

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA08-935

NORTH CAROLINA COURT OF APPEALS

Filed: 17 March 2009

IN THE MATTER OF:  
N.W.

Guilford County  
No. 95-JB-123

Appeal by the State from order entered 22 January 2008 by Judge Patrice A. Hinnant in Guilford County District Court. Heard in the Court of Appeals 26 January 2009.

# Court of Appeals

*Roy Cooper, Attorney General, by Charles E. Reece, Assistant Attorney General, and William B. Crumpler, Assistant Attorney General, for the State.*

*Glenn Serding, for juvenile-appellee.*

# Slip Opinion

MARTIN, Chief Judge.

The State appeals from an order granting juvenile N.W.'s pretrial motion to suppress. For the reasons stated below, we remand for further proceedings consistent with this opinion.

On 24 October 2007, a juvenile petition was filed in Guilford County District Court alleging that, on 22 October 2007, then-fifteen-year-old N.A.W. (referred to as "N.W." in the order from which the State appeals) committed the Class F felony offense of burning a schoolhouse in violation of N.C.G.S. § 14-60. On 25 October 2007, the juvenile waived his right to a probable cause hearing.

On 15 November 2007, the juvenile filed a pretrial motion to suppress the statements he made to law enforcement officers during the course of their investigation at Eastern Guilford High School on 24 October 2007. At the hearing on the juvenile's pretrial motion to suppress, the trial court heard testimony from Detective Moore and Sergeant Pruitt with the Guilford County Sheriff's Office, who had questioned the juvenile on school premises about a schoolhouse bathroom burning. During this encounter, the juvenile drew a diagram depicting the bathroom and stall in which the fire occurred. The juvenile also signed and dated a statement that Detective Moore had written which memorialized the juvenile's account of how the fire began. The juvenile did not testify at the suppression hearing.

On 22 January 2008, the trial court entered an order granting the juvenile's motion. The State gave notice of appeal to this Court pursuant to N.C.G.S. §§ 7B-2602 and 7B-2604(b)(2). See N.C. Gen. Stat. § 7B-2602 (2007) ("Upon motion of a proper party as defined in G.S. 7B-2604, review of any final order of the court in a juvenile matter under this Article shall be before the Court of Appeals. . . . A final order shall include . . . [a]ny order which in effect determines the action and prevents a judgment from which appeal might be taken . . . ."); N.C. Gen. Stat. § 7B-2604(b)(2) (2007) (providing that, in a delinquency case, the State may appeal "[a]ny order which terminates the prosecution of a petition by . . . granting a motion to suppress").

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The record on appeal contains six assignments of error. In its brief, however, the State brought forward only one assignment of error. Accordingly, the State's remaining assignments of error are deemed abandoned. See N.C.R. App. P. 28(b)(6) (2009) ("Immediately following each question [in appellant's brief] shall be a reference to the assignments of error pertinent to the question, identified by their numbers and by the pages at which they appear in the printed record on appeal. Assignments of error not set out in the appellant's brief . . . will be taken as abandoned.").

The State contends the trial court erred by granting the juvenile's motion to suppress, assigning as error "that no findings of fact and conclusions of law support granting the motion to suppress."

The scope of appellate review of an order granting a motion to suppress "is strictly limited to determining whether the trial judge's underlying findings of fact are supported by competent evidence, in which event they are conclusively binding on appeal, and whether those factual findings in turn support the judge's ultimate conclusions of law." *State v. Cooke*, 306 N.C. 132, 134, 291 S.E.2d 618, 619 (1982). "Further, the trial court's conclusions of law must be legally correct, *reflecting a correct application of applicable legal principles to the facts found.*" *State v. Fernandez*, 346 N.C. 1, 11, 484 S.E.2d 350, 357 (1997) (emphasis added).

In its 22 January 2008 order, the trial court made the following findings of fact:

1. The juvenile was born on September 20, 1992 and is 15 years of age.
2. In the petition filed October 24, 2007 at 2:05 p.m., it is alleged that the juvenile is a delinquent juvenile as defined by G.S. 7B-1501(7) in that, on or about the 22nd day of October 2007, the juvenile did unlawfully, willfully and feloniously set fire to burn or cause to be burned the schoolhouse of Eastern Guilford High School by setting fire in a bathroom, this in violation of G.S. 14-60.
3. By and through his attorney, the juvenile denied the allegations in the petition filed October 24, 2007 at 2:05 p.m.
4. After witnesses were sworn and testimony given, the juvenile's attorney presented a Motion to Suppress Statements given by the juvenile.
5. The Court allowed the Motion to Suppress Statements.
6. The Assistant District Attorney requested an appeal of the ruling on the Motion to Suppress Statements.
7. The juvenile is a resident of Guilford County, North Carolina and the offense allegedly was committed in Guilford County, North Carolina.

The court then made the following conclusions of law:

1. The juvenile is within the jurisdiction of this Court.
2. The attorney for the juvenile did file a Motion to Suppress Statements and the Court did grant the motion.
3. The Assistant District Attorney did appeal the ruling on the Motion to Suppress Statements.

Since neither the trial court's written order nor its statement in open court allowing the juvenile's motion to suppress state the conclusions of law upon which the court's decision was based, we are unable to determine whether the trial court's decision to grant the juvenile's motion reflects "a correct application of applicable legal principles to the facts found." See *Fernandez*, 346 N.C. at 11, 484 S.E.2d at 357. Accordingly, we must remand this matter to the trial court so that it may make findings of fact and conclusions of law in support of its determination to grant the juvenile's motion to suppress.

Remanded for further proceedings consistent with this opinion.

Judges BRYANT and BEASLEY concur.

Report per Rule 30(e).