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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-319

Filed 4 November 2026

Guilford County, Nos. 20CR083461-400, 20CR083462-400

STATE OF NORTH CAROLINA

v.

GAIL ALSTON COACHMAN, Defendant.

Appeal by Defendant from judgment entered 10 October 2025 by Judge Tonia Cutchin in Guilford County Superior Court. Heard in the Court of Appeals 13 October 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Henry J. Gargan, for the State.

Mark L. Hayes for Defendant-Appellant.

CARPENTER, Judge.

Gail Alston Coachman ("Defendant") appeals from judgment entered after a jury found her guilty of two counts of embezzlement and two counts of attempted obtaining property by false pretenses. On appeal, she argues: (1) the trial court plainly erred in its jury instructions; and (2) she received ineffective assistance of counsel ("IAC"). After careful review, we discern no error.

I. Factual & Procedural Background

In March 2022, a grand jury indicted Defendant for two counts of embezzlement. In August 2025, a grand jury returned a superseding indictment for two counts of embezzlement and two counts of obtaining property by false pretenses. On 6 October 2025, the matter proceeded to trial, and the evidence tended to show the following.

C&C Development Solutions is a property management company owned by Kenneth Roundtree. C&C managed rental properties owned by five LLCs, including Mahaica Properties and Triad East Properties. C&C handled day-to-day operations for the LLCs, paying property-specific expenses from the appropriate account of each LLC.

From 2016 until October 2019, Roundtree employed Defendant as a bookkeeper for C&C and compensated her at an hourly rate. Roundtree also paid Defendant a flat fee of $425 or $500 to paint rental units. Roundtree authorized Defendant to use his signature stamp to pay expenses by generating checks on behalf of C&C and the other LLCs. Roundtree allowed Defendant to generate checks to herself as compensation for her work on an "honor system." Roundtree did not require Defendant to record her hours and had no records establishing how much she was due and owed for bookkeeping.

Eventually, Roundtree fired Defendant. Thereafter, Roundtree reviewed the accounts and Defendant's bookkeeping. In reviewing checks paid, Roundtree

distinguished between those he considered authorized and unauthorized. He treated checks for amounts that included cents as authorized bookkeeping payments reflecting allocation among the LLCs. Roundtree also classified checks for $425 or $500 as authorized painting payments. By contrast, he classified the remaining checks written in whole dollar amounts as unauthorized. The checks Roundtree deemed unauthorized were drawn from accounts belonging to Mahaica and Triad East. Specifically, Roundtree determined that Defendant wrote unauthorized checks totaling $58,642.29 from the Mahaica account and $9,265.32 from the Triad East account.

At trial, the State introduced over 100 allegedly fraudulent checks. The State also presented evidence that, after being fired, Defendant accessed C&C's accounting software without permission and altered entries to cover her tracks.

At the close of the State's evidence, the State agreed that both counts of false pretenses should be submitted only on an attempt theory because it had not presented evidence that the checks were cashed or cleared. At the charge conference, Defendant did not request or object to the trial court's jury instructions. The trial court then submitted two counts each of embezzlement and attempted obtaining property by false pretenses to the jury. The jury returned guilty verdicts on all four counts. The trial court arrested judgment on the two attempted false pretenses convictions and consolidated the two embezzlement convictions for sentencing.

The trial court imposed a suspended sentence of six to seventeen months' imprisonment, thirty-six months of supervised probation, and restitution. Defendant gave oral notice of appeal in open court.

II. Jurisdiction

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

III. Issues

The issues are whether: (1) the trial court plainly erred in its jury instructions; and (2) Defendant received IAC.

IV. Analysis

A. Jury Instructions

Defendant argues that the trial court plainly erred by failing to instruct the jury that it could not convict her of both attempted obtaining property by false pretenses and embezzlement. The State contends that Defendant was not prejudiced because the trial court arrested judgment on the false pretenses convictions. We agree with the State.

1. Plain Error

To preserve an issue for appellate review, a party must make "a timely request, objection, or motion, stating the specific grounds for the [desired] ruling" if those grounds are "not apparent from the context." N.C. R. App. P. 10(a)(1) (2025). The party must also "obtain a ruling upon [its] request, objection, or motion." *Id.* This Court, however, reviews unpreserved instructional issues for plain error if specifically

and distinctly contended to amount to plain error. *State v. Collington*, 375 N.C. 401, 409, 847 S.E.2d 691, 697 (2020); N.C. R. App. P. 10(a)(4).

