, 251 N.C. App. 260, 270 (2016).

When the evidence presented is circumstantial:

> The court must consider whether a reasonable inference of

> defendant's guilt may be drawn from the circumstances. Once the court decides that a reasonable inference of defendant's guilt may be drawn from the circumstances, then it is for the jury to decide whether the facts, taken singly or in combination, satisfy it beyond a reasonable doubt that the defendant is actually guilty.

State v. Barnes, 334 N.C. 67, 75–76 (1993) (cleaned up). "In making this determination, a court 'is to consider all evidence actually admitted, competent or incompetent, which is favorable to the State, disregarding [the] defendant's evidence unless favorable to the State.' " *State v. Tucker*, 380 N.C. 234, 237 (2022) (quoting *State v. Baker*, 338 N.C. 526, 558–59 (1994)).

IV. Discussion

On appeal, defendant argues that the trial court erred by denying his motion to dismiss because the State failed to present substantial evidence showing defendant had actual or constructive possession of a firearm.[1]

Under North Carolina General Statutes, "[i]t is unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in the person's custody, care, or control any firearm . . . ." N.C.G.S. § 14-415.1 (2025). Accordingly,

[1] Defendant also argues that the trial court erred by denying his motion to dismiss because the State pursued only a theory of actual possession and failed to prove actual possession. In his argument, defendant solely points to discussions regarding jury instructions but did not object to the instructions at trial and does not challenge the instructions on appeal. Instead, defendant only raised an error as to the trial court's denial of his motion to dismiss. Such instructions are immaterial to the motion to dismiss because the charge conference and the jury instructions took place following the trial court's denial of both motions to dismiss. Because "it is not the role of this Court to create an appeal for an appellant or to supplement an appellant's brief with legal authority or arguments not contained therein," we decline to address this argument on appeal. *Thompson v. Bass*, 261 N.C. App. 285, 292 (2018).

the State must prove two elements to establish possession of a firearm by a felon: "(1) defendant was previously convicted of a felony; and (2) thereafter possessed a firearm." *State v. McCoy*, 234 N.C. App. 268, 272 (2014) (quoting *State v. Mitchell*, 224 N.C. App. 171, 176 (2012)). Here, defendant does not dispute that he was previously convicted of a felony. Therefore, the issue on appeal is whether the State produced sufficient evidence that defendant had possession of the firearms in question.

Possession may be actual or constructive. *Bradshaw*, 366 N.C. at 93. "Actual possession requires that the defendant have physical or personal custody of the firearm." *State v. Livingston*, 290 N.C. App. 526, 529 (2023) (quoting *State v. Taylor*, 203 N.C. App. 448, 459 (2010)). Constructive possession has a broader definition:

> A defendant constructively possesses contraband when he or she has the intent and capability to maintain control and dominion over it. The defendant may have the power to control either alone or jointly with others. Unless a defendant has exclusive possession of the place where the contraband is found, the State must show other incriminating circumstances sufficient for the jury to find a defendant had constructive possession.

Bradshaw, 366 N.C. at 94 (cleaned up). Whether the State presented sufficient evidence of additional incriminating circumstances is a fact-specific inquiry to be made on a case-by-case basis. *Id.* When determining whether incriminating circumstances exist, our Supreme Court has set out five factors to consider:

> (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.

State v. Norris, No. 177PA24, slip op. at 11 (N.C. Aug. 14, 2026) (quoting *State v. Chekanow*, 370 N.C. 488, 496 (2018)). "Because [n]o one factor controls," the evidence must be considered under the totality of the circumstances. *Id.*

In *Norris*, our Supreme Court concluded that the State presented sufficient evidence of additional incriminating circumstances to establish that the defendant had nonexclusive constructive possession of the firearm. *Id.* at 24. There, when the officers searched the residence, they found a firearm inside an unlocked dresser drawer in a bedroom located near the front door. *Id.* at 14. The dresser contained only female items, and the bedroom seemed to be decorated for the defendant's deceased daughter. *Id.* at 3–4. The defendant's girlfriend claimed that she owned the residence and that the defendant only occasionally slept there. *Id.* at 12. However, the State presented evidence that the defendant's last name was on the mailbox beside the front door, and the officers knew the residence as the defendant's. *Id.* at 11. The defendant was present at the time of the search and rushed inside the residence when he saw the officers approaching. *Id.* at 15–16. There was also evidence that showed the bedroom, which was located immediately to the right of the front door, contained men's clothes and shoes, the defendant's pill bottles, and an envelope with the defendant's name on it. *Id.* at 12–14. Further, "the dresser was

