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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-890

Filed 18 November 2026

Haywood County, Nos. 22CR051600-430, 22CR051601-430

STATE OF NORTH CAROLINA

v.

BRENTON DANIEL PLOTT

Appeal by defendant from judgments entered 22 January 2025 by Judge Peter B. Knight in Haywood County Superior Court. Heard in the Court of Appeals 15 September 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Tim N. Neverov, for the State.

Sean P. Vitrano for defendant-appellant.

ZACHARY, Judge.

Defendant Brenton Daniel Plott appeals from the trial court's judgments entered upon a jury's verdicts finding him guilty of two counts of felony trafficking in fentanyl and two counts of felony trafficking in opioids. On appeal, Defendant argues that the trial court erred (1) by denying his motion to suppress evidence seized during the traffic stop and (2) by "imposing court costs of $375.50 in both judgments." After

careful review, we conclude that Defendant has waived appellate review of his challenge to the admission of evidence seized during the traffic stop. However, we vacate the judgment in 22CR051600-430 and remand for entry of a new judgment that does not include court costs.

I. Background

In early July 2022, Detective Reagan with the Criminal Suppression Unit of the Haywood County Sheriff's Office received information from a confidential source that Defendant—reportedly a "runner" for Joshua Reece—had "traveled to Georgia, purchased large amounts of methamphetamine, and transported it back to . . . Reece in Buncombe County, North Carolina"; Reece was a known drug trafficker in the area. Detective Reagan learned that Defendant was driving Reece's black 2002 Ford Mustang. A deputy entered the vehicle's tag number into EPIC, a program designed to notify law enforcement when a license-plate reader scans a reported tag number.

On 11 July 2022, Detective Reagan and Sergeant Campbell, also with the Haywood County Sheriff's Office, received a notification that EPIC identified Reece's Mustang entering Haywood County. Sergeant Campbell, who was off-duty and in his personal vehicle, spotted the Mustang on Russ Avenue in Waynesville. Because he was off-duty, Sergeant Campbell notified Deputies Mackey and Rhodes, who located the Mustang traveling eastbound on I-40 toward Asheville. The deputies observed the vehicle changing lanes without signaling and paced it traveling at 78 miles per hour in a 60-mile-per-hour zone. Accordingly, the deputies initiated a traffic stop.

Deputies Mackey and Rhodes approached the vehicle, identified Defendant as the driver, and advised him of the reason for the stop. Defendant informed the deputies that he had purchased the vehicle from Reece the day before but that it was still registered to Reece.

While Deputies Mackey and Rhodes were conducting the stop, Detective Reagan called Deputy Stoller to "assist due to his training and experience as a member of the [Criminal Suppression Unit]."

Deputy Mackey attempted to issue a warning citation to Defendant but had computer software issues that required him to update his password and restart his computer. In the meantime, Deputy Stoller arrived. Deputies Mackey and Rhodes informed him that Defendant's passenger seemed very nervous. They also noted that the vehicle was registered in Leicester, North Carolina, while Defendant was from Rabun, Georgia, and his passenger was from Franklin, North Carolina. Defendant claimed to be heading to Asheville to pick up a new hood for the car. Deputy Stoller became suspicious and called for a K-9 officer to come to the scene.

While Deputy Stoller was speaking with Defendant, he observed that Defendant used excessive hand gestures; made multiple phone calls during the short duration of the stop; had a quick, visible pulse; and appeared very nervous. Defendant admitted that he had a history of drug addiction. In the vehicle's center console, Deputy Stoller observed a blue tourniquet, a common medical tool that is known for its use by intravenous drug users to tie "off the arm for using a syringe to introduce

illegal narcotics such as pills, heroin, meth, and fentanyl, into the body."

At that time, Deputy Stoller informed Defendant that he believed he had probable cause to search the vehicle but would wait for the K-9 unit to arrive. Defendant became argumentative and Deputy Stoller asked Defendant to step out of the car. Defendant then consented to a search of his person. During the search of Defendant's person, Deputy Stoller found a number of blue pills, later identified as 5.41 grams of oxycodone.

Shortly thereafter, the K-9 unit arrived on scene. The K-9 did an open-air sniff around the vehicle and alerted to the backseat. Deputy Stoller searched the vehicle and found 31.77 grams of a mixture of methamphetamine, fentanyl, and ANPP,[1] together with $6,680.00 in cash. Defendant was arrested and transported to the detention center, where he was served with a warning citation for the two traffic infractions.

On 26 September 2022, a Haywood County grand jury returned indictments charging Defendant with trafficking in opioids by possession, trafficking in opioids by transportation, trafficking in fentanyl by possession, trafficking in fentanyl by transportation, and two counts of conspiracy to traffic oxycodone. The State later dismissed the conspiracy charges.

