

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

NO. COA11-218  
NORTH CAROLINA COURT OF APPEALS

Filed: 18 October 2011

STATE OF NORTH CAROLINA

v.

Wake County  
No. 07 CRS 85880

ISRAEL SAULO GRAVERAN

Appeal by defendant from judgment entered 25 October 2010  
by Judge Henry V. Barnette, Jr., in Wake County Superior Court.  
Heard in the Court of Appeals 19 September 2011.

*Attorney General Roy Cooper, by Assistant Attorney General  
Lora C. Cabbage, for the State.*

*James W. Carter, for defendant-appellant.*

THIGPEN, Judge.

Defendant Israel Graveran ("defendant") appeals from the  
superior court's judgment revoking his probation and activating  
his suspended sentence. We affirm.

On 5 June 2007, defendant entered a plea of guilty to the  
charges of assault with a deadly weapon inflicting serious  
injury and second-degree burglary. The trial court imposed a

suspended sentence of 25 to 39 months imprisonment and placed defendant on supervised probation for 36 months.

On or about 29 July 2010, defendant's probation officer filed a violation report, which alleged the following violations: (1) defendant was in arrears on his monetary obligation; (2) defendant pled guilty to driving while impaired ("DWI") on 23 February 2010; (3) defendant was found guilty of misdemeanor intoxicated and disruptive behavior and second-degree trespass on 8 April 2010; (4) defendant was charged with DWI and driving while license revoked on 23 April 2010, and the charges are still pending; and (5) defendant was found guilty in district court of resisting a public officer and simple assault on 10 June 2010, and defendant appealed to superior court, where the case is still pending.

The trial court conducted a probation revocation hearing on 25 October 2010. Defendant admitted his violations, and the trial court found that defendant had willfully violated his probation by having an arrearage on his monetary obligation and by having been convicted of several criminal offenses. The trial court declined to consider the violations which were based only on pending criminal charges, not convictions. Counsel for defendant then requested that the trial court reduce defendant's

sentence or terminate his probation. In support of his request, counsel asked the court to consider defendant's alcohol dependency, mental illnesses, military history, and need for treatment. The trial court declined defendant's request, revoked defendant's probation, and activated his sentence of 25-39 months imprisonment. Defendant appeals.

On appeal, defendant first argues that the trial court erred by failing to personally examine defendant regarding his admission that he violated his probation. Defendant argues that the trial court should comply with N.C. Gen. Stat. § 15A-1022(e) (2009), which applies to guilty pleas in criminal prosecutions, to ensure that admission of a probation violation is consistent with due process requirements. We have already rejected this argument in *State v. Sellers*, 185 N.C. App. 726, 728-29, 649 S.E.2d 656, 657 (2007) (holding that there is no requirement that "the trial court personally examine a defendant regarding his admission that he violated his probation"). Nevertheless, defendant argues that his case is distinguishable from *Sellers* due to his difficult personal circumstance and the trial court's rejection of the parties' agreement to a reduced sentence. We are not persuaded. This Court based its decision in *Sellers* on the well-established law regarding the informal nature of

probation revocation proceedings, not the personal circumstances of the defendant. See *id.* Therefore, we find no error in the trial court's failure to personally examine defendant.

Next, defendant contends that the trial court erred in finding that defendant willfully violated his probation. "Any violation of a valid condition of probation is sufficient to revoke defendant's probation. All that is required to revoke probation is evidence satisfying the trial court in its discretion that the defendant violated a valid condition of probation without lawful excuse." *State v. Tozzi*, 84 N.C. App. 517, 521, 353 S.E.2d 250, 253 (1987) (citations omitted). Such evidence is sufficient to support a finding of a violation unless the defendant successfully carries the burden of showing lawful excuse or lack of willfulness. See *State v. Crouch*, 74 N.C. App. 565, 567, 328 S.E.2d 833, 835 (1985). "Findings made in support of revoking probation must be supported by competent evidence, and will not be disturbed on appeal without a showing that the trial court committed a 'manifest abuse of discretion.'" *State v. Sherrod*, 191 N.C. App. 776, 777-78, 663 S.E.2d 470, 472 (2008) (internal quotation omitted).

Defendant argues that the trial court failed to properly apply the lawful excuse rule and failed to make sufficient

findings regarding the willfulness of defendant's violations. Defendant suggests that the trial court failed to consider his alcohol dependency and mental illness in determining whether defendant's violations were willful. We reject defendant's argument, as defendant admitted his violations and never disputed the willfulness of them. Instead, he brought his alcohol dependency and mental illness to the court's attention in an effort to have his active sentence reduced or his probation terminated and to ensure that he received treatment while in prison. Thus, defendant failed to make any attempt at carrying his burden of showing lawful excuse or lack of willfulness. Accordingly, the trial court did not abuse its discretion in finding that defendant willfully violated the conditions of his probation.

We further conclude that the findings of fact contained in the judgment were sufficient to support the revocation of defendant's probation. See *State v. Lucas*, 58 N.C. App. 141, 145, 292 S.E.2d 747, 750 ("The judge need not make extensive findings of fact, but they must be sufficient [to support the trial court's finding of fact that defendant willfully and without lawful excuse violated his probation] in light of the evidence presented."), *disc. review denied*, 306 N.C. 390, 293

S.E.2d 593 (1982). Accordingly, we affirm the judgment of the trial court.

AFFIRMED.

Chief Judge MARTIN and Judge HUNTER, JR. concur.

Report per Rule 30(e).