not 'secured or locked in any way,' " and the firearm was laying on top of the contents in the drawer when it was found. *Id.* at 16. The Supreme Court held that these facts constituted sufficient additional incriminating evidence to establish that the defendant constructively possessed the firearm. *Id.* at 24.

Here, like *Norris*, the State presented evidence of defendant's ownership and occupation of the residence and the Third Bedroom. The Parole Officer testified that the residence was defendant's registered address and that he saw defendant at that residence multiple times. Defendant gave the Parole Officer consent to search the residence without first talking to his parents. Defendant's mother testified that defendant lived at that residence from May 2021, the time defendant was released from prison, to April 2023, the time of defendant's arrest for the current matter. Moreover, unlike *Norris*, defendant *himself* identified the Third Bedroom as his own because the First Bedroom did not have a bed. When viewed in the light most favorable to the State, this evidence shows that defendant shared nonexclusive ownership and occupation of the residence and the Third Bedroom with his parents.

Further, the State presented evidence showing defendant in close proximity to the firearms in both time and space. *See Chekanow*, 370 N.C. at 497 ("[I]n addressing a defendant's proximity to the contraband, this Court considers proximity in terms of space and time."). On the date the firearms were found, cigarettes and empty soda cans, identified as defendant's, were found on the nightstand in the Third Bedroom. Defendant's mother testified that, on the date of defendant's arrest, defendant had

been inside of the Third Bedroom "off and on" all day. Further, defendant was present at the residence when the search occurred. Like *Norris*, this evidence shows a spatial and temporal proximity sufficient for a jury to reasonably infer constructive possession.

Additionally, the State presented evidence of defendant's opportunity to place the firearms in the dresser and closet as indicia of defendant's control. *See Chekanow*, 370 N.C. at 497 ("[A] defendant's opportunity to place contraband in the place where it was found is additional indicia of control."). The Parole Officer found two firearms inside a dresser located by the doorway in the Third Bedroom and found three firearms inside the closet in the Third Bedroom. Neither the dresser nor the closet was locked, making the firearms easily accessible. Defendant's mother testified that defendant would access the dressers to grab items for her. Further, the keys to the dining room gun safe were found inside an unlocked jewelry box on the second dresser of the Third Bedroom. Therefore, these facts would allow a jury to reasonably infer defendant had the opportunity to access and to place the firearms inside of the dresser and closet.

Defendant argues that there is insufficient evidence of possession and asks this Court to consider evidence unfavorable to the State. Defendant specifically points to his mother's testimony that the Third Bedroom was hers and not defendants, that only defendants' parents' belongings were found in the Third Bedroom, that defendant only occasionally slept in the Third Bedroom, and that all the firearms

belonged to defendant's father. However, this Court does not make decisions based on evidence unfavorable to the State; we instead give the State every reasonable inference and disregard defendant's evidence unless favorable to the State. *Tucker*, 380 N.C. at 237. This principle remains valid "even though the evidence also permits a reasonable inference of the defendant's innocence." *Bradshaw*, 366 N.C. at 93 (quoting *Miller*, 363 N.C. at 99). Nevertheless, even considering defendant's assertions as true, these facts alone still "would not preclude a finding of nonexclusive possession." *Norris*, No. 177PA24, slip op. at 12–13.

We conclude that the State presented sufficient evidence of additional incriminating circumstances for a jury to reasonably infer that defendant had the intent and capability to maintain control over the firearms as necessary to show constructive possession. Accordingly, the trial court properly denied defendant's motion to dismiss the charge of possession of a firearm by felon.

V. Conclusion

We hold that the trial court did not err by denying defendant's motion to dismiss because there was sufficient evidence for the jury to reasonably infer from the circumstances that defendant constructively possessed the firearms.

NO ERROR.

Judges COLLINS and CARPENTER concur.

Report per Rule 30(e).