IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1194

Filed 18 November 2026

McDowell County, No. 24CR201746-580

STATE OF NORTH CAROLINA

v.

TIFFANY NICOLE MORAN

Appeal by Defendant from judgments entered 17 July 2024 by Judge J. Thomas Davis in McDowell County Superior Court. Heard in the Court of Appeals 17 September 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Jayla L. Cole, for the State-Appellee.

Iqra Razzaq for Defendant-Appellant.

COLLINS, Judge.

Defendant Tiffany Nicole Moran appeals from judgments entered following a jury's guilty verdicts of possession of fentanyl and knowingly keeping a vehicle which is used for the keeping of controlled substances. Defendant argues that the trial court erred by denying her motion to dismiss for insufficient evidence the charge of knowingly and intentionally keeping a vehicle which is used for the keeping of controlled substances. We find no error.

I. Background

Defendant was indicted on 1 April 2024 for felony possession of a schedule II controlled substance; possession with intent to sell or deliver a schedule II controlled substance; and knowingly and intentionally keeping and maintaining a vehicle that was used for using, keeping, or selling a controlled substance, fentanyl. The State voluntarily dismissed the charge of felony possession of a schedule II controlled substance during pretrial motions. The evidence presented at trial tended to show the following:

Three probation officers arrived at Defendant's home on 3 January 2024 to search her person, home, and vehicle. At the time, Defendant was on supervised probation and subject to warrantless searches. The officers were able to get Defendant to come to the door. After searching Defendant's person and home, the officers searched her car parked in the driveway. In the driver's-side door compartment of the car, officers recovered a scale with white powder residue on it, a container with two bags of white chalky powder, and a folded piece of notebook paper with white powder. When questioned about these items, Defendant said that one of the bags with a white chalky powder contained sugar and the other contained fentanyl. The substances recovered from the vehicle and other items recovered from the house were tested. The substance in the notebook paper weighed 0.21 grams and tested positive for fentanyl.

At the close of the State's evidence, Defendant moved to dismiss the charges

for insufficient evidence. The State indicated that it was only arguing that Defendant "kept" the vehicle, as opposed to "maintained" the vehicle. The trial court otherwise denied Defendant's motion. Defendant moved to dismiss the charges at the close of all the evidence. The trial court denied the motion.

At the charge conference, the State indicated that it did not intend to argue that Defendant kept the vehicle for the purpose of selling drugs. In its closing argument, the State indicated that it was "going under the theory of keeping," not using or selling. The trial court ultimately instructed the jury on "intentionally keeping a vehicle which is used for the keeping of controlled substances" and "knowingly keeping a vehicle, which is used for the keeping of controlled substances."

The jury found Defendant guilty of the lesser-included offenses of possession of fentanyl and knowingly keeping a vehicle which is used for the keeping of controlled substances. The trial court sentenced Defendant to six to seventeen months' imprisonment for fentanyl possession, suspended for thirty-six months' supervised probation, and to an additional thirty days in custody for knowingly keeping a vehicle for keeping controlled substances. Defendant gave proper oral notice of appeal in open court.

II. Discussion

Defendant argues that the trial court erred by denying her motion to dismiss the charge of knowingly and intentionally keeping a vehicle which is used for the keeping of a controlled substance.

In ruling on a motion to dismiss, the trial court must view the evidence in the light most favorable to the State, giving the State the benefit of all reasonable inferences. *State v. Mann,* 355 N.C. 294, 301 (2002). "The trial court must determine whether there is substantial evidence of each essential element of the crime." *State v. Smith*, 294 N.C. App. 724, 726 (2024) (cleaned up). "Substantial evidence is that amount of relevant evidence necessary to persuade a rational juror to accept a conclusion." *State v. Scott*, 356 N.C. 591, 597 (2002) (citation omitted). "If there is substantial evidence—whether direct, circumstantial, or both—to support a finding that the offense charged has been committed and that the defendant committed it, the case is for the jury and the motion to dismiss should be denied." *State v. Locklear*, 322 N.C. 349, 358 (1988) (citation omitted).

We review the denial of a motion to dismiss de novo. *State v. Stroud*, 252 N.C. App. 200, 208 (2017). Under de novo review, this Court considers the matter anew and freely substitutes its own judgment for that of the lower court. *State v. Williams*, 362 N.C. 628, 632-33 (2008).

Defendant was convicted of knowingly keeping a vehicle which is used for the keeping of a controlled substance, in violation of N.C. Gen. Stat. § 90-108(a)(7). To survive a motion to dismiss, the State must present sufficient evidence of four elements: defendant "(1) knowingly (2) kept . . . (3) a vehicle (4) which was used for the keeping . . . (5) of controlled substances." *State v. Garmon*, 390 N.C. 116, 125-26 (2026) (quoting *State v. Rogers*, 371 N.C. 397, 401 (2018) (cleaned up)); *see also* N.C.

