An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA26-80

Filed 4 November 2026

Johnston County, Nos. 22CR000266-500, 22CR050653-500

STATE OF NORTH CAROLINA

v.

SCOTTY DWAYNE HUGHES

Appeal by defendant from judgment entered 13 December 2024 by Judge Thomas H. Lock in Johnston County Superior Court. Heard in the Court of Appeals 15 October 2026.

Attorney General Jeff Jackson, by Assistant Attorney General BreAnna VanHook, for the State.

Jarvis John Edgerton, IV, for defendant-appellant.

ZACHARY, Judge.

Defendant Scotty Hughes appeals from the trial court's judgment entered upon a jury's verdict finding him guilty of possession of a firearm by a felon and his stipulation to having attained the status of a habitual felon. After careful review, we conclude that Defendant has failed to preserve his constitutional argument for appellate review. Accordingly, we discern no error.

I. Background

On 7 March 2022, a Johnston County grand jury returned an indictment charging Defendant with possession of a firearm by a felon and attaining the status of a habitual felon. Defendant had also been charged with possession of drug paraphernalia, and these charges were joined for trial.

Defendant's case came on for jury trial on 9 December 2024 in Johnston County Superior Court. The evidence presented at trial tended to show the following.

On 10 February 2022, Lieutenant Joseph Beasley ("Lt. Beasley") of the Johnston County Sheriff's Office accompanied a DSS worker on routine home inspections. One such inspection was scheduled at a home on Arrowhead Drive in Princeton, North Carolina, which consisted of a single-wide mobile home with a two-story stick-built addition.

Defendant's half-brother, Timothy Seiger, testified that the property had been owned by their mother, Alice Hill, who resided in the addition until her death in January 2022. Defendant, who had previously lived in the mobile home section of the house, moved into the addition shortly after Hill's death.

Seiger testified that he was aware that there were some long guns secured in a gun safe in Hill's former bedroom. He explained that Defendant had inherited the guns from his grandfather, but that they were to be given to Defendant's son when he could retrieve them. Sieger "figured that from [Defendant's] history," Defendant could not legally possess firearms; thus, Seiger moved the gun safe from that bedroom

into the mobile home section of the house on 28 January 2022, which was about the time that Defendant moved into the addition. Sieger "put [the guns] in the back right corner [of the mobile home section] and covered them up."

When Lt. Beasley and the DSS worker arrived at the Arrowhead Drive property, no one was home. A few minutes later, Defendant arrived. The DSS worker explained the purpose of her visit and Defendant "unlocked the door to the mobile home" section. From the doorway, Lt. Beasley "observed some paraphernalia laying on a table, and a piece of burnt aluminum foil laying up close to th[e] coffee table," which, in his training and experience, is often used in the consumption of illegal drugs.

Lt. Beasley then entered the mobile home section. "[W]hen [he] got to the end bedroom," Defendant "was standing to the right of the doorway. Positioned in approximately a 45[-]degree angle as to block the visual from that side of the bedroom." Lt. Beasley informed Defendant that, in order for DSS to allow his daughter to stay with him, they were "going to have to make a – an inspection of the home." Defendant then "consented for [Lt. Beasley] to go back in there and look around with [the DSS worker]."

To enter the bedroom, Lt. Beasley "literally stepped around [Defendant]," who had again positioned himself in the doorway. Lt. Beasley "[t]ook one look inside, and at that time [Defendant] had picked up a blanket, and he threw [it] to the right of the bedroom." That "grabbed [Lt. Beasley's] attention so [he] stepped on further into the

bedroom, and noticed five long guns propped up alongside the bed." Lt. Beasley asked Defendant, "[W]hy do you have guns here?" Defendant "immediately went to talking about [how] they were heirlooms. His grandpa died, and he had received them as caretaker of those weapons."