Defendant filed a pretrial motion to suppress on 9 February 2024, arguing that

[1] ANPP "is an opioid-type compound similar to fentanyl that is generally . . . one of the precursors" to manufacturing fentanyl.

any evidence seized during the vehicle search should be suppressed because the stop was "unlawfully extended . . . several times without probable cause to search the vehicle." On 12 February 2024, Defendant's motion came on for hearing in Haywood County Superior Court. On 8 March 2024, the trial court entered a written order denying Defendant's motion.

On 13 January 2025, Defendant's case came on for trial in Haywood County Superior Court.

Defense counsel "move[d] for a verdict of acquittal" and "a motion to dismiss based on the violation of [Defendant]'s constitutional rights as it relates to the stop" at the close of the State's evidence. The trial court denied both motions. At the close of all evidence, defense counsel renewed the motion to dismiss. The trial court denied the motion and noted counsel's objection for the record.

On 16 January 2025, the jury returned verdicts finding Defendant guilty of all charges. On 22 January 2025, the trial court entered its judgment sentencing Defendant to 225 to 282 months' imprisonment in the custody of the North Carolina Department of Adult Correction for trafficking in fentanyl by possession. In a separate judgment, the court consolidated the remaining convictions and sentenced Defendant to a consecutive term of 225 to 282 months' imprisonment. Across both judgments, the court imposed a total of $1,100,000.00 in fines and $751.00 in court costs.

Defendant gave oral notice of appeal.

II. Discussion

On appeal, Defendant argues that the trial court erred by (1) "denying his motion to suppress and admitting evidence from the search of his person and vehicle, in violation of his constitutional rights"; and (2) "imposing court costs of $375.50 in both judgments."

A. Motion to Suppress

Defendant first asserts that "[o]fficers prolonged the traffic stop without reasonable suspicion and longer than necessary to issue a warning citation," and therefore, "the trial court erred in denying the motion to suppress evidence seized from [Defendant]'s person and vehicle."

"[P]reserving a Fourth Amendment challenge for appellate review requires two steps. First, the defendant must pursue a pretrial motion to suppress the evidence under the Criminal Procedure Act and secure a ruling from the trial court. Second, the defendant must renew that challenge with a timely objection during trial." *State v. Thomas*, ___ N.C. ___, ___, 933 S.E.2d 764, 771 (2026) (citations omitted). "To be timely, an objection to the admission of evidence must be made at the time it is actually introduced at trial." *State v. Corbett*, 376 N.C. 799, 825, 855 S.E.2d 228, 248 (2021); *see* N.C.R. App. P. 10(a)(1).

Here, Defendant secured a ruling on his pretrial motion to suppress. However, Defendant acknowledges that he failed to renew his pretrial Fourth Amendment challenge to this evidence with a timely objection at trial. Thus, Defendant requests

plain error review of the trial court's denial of his motion to suppress and admission of the "evidence from the search of his person and vehicle."

Defendant has waived plain error review of his challenge to the admission of the evidence seized as a result of the search of his person—the oxycodone pills—which he omitted from his motion to suppress. As our Supreme Court has concluded, Fourth Amendment claims that are not brought forth in a motion to suppress are waived and are "not reviewable on direct appeal, even for plain error . . . ." *State v. Miller*, 371 N.C. 266, 267, 814 S.E.2d 81, 82 (2018). In the absence of a motion to suppress, "the State does not get the opportunity to develop a record pertaining to the defendant's Fourth Amendment claims," which "is one of the main purposes of a suppression hearing." *Id.* at 270, 814 S.E.2d at 84. "Without a fully developed record, an appellate court simply lacks the information necessary to assess the merits of a defendant's plain error arguments." *Id.* at 270, 814 S.E.2d at 83–84. Hence, we cannot review for plain error the merits of Defendant's arguments concerning evidence seized as a result of the search of his person, that is, the oxycodone pills.

We turn next to the challenged evidence that the deputies seized during the search of Defendant's vehicle for which Defendant now seeks plain error review.

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

"For error to constitute plain error, a defendant must demonstrate that a fundamental error occurred at trial . . . ." *State v. Caballero*, 383 N.C. 464, 473, 880 S.E.2d 661, 668 (2022) (citation omitted). Additionally, the defendant is "required to show prejudice—that, after examination of the entire record, the error had a probable impact on the jury's finding that the defendant was guilty." *Id.* at 473–74, 880 S.E.2d at 668 (extraneity omitted). "Finally, the defendant must show that the error is an exceptional case that warrants plain error review, typically by showing that the error seriously affects the fairness, integrity or public reputation of judicial proceedings." *State v. Reber*, 386 N.C. 153, 158, 900 S.E.2d 781, 786 (2024) (extraneity omitted).

When the trial court denies a defendant's pretrial motion to suppress and the defendant fails to object to the evidence at trial, "our appellate courts may still conduct plain error review." *Miller*, 371 N.C. at 272, 814 S.E.2d at 85. However, "a defendant who invites error has waived his right to all appellate review concerning the invited error, including plain error review." *State v. McCutcheon*, 281 N.C. App. 149, 152, 867 S.E.2d 572, 576 (2021).

