

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA06-298

NORTH CAROLINA COURT OF APPEALS

Filed: 21 November 2006

STATE OF NORTH CAROLINA

v.

Harnett County
Nos. 05 CRS 460, 10632

CHARLES THOMAS BRITT, JR.

Appeal by defendant from judgments entered 8 December 2005 by Judge Franklin F. Lanier in Harnett County Superior Court. Heard in the Court of Appeals 13 November 2006.

Attorney General Roy Cooper, by Assistant Attorney General Nancy Scott, for the State.

Jarvis John Edgerton, IV, for defendant-appellant.

LEVINSON, Judge.

On 22 June 2004, defendant pled guilty to two counts of felony death by vehicle and was sentenced to consecutive terms of fifteen to eighteen months imprisonment. Defendant's sentence was suspended and he was placed on supervised probation for thirty-six months.

On 2 December 2005, probation violation reports were filed alleging that defendant had failed to comply with the terms of his probation. Specifically, the report alleged that defendant had: (1) tested positive for marijuana; (2) failed to report for

scheduled office visits; and (3) failed to find an AA sponsor as recommended by his counselors.

On 8 December 2005, a probation violation hearing was held in Harnett County Superior Court. Defendant admitted to the violations, but denied their willfulness. The trial court found that defendant had willfully violated the terms of his probation. Accordingly, the trial court revoked defendant's probation and activated his suspended sentences. Defendant appeals.

Defendant argues that the judgment must be vacated because he was not provided with adequate notice of the violation allegations in accordance with N.C. Gen. Stat. 15A-1345(e). N.C. Gen. Stat. 15A-1345(e) (2005) provides, in pertinent part, that "[t]he State must give the probationer notice of the hearing and its purpose, including a statement of the violations alleged. The notice, unless waived by the probationer, must be given at least 24 hours before the hearing." In the case *sub judice*, defendant appeared with counsel at his probation revocation hearing and made no objection that he had not received notice of the allegations against him. Thus, defendant failed to preserve his argument for appellate review. See N.C.R. App. P. 10(b)(1). Accordingly, we affirm.

Affirmed.

Judges TYSON and BRYANT concur.

Report per Rule 30(e).