An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA26-12

Filed 4 November 2026

Haywood County, Nos. 24CR000257-430, 24CR206952-430

STATE OF NORTH CAROLINA

v.

JONATHAN MATTHEW JONES

Appeal by defendant from judgment entered 15 May 2025 by Judge William T. Stetzer in Haywood County Superior Court. Heard in the Court of Appeals 26 August 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Carolyn A. McLain, for the State.

Davis Hartman Wright, LLP, by R. Daniel Gibson, for the defendant-appellant.

TYSON, Judge.

Jonathan Matthew Jones ("Defendant") appeals from a jury's verdicts of guilty of possession of methamphetamine, possession of a firearm by a felon, and carrying a concealed weapon. We discern no error.

I. Background

Haywood County Sheriff's Deputy Sean Aaron responded to a report of a

"suspicious situation" in the Town of Clyde at approximately 10:00 a.m. on 10 January 2024. Deputy Aaron arrived at the location and encountered Defendant present on the porch of Defendant's aunt's residence. Defendant told Deputy Aaron he was staying there after being released from prison five days earlier. Deputy Aaron noted Defendant's demeanor was "very-very excited." Defendant told Deputy Aaron "people were chasing him around the neighborhood." Deputy Aaron asked Defendant to show him where people were chasing him.

Defendant also told Deputy Aaron the individuals, who were chasing him, wore "digital clothing and jet packs and moved really fast." Defendant told Deputy Aaron to look underneath a nearby trailer. Deputy Aaron looked under the trailer and did not see anything nearby. Deputy Aaron also did not notice any footprints in the small accumulation of snow on the ground.

Defendant asked Deputy Aaron a question about a man named "Mark Beaudrot." Deputy Aaron had encountered Defendant several times earlier and knew Defendant had been "previously trespassed from" Beaudrot's residence. Deputy Aaron told Defendant to not go there.

Deputy Aaron returned to his patrol. Approximately, twenty minutes later, he received a call to 1920 Clyde Road, Beaudrot's residence. Upon arriving on the scene, Deputy Aaron observed Defendant standing on the front porch near the front door. Deputy Aaron immediately placed Defendant under arrest for trespass.

During the pat-down, Deputy Aaron found "a box of .22 amm[unition] a .22

revolver handgun, and a little brown container with what [he] believed to be methamphetamine." Deputy Aaron asked Defendant why he had a firearm, and Defendant responded, "he had a right to protect himself." Defendant was neither able to provide the names of the people chasing him nor did Deputy Aaron see any other people present in the area.

Defendant was indicted for possession of methamphetamine, possession of a firearm by a felon, and carrying a concealed weapon on 8 April 2024. Defendant noticed the State he intended to assert the defense of justification on 30 January 2025. During trial, Benjamin Jones, Defendant's brother, testified about the incident on 10 January 2024, where he had observed Defendant "in a confrontation with some people," and Defendant "was outside fighting in the yard with a guy."

Jones stated it was "[j]ust one guy," but there could have been more since he was only on the porch. Jones did not observe a weapon. Jones did observe "three guys walk around then come down there" towards Beaudrot's residence.

Defendant testified and clarified his earlier statements and said the attackers had digital print uniforms and moved fast, like they had jet packs on their backs. Defendant further testified before Deputy Aaron had responded, Ray Potter, had pulled a gun on him during the altercation. Defendant testified he had wrested the ammunition box away from Potter. Defendant further testified he had "retreated to Beaudrot's."

Defendant's testimony about the timeline of taking the firearm was

inconsistent, Defendant asserted he had taken the weapon at this aunt's residence, but he also testified he did not have the gun when Deputy Aaron initially spoke with him, while at his aunt's residence. Defendant possessed the weapon at Beaudrot's residence.

The trial court denied Defendant's request for a jury instruction on justification. Defendant was convicted of all charges and sentenced as a prior record V offender with 15 prior record level points to consecutive sentences of 9 to 20 months for possession of methamphetamine, 22 to 36 months for possession of a firearm by a felon, and 60 days for carrying a concealed weapon. Defendant appeals.

II. Jurisdiction

Jurisdiction lies in this Court pursuant to N.C. Gen. Stat. §§ 7A-27(b) and 15A-1444(a) (2025).