Under plain error review, the defendant must show: (1) "a fundamental error occurred at trial[;]" (2) "the error had a 'probable impact' on the outcome, meaning that 'absent the error, the jury probably would have returned a different verdict[;]' " and (3) "the error is an 'exceptional case' that warrants plain error review . . . ." *State v. Reber*, 386 N.C. 153, 158, 900 S.E.2d 781, 786 (2024) (quoting *State v. Lawrence*, 365 N.C. 506, 518–19, 723 S.E.2d 326, 334 (2012)). An "exceptional case" is one where "the error seriously affects 'the fairness, integrity or public reputation of judicial proceedings.' " *Id.* at 158, 900 S.E.2d at 786 (quoting *Lawrence*, 365 N.C. at 518, 900 S.E.2d at 334). "Plain error . . . [is] available only in extraordinary cases." *Id.* at 158, 900 S.E.2d at 786 (citing *State v. Odom*, 307 N.C. 655, 660, 300 S.E.2d 375, 378 (1983)).

2. Arrest of Judgment

A bookkeeper may be guilty of embezzlement where, as an "agent" or "clerk," she "embezzle[s] or fraudulently or knowingly and willfully misappl[ies] or convert[s] to [her] own use" money belonging to another that came into her possession or care through her employment. N.C. Gen. Stat. § 14-90(a), (b) (2025). A person obtains property by false pretenses when she "knowingly and designedly," by means of a false pretense, obtains or attempts to obtain money or other property with the intent to cheat or defraud. *Id.* § 14-100(a) (2025). When the property is less than $100,000,

each of these crimes is a class H felony. *See id.* §§ 14-100(a), 14-90(c).

Unlike embezzlement, which requires the Defendant to acquire the property lawfully, obtaining property by false pretenses requires the Defendant to acquire the property unlawfully. *State v. Speckman*, 326 N.C. 576, 578, 391 S.E.2d 165, 166–67 (1990) (citing *State v. Griffin*, 239 N.C. 41, 45, 79 S.E.2d 230, 233 (1953) and N.C. Gen. Stat. § 14-90(b) (1986)). Because "property cannot be obtained simultaneously pursuant to both lawful and unlawful means, guilt of either embezzlement or false pretenses necessarily excludes guilt of the other." *Id.* at 578, 391 S.E.2d at 167 (citing *Griffin*, 239 N.C. at 45, 79 S.E.2d at 233); *see* N.C. Gen. Stat. § 14-100(a). If the evidence could support either theory, "the trial court should submit both charges for the jury's consideration" and "instruct the jury that it may convict the defendant only of one of the offenses or the other, but not of both." *Id.* at 579, 391 S.E.2d at 167.

Nevertheless, arresting judgment on one conviction may constitute an appropriate remedy. *See State v. Hayes*, 248 N.C. App. 414, 417, 788 S.E.2d 651, 653 (2016) (citing *State v. Coakley*, 238 N.C. App. 480, 491, 767 S.E.2d 418, 426 (2014)). An arrest of judgment may prevent the imposition of multiple punishments without vacating the underlying guilty verdict. *See State v. Young*, 319 N.C. 661, 663, 356 S.E.2d 347, 348 (1987). For example, "[i]f a trial court improperly convicts a defendant under two statutes for actions stemming from the same conduct, the proper relief is arrestment of the judgment . . . ." *Hayes*, 248 N.C. App. at 417, 788 S.E.2d at 653; *see State v. Melvin*, 364 N.C. 589, 595, 707 S.E.2d 629, 634 (2010) ("Because the

trial court vacated defendant's conviction of [the lesser included offense], he suffers no collateral consequences as a result of that conviction and has not been prejudiced.").

Here, although the jury returned guilty verdicts for both embezzlement and attempted obtaining property by false pretenses, the trial court remedied the error by arresting judgment on the two attempted obtaining property by false pretenses convictions. *See Hayes*, 248 N.C. App. at 417, 788 S.E.2d at 653. Additionally, Defendant has not shown that the jury probably would have returned a different verdict but for the trial court's instructions. *See Reber*, 386 N.C. at 158, 900 S.E.2d at 786. Indeed, the State presented evidence that Defendant embezzled by lawfully possessing and fraudulently converting funds from Mahaica and Triad East. *See* N.C. Gen. Stat. § 14-90(b). Moreover, Defendant suffered no prejudice for sentencing purposes as both crimes are Class H felonies. *See* N.C. Gen. Stat. §§ 14-100(a), 14-90(c). Accordingly, the trial court did not plainly err in its jury instructions. *See Reber*, 386 N.C. at 158, 900 S.E.2d at 786.

