

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA11-537
NORTH CAROLINA COURT OF APPEALS

Filed: 20 December 2011

STATE OF NORTH CAROLINA

v.

Pitt County
Nos. 07 CRS 2193-94

YOLANDA TYREE

On writ of certiorari to review the purported appeal from judgments entered 4 January 2011 by Judge W. Russell Duke, Jr., in Pitt County Superior Court. Heard in the Court of Appeals 28 November 2011.

Attorney General Roy Cooper, by Assistant Attorney General Jonathan D. Shaw, for the State.

Greene & Wilson, P.A., by Thomas Reston Wilson, for defendant-appellant.

ELMORE, Judge.

Yolanda Tyree (defendant) filed a petition for writ of certiorari to review the judgments revoking her probation. Defendant argues that the trial court abused its discretion by revoking her probation when she had satisfied the financial

obligations of her probation. We grant defendant's petition and affirm the judgments revoking her probation.

On 24 May 2006, defendant pled guilty to attempting to obtain property by false pretenses. Defendant was sentenced to four to five months of an active sentence, which was suspended in lieu of thirty-six months of supervised probation. On 7 September 2006, in a separate case, defendant pled guilty to obtaining property by false pretenses. Defendant was sentenced to eight to ten months' active sentence, which was suspended in lieu of thirty-six months of supervised probation and six months of intensive probation.

Defendant's probation was subsequently modified three times due to violations. On 12 and 13 March 2010, 28 May 2010, and 3 November 2010, defendant's probation officer filed additional violation reports, alleging that defendant tested positive for cocaine and marijuana, moved and failed to notify the officer of her new address, failed to report for a scheduled office visit, and fell into arrears on the monetary obligations of her probation.

The matter came on for a probation violation hearing on 4 January 2011. Through counsel, defendant admitted to all the alleged violations, but requested that the trial court allow her

to continue on probation because she had recently paid her entire restitution amount. The trial court found that defendant had willfully violated her probation and revoked her probation. There is no record that defendant gave written or oral notice of appeal, although the trial court signed appellate entries on 4 January 2011.

On 14 June 2011, defendant filed a petition for writ of certiorari with this Court seeking a belated appeal. We allow defendant's petition in order to review the judgments revoking her probation.

Defendant's sole argument is that the trial court abused its discretion by revoking her probation, in spite of her repayment of restitution. Defendant's argument lacks merit.

Because probation is "an act of grace by the State to one convicted of a crime[,] . . . 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) (citation and internal quotation marks omitted). "All that is required is that the evidence be sufficient to reasonably satisfy the judge in the exercise of his sound discretion that the defendant has willfully violated a valid condition of probation." *State v. White*, 129 N.C. App. 52, 58,

496 S.E.2d 842, 846 (1998), *aff'd in part, disc. review improvidently allowed in part*, 350 N.C. 302, 512 S.E.2d 424 (1999). "Any violation of a valid condition of probation is sufficient to revoke [a] defendant's probation." *State v. Tozzi*, 84 N.C. App. 517, 521, 353 S.E.2d 250, 253 (1987).

Here, defendant admitted through counsel to all of the alleged violations of her probation, including the positive drug test. *State v. Sellers*, 185 N.C. App. 726, 728-29, 649 S.E.2d 656, 657 (2007) (defendant may admit to probation violation through counsel). Any one of the violations, standing alone, constituted sufficient cause to revoke her probation. Accordingly, we hold that the trial court properly revoked defendant's probation based on her admission that she had violated the terms of her probation.

Affirmed.

Judges McGee and McCULLOUGH concur.

Report per Rule 30(e).