III. Issue

Defendant argues the trial court erred by denying his request to instruct the jury on the defense of justification.

IV. Jury Instruction on Justification

After instructing the jury, the trial court asked both the State and Defendant's counsel:

> THE COURT: Outside the presence of the jury, are there any requests for corrections of additions to the instructions or any matters the parties would like to address?
>
> [THE STATE]: None from the State, Your Honor.

> [DEFENDANT'S COUNSEL]: Not from the defense, Your Honor. Thank you.
>
> THE COURT: Yes, sir. Different from the copies of the instructions I gave yesterday, I took out some parentheses. No other changes to the copies. Any objection to that?
>
> [THE STATE]: No.
>
> [DEFENDANT'S COUNSEL]: No, sir.

To preserve an omission from the jury charge for appellate review, a party must "object[] thereto before the jury retires to consider its verdict . . . provided that opportunity was given to the party to make the objection out of the hearing of the jury[.]" N.C. R. App. P. 10(a)(2).

A party's "request for an instruction at the charge conference is sufficient compliance with the rule to warrant our full review on appeal where the requested instruction is subsequently promised but not given, notwithstanding any failure to bring the error to the trial judge's attention at the end of the instructions." *State v. Ross*, 322 N.C. 261, 265, 367 S.E.2d 889, 891 (1988).

Defendant gave prior notice of and requested an instruction on justification, which the trial court denied. Defendant was given the opportunity to object after jury instructions had been given, and he failed to do so. Defendant has failed to preserve this issue for appellate review.

Our appellate rules provide:

> In criminal cases, an issue that was not preserved by objection noted at trial and that is not deemed preserved

> by rule or law without any such action nevertheless may be made the basis of an issue presented on appeal when the judicial action questioned is specifically and distinctly contended to amount to plain error.

N.C. R. App. P. 10(a)(4).

Defendant does not argue the trial court's failure to give his requested instruction on justification amounted to plain error. Defendant has failed to "specifically and distinctly contend [] . . . plain error" and he is not entitled to plain error review on this issue. *Id.*; *State v. Woodley*, 286 N.C. App. 450, 464, 880 S.E.2d 740, 750 (2022) (citation omitted).

Presuming, without deciding, Defendant had preserved this issue for appellate review, he is not entitled to any relief. The defense of justification "serves only as a legal excuse for the criminal act and is based on additional facts and circumstances that are distinct from the conduct constituting the underlying offense." *State v. Mercer*, 373 N.C. 459, 463, 838 S.E.2d 359, 363 (2020) (citation omitted). Our Supreme Court held in order to establish justification as a defense, a defendant must show:

> (1) that the defendant was under unlawful and present, imminent, and impending threat of death or serious bodily injury; (2) that the defendant did not negligently or recklessly place himself in a situation where he would be forced to engage in criminal conduct; (3) that the defendant had no reasonable legal alternative to violating the law; and (4) that there was a direct causal relationship between the criminal action and the avoidance of the threatened harm.

Id. at 464, 838 S.E.2d at 363 (citation omitted).

The trial court correctly held Defendant could not satisfy these elements. Defendant's testimony stated after the initial purported altercation with the group of people at his aunt's residence, the attackers had fled. It is unclear whether Defendant acquired the .22 revolver before his first interaction with Deputy Aaron at his aunt's residence or while he was at Beaudrot's residence. Defendant's testimony asserting the attackers had fled defeats his argument for justification. Defendant also cannot meet the second element. He voluntarily went to Beaudrot's residence, after he had been trespassed from before and after Deputy Aaron had told him not to go back there. Defendant alleged another altercation had occurred there, from where he purportedly acquired the .22 revolver. Defendant's argument is overruled.

V. Conclusion

Defendant did not preserve his argument for a jury instruction on justification and did not argue for plain error review. The trial court correctly denied Defendant's requested instruction.

Defendant received a fair trial, free from prejudicial errors he preserved and argued. There is no error in the jury's verdicts or in the judgments entered thereon. *It is so ordered.*

NO ERROR.

Judges STROUD and MURRY concur.

Report per Rule 30(e).