B. IAC

Defendant argues that she received IAC when her counsel failed to object to the trial court's jury instructions. We disagree.

"On appeal, this Court reviews whether a defendant was denied effective assistance of counsel de novo." *State v. Wilson*, 236 N.C. App. 472, 475, 762 S.E.2d 894, 896 (2014) (citing *State v. Martin*, 64 N.C. App. 180, 181, 306 S.E.2d 851, 852

(1983)). "Generally, a claim of [IAC] should be considered through a motion for appropriate relief before the trial court in post-conviction proceedings and not on direct appeal." *State v. Allen*, 262 N.C. App. 284, 285, 821 S.E.2d 860, 861 (2018) (citing *State v. Stroud*, 147 N.C. App. 549, 553, 557 S.E.2d 544, 547 (2001)). Nevertheless, "IAC claims brought on direct review will be decided on the merits when the cold record reveals that no further investigation is required . . . ." *State v. Fair*, 354 N.C. 131, 166, 557 S.E.2d 500, 524 (2001) (citing *State v. Blakeney*, 352 N.C. 287, 308–09, 531 S.E.2d 799, 814–15 (2000)).

To show IAC, "the defendant must show that counsel's performance was deficient . . . [by] showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *State v. Braswell*, 312 N.C. 553, 562, 324 S.E.2d 241, 248 (1985) (quoting *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984)). To demonstrate deficient performance, the defendant must show that counsel's "conduct 'fell below an objective standard of reasonableness.' " *State v. Lane*, 271 N.C. App. 307, 319, 844 S.E.2d 32, 42 (2020) (quoting *Strickland*, 466 U.S. at 688, 104 S. Ct. at 2064, 80 L. Ed. 2d at 693)).

"Second, the defendant must show that the deficient performance prejudiced the defense . . . [by] showing that counsel's error[s] were so serious as to deprive the defendant of a fair trial . . . whose result is reliable." *Braswell*, 312 N.C. at 562, 324 S.E.2d at 248 (quoting *Strickland*, 466 U.S. at 687, 104 S. Ct. at 2064, 80 L. Ed. 2d at

674). " [T]o establish prejudice, a defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *State v. Allen*, 360 N.C. 297, 316, 626 S.E.2d 271, 286 (2006) (quoting *Wiggins v. Smith*, 539 U.S. 510, 534, 123 S. Ct. 2527, 2542, 156 L. Ed. 2d 471, 493 (2003)). Yet, "[i]f this Court 'can determine at the outset that there is no reasonable probability that in the absence of counsel's alleged errors the result of the proceeding would have been different,' we do not determine if counsel's performance was actually deficient." *State v. Frazier*, 142 N.C. App. 361, 368, 542 S.E.2d 682, 687 (2001) (quoting *Braswell*, 312 N.C. at 563, 324 S.E.2d at 249).

Here, it is clear at the outset that Defendant has not shown a reasonable probability of a different result absent defense counsel's failure to object to the trial court's instructions. *See Fair*, 354 N.C. at 166, 557 S.E.2d at 524; *Frazier*, 142 N.C. App. at 368, 542 S.E.2d at 687; *Allen*, 360 N.C. at 316, 626 S.E.2d at 286. As discussed, the State presented evidence that Defendant embezzled from Mahaica and Triad East. *See* N.C. Gen. Stat. § 14-90. Furthermore, the trial court provided an appropriate remedy by arresting judgment on the mutually exclusive offense of attempted obtaining property by false pretenses. *See Hayes*, 248 N.C. App. at 417, 788 S.E.2d at 653. Accordingly, Defendant cannot show prejudice, *see Allen*, 360 N.C. at 316, 626 S.E.2d at 286, thus, she did not receive IAC, *see Braswell*, 312 N.C. at 562, 324 S.E.2d at 248.

V. Conclusion

By arresting judgment on false pretenses and entering judgment on two counts of embezzlement, the trial court remedied any instructional error. Accordingly, the trial court did not plainly err in its jury instructions, and Defendant did not receive IAC.

NO PLAIN ERROR.

Judges HAMPSON and MURRY concur.

Report per Rule 30(e).