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NO. COA11-334  
NORTH CAROLINA COURT OF APPEALS

Filed: 15 November 2011

STATE OF NORTH CAROLINA

v.

Catawba County  
No. 10 CRS 6495

KATHY JOYCE CANIPE

Appeal by defendant from judgment entered 4 November 2010 by Judge Steve A. Balog in Catawba County Superior Court. Heard in the Court of Appeals 17 October 2011.

*Attorney General Roy Cooper, by Associate Attorney General Adrian Dellinger, for the State.*

*Jon W. Myers for defendant appellant.*

McCULLOUGH, Judge.

Kathy Joyce Canipe ("defendant") appeals from judgment entered upon revocation of probation and activating her sentence for conspiracy to sell cocaine. She argues the trial court erred in revoking probation upon insufficient evidence that she violated the conditions of her probation. In addition, she contends that she did not receive written notification of the

terms and conditions of probation as required by N.C. Gen. Stat. § 15A-1343(c) (2009). We affirm.

On 17 November 2008, defendant was convicted by a jury of conspiracy to sell cocaine. She was sentenced to a suspended term of 16 to 20 months, and was placed on probation for a period of 36 months. On 2 September 2010, defendant's probation officer filed a report alleging defendant violated the terms of her probation by: (1) testing positive for illegal drug use; (2) failing to pay court ordered costs; (3) operating a motor vehicle without having her license restored; and (4) incurring criminal charges in connection with driving while license revoked.

The matter was heard on 4 November 2010. The State withdrew the fourth violation regarding the pending criminal charges. Defendant denied the other alleged violations. After hearing testimony from defendant's probation officer, the trial court determined that defendant had willfully violated the terms of her probation as alleged in paragraphs 1, 2, and 3 of the probation violation report. The court revoked probation and entered judgment activating defendant's suspended sentence. Defendant appeals.

We first address defendant's argument that the record fails to demonstrate she received written notification of the terms and conditions of probation in violation of N.C. Gen. Stat. § 15A-1343(c). For support, she cites to this Court's opinion in *State v. Lambert*, 146 N.C. App. 360, 368-69, 553 S.E.2d 71, 78 (2001), which confirms that if the record does not indicate that defendant received some form of written notification of the terms and conditions of probation, the conditions ordered by the trial court are invalid.

We note that defendant did not present this issue by motion or objection in the trial court. However, even if she had, we conclude that her argument has no merit. The record affirmatively shows that defendant was given written notice of the conditions of probation in the form of the written judgment which details the special conditions of probation imposed on defendant in addition to the regular conditions which are imposed on all probationers. Defendant's reliance on *Lambert* is not persuasive as in that case the court orally modified the terms of probation, but failed to commit the modifications to writing. This Court then specifically stated that the trial court failed to include the modifications in the written

judgment. *Lambert*, 146 N.C. App. at 368, 553 S.E.2d at 78. This argument therefore fails.

Defendant next argues that the trial court erred and abused its discretion by revoking probation based on each of the three alleged violations. In probation revocation hearings, the evidence must "be such as to reasonably satisfy the judge in the exercise of his sound discretion that the defendant has willfully violated a valid condition of probation or that the defendant has violated without lawful excuse a valid condition upon which the sentence was suspended." *State v. Hewett*, 270 N.C. 348, 353, 154 S.E.2d 476, 480 (1967). A verified report of a probation officer stating in detail the violations of the conditions of probation is competent evidence to establish the violations. *State v. Duncan*, 270 N.C. 241, 246, 154 S.E.2d 53, 58 (1967). A decision addressed to the discretion of a trial judge will not be disturbed unless it is shown that the ruling "could not have been the result of a reasoned decision." *State v. Wilson*, 313 N.C. 516, 538, 330 S.E.2d 450, 465 (1985).

With regard to the positive drug test, the violation report alleged that on 31 July 2010, defendant tested positive for marijuana. Defendant's probation officer testified and confirmed that he tested defendant at her home in July 2010 and that the

test was positive for the presence of marijuana. Defendant argues that there was insufficient evidence to show that the testing procedures used by the probation officer were reliable pursuant to Rule 702 of the North Carolina Rules of Evidence, or that the officer had the necessary knowledge, skill, or training to properly conduct drug testing. She notes that the probation officer testified he did not see defendant provide the urine sample. We are not persuaded by these arguments.

"[A] proceeding to revoke probation is not bound by strict rules of evidence and an alleged violation of a probationary condition need not be proven beyond a reasonable doubt." *State v. Hill*, 132 N.C. App. 209, 211, 510 S.E.2d 413, 414 (1999). Thus, our appellate courts have held that "probation revocation proceedings are informal, summary proceedings." *State v. Sparks*, 362 N.C. 181, 187, 657 S.E.2d 655, 659 (2008). In light of these principles, defendant's arguments regarding the admissibility of the probation officer's testimony pursuant to the Rules of Evidence have no merit in a probation revocation hearing. We find the probation officer's testimony that he tested defendant and that the test was positive for marijuana is sufficient "to reasonably satisfy the judge in the exercise of his sound discretion that the defendant has willfully violated a valid

condition of probation" that she refrain from using illegal drugs. *Hewett*, 270 N.C. at 353, 154 S.E.2d at 480. We see no abuse of discretion in the trial court's conclusion that defendant willfully violated the condition of her probation and that probation should be revoked.

Defendant also presents arguments challenging the other two grounds for revoking probation regarding nonpayment of monies owed and operation of a motor vehicle. However, "[a]ny violation of a valid condition of probation is sufficient to revoke defendant's probation." *State v. Tozzi*, 84 N.C. App. 517, 521, 353 S.E.2d 250, 253 (1987). Since we have concluded the trial court properly based revocation on the positive drug test, we decline to review defendant's arguments on the remaining violations. The judgment of the trial court is affirmed.

Affirmed.

Judges MCGEE and ELMORE concur.

Report per Rule 30(e).