

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA05-862

NORTH CAROLINA COURT OF APPEALS

Filed: 2 May 2006

STATE OF NORTH CAROLINA

v.

DAVID WILLIAM RAYFIELD
Defendant

Harnett County
Nos. 04 CRS 53312-14
04 CRS 53484-86
04 CRS 8907

Appeal by defendant from judgments dated 18 February 2005 by Judge Franklin F. Lanier in Harnett County Superior Court. Heard in the Court of Appeals 27 March 2006.

Attorney General Roy Cooper, by Assistant Attorney General Lisa R. Schneider, for the State.

Thomas R. Sallenger for defendant-appellant.

BRYANT, Judge.

David William Rayfield (defendant) appeals from judgments dated 18 February 2005 revoking his probation and activating his suspended sentences. For the reasons stated herein, we affirm the decision of the trial court.

Facts and Procedural History

Defendant pleaded guilty on 11 January 2005 to eight counts of obtaining controlled substances by fraud and to attaining the status of an habitual felon. The plea agreement provided as follows:

Defendant is to receive 3 sentences, the first

for 2 counts of obtaining controlled substance by fraud [and] is to consist of 6-8 months in the Department of Corrections, the second is for 2 additional counts [and] is to consist of a 7-9 month sentence suspended for 36 months with a special term [and] condition of probation [that] defendant successfully complete the 2 year residential Recovery Ventures Corporation program [and] any other terms imposed by the Court. Should the defendant successfully complete the program, the remaining charges will be dismissed. Should the defendant, for any reason, fail to complete the program, the defendant will be returned to Court for habitual felon sentencing.

The court accepted the plea and entered prayers for judgment continued on the same date.

Defendant returned to court on 14 February 2005 for a hearing on the question of whether he willfully failed to comply with the condition that he successfully complete the Recovery Ventures program. Defendant testified that he rode a bus to Asheville for the purpose of enrolling in the Recovery Ventures residential program. After he arrived in Asheville, he learned that he would have to work eighteen hours each day. He explained that he had a back condition and that he could not work eighteen hours each day. The next morning he got back on the bus and returned to Harnett County. Defendant acknowledged on cross examination that he reviewed and signed the plea agreement containing the provision that if "for any reason" he failed to complete the program, he would be returned to court for habitual felon sentencing. Even though he knew he would be sentenced as a habitual felon for noncompliance, he failed to complete the program.

The court found that defendant willfully failed to complete

the program and entered a judgment imposing a term of a minimum of 120 months and a maximum to 153 months. At that point defendant admitted to willfully violating the term and condition of probation that he successfully complete the Recovery Ventures program. The court activated the remaining probationary sentence of seven to nine months and allowed it to run concurrently with the sentence of 120 to 153 months.

Defendant contends that the court erred in revoking probation. He argues there was insufficient evidence that defendant willfully and without lawful excuse violated the term and condition of probation that he complete the Recovery Ventures program. He also argues the court failed to make proper findings of fact as to whether defendant willfully and without lawful excuse committed the violation. However, defendant's contentions are not supported by the record. The plea agreement provided that defendant would be sentenced as a habitual felon if he "for any reason" failed to complete the program. Defendant's own testimony established he, with knowledge of the terms of the plea agreement, failed to complete the program.

To revoke defendant's probation, the court need only be "reasonably satisf[ied] . . . the defendant has violated a valid condition upon which the sentence was suspended." *State v. Freeman*, 47 N.C. App. 171, 175, 266 S.E.2d 723, 725 (1980); see also *State v. White*, 129 N.C. App. 52, 58, 496 S.E.2d 842, 846 (1998) ("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."). The court did find defendant's failure to complete the program was willful. Then, after the court activated the sentence as to attaining the status of an habitual felon, the court addressed the sentence regarding two charges of obtaining a controlled substance by fraud. Defendant admitted that he willfully violated the condition of his probation. The court then found the violation was willful and activated the sentence imposed for obtaining a controlled substance by fraud to run concurrently with the sentence imposed for attaining the status of an habitual felon. Accordingly, the trial court's judgments revoking defendant's probation are affirmed.

Affirmed.

Chief Judge MARTIN and Judge GEER concur.

Report per Rule 30(e).