

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA06-265

NORTH CAROLINA COURT OF APPEALS

Filed: 15 August 2006

STATE OF NORTH CAROLINA

v.

JAMES TRAVIS LINDAHL

Cumberland County
Nos. 04 CRS 58047-48
04 CRS 54407

Appeal by defendant from judgments entered 19 September 2005 by Judge James F. Ammons, Jr., in Cumberland County Superior Court. Heard in the Court of Appeals 24 July 2006.

Attorney General Roy Cooper, by Assistant Attorney General Larissa S. Ellerbee, for the State.

Allen W. Boyer for defendant-appellant.

MARTIN, Chief Judge.

Defendant appeals from judgments entered upon revocation of his probation. We affirm.

On 9 February 2005, defendant pled guilty to one count of larceny of a dog and two counts each of forgery and uttering. He was sentenced to three consecutive suspended prison terms and was placed on two years of supervised probation.

In reports filed 14 April 2005, defendant was charged with the following willful violations of the conditions of his probation: (1) failing to sign up with the Community Service Coordinator to perform the community service ordered in 04 CRS 54407; (2) failing

to report to his probation officer on two occasions; (3) missing curfew on five occasions; (4) failing to satisfy the monetary conditions of his probation in 04 CRS 54407; (5) leaving his place of residence without making his whereabouts known to his probation officer; (6) failing to obtain suitable employment; and (7) failing to report for a TASC assessment. At his revocation hearing, defendant's counsel admitted all of the alleged violations but asked to be heard as to defendant's lack of willfulness. After hearing from defendant's counsel and probation officer, the trial court revoked defendant's probation and activated his suspended sentences. While finding that defendant lacked the ability to comply with the monetary conditions of his probation, the court found all of the remaining violations to be willful and without lawful excuse. All of the trial court's judgments include a finding that "[e]ach violation is, in and of itself, a sufficient basis upon which this Court should revoke probation and activate the suspended sentence[s]."

On appeal, defendant claims that the trial court erred in finding that his violations were willful despite his counsel's explanation that he had been evicted from his mother's house and was essentially "homeless" between 9 February 2005 and 14 April 2005, the period covered by the violation reports. As noted above, however, defendant did not adduce competent evidence of a lack of willfulness at the hearing, relying instead on the representations of his counsel. See *State v. Crouch*, 74 N.C. App. 565, 567, 328 S.E.2d 833, 835 (1985) (holding "that counsel's statements were not

competent evidence, and that the trial court was not, therefore, under a duty to make specific findings with respect to defendant's alleged inability to comply."). Moreover, counsel's proffer had no tendency to show that defendant lacked the ability to contact his probation officer or his Community Service Coordinator, to obtain employment, or to register for a TASC assessment. Defendant admitted each of these violations, any one of which was sufficient to support revocation. See, e.g., *State v. Freeman*, 47 N.C. App. 171, 176, 266 S.E.2d 723, 725 (citing *State v. Braswell*, 283 N.C. 332, 337, 196 S.E.2d 185, 188 (1973)), *disc. review denied*, 301 N.C. 99, 273 S.E.2d 304 (1980). Accordingly, we affirm the trial court's judgments. *Crouch*, 74 N.C. App. at 568, 328 S.E.2d at 835.

Affirmed.

Judges CALABRIA and JACKSON concur.

Report per Rule 30(e).