"Eliciting the same or similar contested evidence on cross-examination waives the right to challenge the admission of that evidence on appeal." *Id.* Moreover, "where evidence is admitted without objection, the benefit of a prior objection to the same or similar evidence is lost, and the defendant is deemed to have waived his right to [challenge] as error the prior admission of the evidence." *State v. Cook*, 218 N.C. App.

245, 249–50, 721 S.E.2d 741, 745 (2012) (extraneity omitted). The invited error doctrine recognizes that a defendant cannot be prejudiced by the admission of evidence that is the same or similar to evidence which he has himself elicited. *See* N.C. Gen. Stat. § 15A-1443(c) (2025) ("A defendant is not prejudiced . . . by error resulting from his own conduct.").

Here, Defendant repeatedly elicited testimony on cross-examination regarding the evidence seized during the search of his vehicle and failed to object to other testimony elicited by the State concerning that evidence. During the State's direct-examination, Detective Reagan testified—without objection—that he received a message from Deputy Stoller that "they had located a large sum of suspected fentanyl and a large sum of U.S. currency." On cross-examination, defense counsel further questioned Detective Reagan regarding the seized evidence:

> Q. You didn't see anything; you just relied on what he told you?
>
> A. I observed.
>
> Q. What did you observe?
>
> A. It was like a -- some fold-zip case that contained *a white powdery substance, suspected fentanyl, in it, and he had a large sum of U.S. currency* in a zip bank bag.
>
> . . . .
>
> Q. And did you weigh -- I think *you called it fentanyl, but it was actually methamphetamine and fentanyl*?
>
> A. Yes, sir.

(Emphasis added).

Moreover, a State Crime Lab forensic scientist testified—again, without objection—that the bag of suspected fentanyl "was analyzed and found to contain methamphetamine, fentanyl, and ANPP." During cross-examination, Defendant had the forensic scientist repeat the method used to analyze the suspected fentanyl and the results of the testing:

> Q. . . . Now, everybody has been calling -- not everybody. The State's been calling this substance, I think it was Item 2 -- or 1 -- *they call it fentanyl. Was that fentanyl*?
>
> A. So Item 1 was *a mixture of methamphetamine, fentanyl, and ANPP*.
>
> Q. So when you say it's a mixture, is there a different chemical analysis of -- if something comes back fentanyl rather than methamphetamine?
>
> A. So it all undergoes the same sort of chemical analysis. So how I mentioned that GC-MS can separate the components in a mixture -- when this powder was run on the GC-MS, I observed three different peaks in my graph corresponding to the methamphetamine, the fentanyl, and the ANPP. Then I look at the data provided in those peaks from that mass spec detector portion. And so I would -- how it works is I would click -- so it's all on the computer. I click on the peak that's, say, corresponding to the methamphetamine. I receive a separate graph that corresponds to the actual structure of methamphetamine. I compared that structural graph to a reference material to help make my identification. And then I repeat that process for all of the peaks that I observe to be able to identify the different compounds.

(Emphasis added).

Here, Defendant has failed to show that plain error review of the admission of

the evidence seized from his vehicle is warranted when he repeatedly elicited testimony as to that evidence and did not object to other testimony concerning that evidence. Therefore, Defendant's initial objection to the admission of this evidence in his pretrial motion to suppress is waived.

B. Duplicate Court Costs

Defendant next challenges the trial court's imposition of court costs on both judgments. The State concedes error and we agree.

"The applicable statute authorizes court costs 'in every criminal case' in which the defendant is convicted." *State v. Rieger*, 267 N.C. App. 647, 648, 833 S.E.2d 699, 700 (2019) (quoting N.C. Gen. Stat. § 7A-304(a)). "[W]hen multiple criminal charges arise from the same underlying event or transaction and are adjudicated together in the same hearing or trial, they are part of a single 'criminal case' for purposes of the costs statute." *Id.*

In the instant case, the trial court entered two judgments upon a jury's verdicts finding Defendant guilty of four offenses. The four convictions arose "from the same underlying event," and were adjudicated in the same trial. *Id.* Thus, the four charges constituted a single criminal case, for which the trial court could assess Defendant with costs but once. Accordingly, "we vacate the imposition of costs in the judgment in" 22CR051600-430. *Id.* at 653, 833 S.E.2d at 703.

III. Conclusion

For the foregoing reasons, we conclude that Defendant has waived appellate

review of his challenges to the admission of certain evidence at trial. However, we vacate the judgment in 22CR051600-430 and remand for entry of a new judgment that does not include court costs.

NO ERROR IN PART; VACATED IN PART AND REMANDED.

Judges FLOOD and FREEMAN concur.

Report per Rule 30(e).