

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA09-288

NORTH CAROLINA COURT OF APPEALS

Filed: 3 November 2009

STATE OF NORTH CAROLINA

v.

Guilford County  
No. 03 CRS 24106

TONY MONIQUE HUGHES

Appeal by Defendant from order entered 29 August 2008 by Judge Henry E. Frye, Jr., in Guilford County Superior Court. Heard in the Court of Appeals 3 September 2009.

*Attorney General Roy Cooper, by Assistant Attorney General Oliver G. Wheeler, IV, for the State.*

*James W. Carter, for Defendant.*

BEASLEY, Judge.

On 9 June 2003 Defendant (Tony Hughes) pled guilty to two charges of taking indecent liberties with a child, in violation of N.C. Gen. Stat. § 14-202.1. On 29 August 2008 the trial court ordered Defendant to enroll in satellite-based monitoring (SBM), pursuant to Article 27A of N.C. Gen. Stat. § Chapter 14 for the remainder of his life. Defendant appeals from this order. We affirm.

On appeal:

[D]efendant first contends that requiring him to enroll in the SBM program violates the ex

*post facto* clauses of the state and federal constitutions. This Court, however, recently rejected this argument in *State v. Bare*, \_\_\_ N.C. App. \_\_\_, \_\_\_ 677 S.E.2d 518, 531 (2009) (holding that retroactive application of SBM program does not violate [the] *ex post facto* clause because program was intended by legislature to be civil, regulatory scheme and its effects are not so punitive as to negate that intent). We, therefore, do not discuss that argument further.

*State v. Stines*, \_\_\_ N.C. App. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_ (filed 6 October 2009) (2009 N.C. App. LEXIS 1620).

"Lastly, defendant contends that '[t]he trial court erred in imposing any condition or restriction upon the defendant which was not specifically agreed to in his plea bargain with the State of North Carolina in violation of the specific agreements.' Again, *Bare* has fully addressed this issue and we are bound by its precedent which has determined that SBM does not violate defendant's plea agreement. This argument is overruled." *State v. Wagoner*, \_\_\_ N.C. App. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_ (filed 1 September 2009) (2009 N.C. App. LEXIS 1500) (citing *Bare*, \_\_\_ N.C. App. at \_\_\_, 677 S.E.2d at 532).

As discussed above, both of Defendant's arguments have previously been rejected by this Court. Accordingly, we affirm the trial court's order.

Affirm.

Judges STEPHENS and HUNTER, JR. concur.

Report per Rule 30(e).