Gen. Stat. § 90-108(a)(7) (2025).

At issue in this case is the fourth element.

The word "keep" in section 90-108(a)(7) "has different definitions under elements two and four." *Garmon*, 390 N.C. at 126. "Under element two, it may be defined as 'possessing something for at least a short period of time–or intending to retain possession of something in the future–for a certain use.'" *Id.* (citation omitted). "However, as applied to element four, keeping controlled substances, when someone 'keeps' an object in his car, that word does not refer to possessing something for a designated use; it refers to *storing* that object in his car." *Id.* at 126 (cleaned up). "The defendant does not need to store drugs for a minimum time period, but it is also not sufficient for him to 'merely have drugs in a car.'" *Id.* (quoting *Rogers*, 371 N.C. at 406). "[T]he key question is, under the totality of the circumstances, 'whether the defendant was using that vehicle . . . for the storing of drugs.'" *Id.*

In *Rogers*, officers found two bags of crack cocaine hidden behind the door to the vehicle's gas-cap compartment. 371 N.C. at 399. The compartment was accessible only through a switch inside the vehicle. *Id.* Officers saw the defendant leave the vehicle and remain in a hotel for approximately forty-five minutes without accessing the drugs, suggesting the vehicle's purpose extended beyond mere transportation of the drugs. *Id.* at 403-04. Considering the totality of the circumstances, the evidence supported a reasonable inference that the defendant was using the vehicle to store drugs. *Id.* at 404.

In *State v. Mitchell*, officers found a marijuana cigarette in the defendant's car, knew that he had possessed two bags of marijuana while in the car, and subsequently found drug paraphernalia in his home. 336 N.C. 22, 26 (1994). While the evidence supported an inference that the defendant possessed marijuana while in the car, it was insufficient to support a reasonable inference that he used the vehicle as a place to store drugs. *Id.* at 33.

In *Garmon*, during a traffic stop of the defendant's car, officers found a bookbag on the passenger-side floorboard containing fentanyl, heroin, marijuana, a digital scale, plastic bags, and other drug paraphernalia. 390 N.C. at 119. The bookbag was located in the passenger compartment, within easy reach, and functioned as a self-contained container designed for transportation. *Id.* at 128. These circumstances showed possession of drugs in the vehicle, but not that the defendant used the vehicle as a place to store them. *Id.* Accordingly, the State failed to present sufficient evidence that the vehicle was used for keeping controlled substances. *Id.*

Here, Defendant was inside her home when officers arrived. Officers first searched her person and home and then searched her vehicle. In the driver's-side door compartment of the car, they found a scale containing white powder residue, two plastic bags containing white powder, and a folded piece of notebook paper containing fentanyl. Defendant later admitted that one of the bags contained fentanyl and another contained sugar. Defendant further told officers that no one else had driven the vehicle during the preceding two or three weeks.

Unlike in *Mitchell*, the evidence here does not show that Defendant merely possessed fentanyl while she was in the car. *See* 336 N.C. at 33. And, unlike in *Garmon*, the evidence here does not show that the contraband was in the car when Defendant exited the car or that the contraband was found in a self-contained container designed for transportation. *See* 390 N.C. at 128.

This case is more similar to *Rogers*. Here, the only plausible inference is that the fentanyl had been placed in the driver's-side door compartment before the officers arrived. Thus, the fentanyl had been stored in the car for at least some period of time before it was discovered. And it is apparent from the fact that Defendant went inside the home while the drugs stayed in the car that Defendant was not using the car only to transport drugs from one place to another. Furthermore, although the driver's-side door compartment is not as effective a hiding place as the gas-cap compartment in *Rogers*, an inference can still be drawn that Defendant chose to store the fentanyl in a hidden place. After all, "a defendant who wants to store contraband will, all other things equal, want to store it in a hidden place . . . ." *Rogers*, 371 N.C. at 404.

Viewed in the light most favorable to the State, the evidence was sufficient to support a finding that Defendant's vehicle was used for the keeping of controlled substances, within the meaning of N.C. Gen. Stat. § 90-108(a)(7). Accordingly, the trial court did not err by denying Defendant's motion to dismiss the charge of knowingly and intentionally keeping a vehicle which is used for the keeping of controlled substances.

III. Conclusion

The State presented sufficient evidence to support the charge of knowingly and intentionally keeping a vehicle which is used for the keeping of controlled substances. The trial court thus did not err by denying Defendant's motion to dismiss the charge.

NO ERROR.

Judges STADING and MURRY concur.