

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA07-545

NORTH CAROLINA COURT OF APPEALS

Filed: 20 November 2007

STATE OF NORTH CAROLINA

v.

Guilford County  
Nos. 02 CRS 101021 - 101024

AARON DWIGHT CLARK

Appeal by defendant from judgment entered 7 November 2006 by Judge Richard L. Doughton in Guilford County Superior Court. Heard in the Court of Appeals 16 November 2007.

*Attorney General Roy Cooper, by Assistant Attorney General Donald R. Teele, for the State.*  
*Allen W. Boyer, for defendant-appellant.*

TYSON, Judge.

Aaron Dwight Clark ("defendant") appeals from judgment entered revoking his probation and activating his suspended sentences for his convictions of felonious hit and run pursuant N.C. Gen. Stat. § 20-166(a), reckless driving with wanton disregard pursuant N.C. Gen. Stat. § 20-140(a), driving while license revoked pursuant N.C. Gen. Stat. § 20-28(a), and filing a false report of theft of motor vehicle pursuant N.C. Gen. Stat. § 20-102.1. We dismiss defendant's appeal.

#### I. Background

On 14 August 2003, defendant pled guilty to felonious hit and run, reckless driving with wanton disregard, driving while license revoked, and falsely reporting the theft of a motor vehicle. The trial court sentenced defendant to a minimum of fifteen to eighteen months maximum imprisonment, suspended the sentence, and placed defendant on supervised probation for five years. In lieu of the standard condition of probation requiring regular visits with the probation officer, the trial court ordered defendant "[n]ot [to] operate a motor vehicle while on probation, or until he is licensed to do so by DMV" and to notify his probation officer "immediately" if he obtained a motor vehicle.

In a probation violation report filed on 13 June 2006, defendant was charged with violating the conditions of his probation by being charged on 16 November 2005 and convicted on 14 March 2006 of driving while license revoked. The probation violation report also alleged defendant was again charged with driving while license revoked on 13 February 2006 and was awaiting trial.

At his probation revocation hearing on 7 November 2006, defendant admitted the violations and further admitted he had committed these violations willfully and without lawful excuse. The probation officer informed the court defendant had received a prayer for judgment following his 14 March 2006 conviction for driving while license revoked, and that his 13 February 2006 charges of driving while license revoked and driving without insurance had been dismissed. Defense counsel acknowledged that

defendant had been "caught" twice while driving home from work, but claimed he was no longer driving. After hearing arguments, the trial court revoked defendant's probation and activated his suspended sentences. Defendant appeals.

## II. Issue

Defendant argues the trial court erred by finding and concluding he violated his probation without finding him to be guilty of driving while license revoked.

## III. Probation Violation

Defendant contends the trial court abused its discretion by finding that he violated the regular condition of probation requiring him to "commit no criminal offense in any jurisdiction" pursuant to N.C. Gen. Stat. § 15A-1343(b)(1), and a prayer for judgment "without any sentencing conditions does not constitute a judgment or conviction[.]" Defendant further contends N.C. Gen. Stat. § 15A-1343(b)(1) "is intended to include only conviction[s] where judgment has been imposed" and where the probationer has had the opportunity to appeal the conviction giving rise to the charged violation.

Defendant did not present this argument to the trial court. Instead, he admitted to willfully violating the conditions of his probation as alleged in the report filed by his probation officer. "In order to preserve a question for appellate review, a party must have presented to the trial court a timely request, objection or motion, stating the specific grounds for the ruling the party desired the court to make[,]" and must have "obtain[ed] a ruling"

thereon. N.C.R. App. P. 10(b)(1) (2007). We hold that defendant's assignment of error is not properly before this Court. This assignment of error is dismissed.

IV. Conclusion

Defendant's sole assignment of error was not presented to the trial court and is not properly before this Court. *Id.* Defendant's appeal is dismissed.

Dismissed.

Judges GEER and STEPHENS concur.

Report per Rule 30(e).