Lt. Beasley testified that he had "direct knowledge" that Defendant was a felon and so, upon discovering the guns, he placed Defendant in handcuffs. After seizing the guns and the suspected drug paraphernalia, Lt. Beasley placed Defendant in his patrol car, read him his *Miranda* rights, and transported him to the Johnston County Jail. At the magistrate's office, Lt. Beasley "told [Defendant] that [he was] a bit of a gun guy[,]" that he "was really interested in that antique rifle, and asked [Defendant] where it came from." Defendant responded that "his grandfather had brought [that rifle] back from World War II."

At the close of the State's evidence, defense counsel moved to dismiss the charges, which the trial court granted as to the possession of drug paraphernalia charge and denied as to the possession of a firearm by a felon charge. Defense counsel renewed the motion to dismiss the possession of a firearm by a felon charge at the close of all evidence; the trial court denied the motion.

On 11 December 2024, the jury returned its verdict finding Defendant guilty of the charge of possession of a firearm by a felon and Defendant stipulated to having attained the status of a habitual felon. The trial court sentenced Defendant to 66 to

92 months' imprisonment in the custody of the North Carolina Department of Adult Correction.

Defendant gave notice of appeal in open court.

II. Discussion

On appeal, Defendant argues that "[t]he trial court plainly erred when it allowed into evidence inculpatory statements from Defendant about inheriting firearms from his grandfather when such statements were solicited both before and after *Miranda* warnings as part of a deliberate two-step interrogation by law enforcement."

As an initial matter, Defendant acknowledges that he "did not object at trial when the State tendered evidence of his initial, pre-*Miranda*, inculpatory statements." Further, Defendant initially objected to the admission of his post-*Miranda* statements; however, once Lt. Beasley established that they were made after Defendant had been read his *Miranda* warnings, Defendant failed to renew his objection when Lt. Beasley again testified to these statements. Consequently, Defendant has failed to preserve this issue for appellate review.

"In order to preserve an issue for appellate review, a party must have presented to the trial court a timely request, objection, or motion, stating the specific grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the context." N.C.R. App. P. 10(a)(1). Nevertheless,

> [i]n criminal cases, certain evidentiary and instructional

> issues that were not properly preserved by objection at trial and that are not otherwise "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."

State v. Redfear, ___ N.C. App. ___, ___, 928 S.E.2d 365, 370 (2026) (quoting N.C.R. App. P. 10(a)(4)).

Here, Defendant asserts plain error. Yet "the evidence to which Defendant failed to object, and for which he seeks plain-error review, presents a constitutional issue and an evidentiary issue intertwined." *Id.* "As our Supreme Court has explained, 'constitutional questions not raised and passed upon in the trial court will not ordinarily be considered on appeal.' " *Id.* (quoting *State v. Lemons*, 352 N.C. 87, 91, 530 S.E.2d 542, 545 (2000), *cert. denied*, 531 U.S. 1091, 148 L. Ed. 2d 698 (2001)).

Consequently, "Defendant cannot prevail on this issue without our invoking Rule 2, because his constitutional argument was waived." *Id.* (citation omitted).

> Rule 2 is a discretionary rule which permits this Court to suspend or vary the requirements or provisions of any Rules of Appellate Procedure in a case pending before it upon application of a party or upon its own initiative to prevent manifest injustice to a party, or to expedite decision in the public interest.

Id. (extraneity omitted). As our Supreme Court has explained, " 'Rule 2 must be applied cautiously, and it may only be invoked in exceptional circumstances.' " *Id.* (quoting *State v. Bursell*, 372 N.C. 196, 200, 827 S.E.2d 302, 305 (2019)).

Notwithstanding Defendant's failure to request our invocation of Rule 2, after careful review, we conclude that Defendant has not shown that appellate review is necessary "to prevent manifest injustice" or "to expedite decision in the public interest." *Id.* Accordingly, we decline, in our discretion, to invoke Rule 2 to review this issue.

III. Conclusion

For the reasons stated above, we conclude that Defendant has failed to preserve his constitutional argument for appellate review. Accordingly, we discern no error.

NO ERROR.

Judges ARROWOOD and STADING concur.

Report per Rule 30(e).