

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA11-1534  
NORTH CAROLINA COURT OF APPEALS

Filed: 21 August 2012

STATE OF NORTH CAROLINA

v.

Cumberland County  
Nos. 09 CRS 50442, 50446

LINDSEY MARIE SYLER

Appeal by defendant from judgment entered 19 September 2011 by Judge James F. Ammons, Jr., in Cumberland County Superior Court. Heard in the Court of Appeals 11 June 2012.

*Roy Cooper, Attorney General, by Joseph L. Hyde, Assistant Attorney General, for the State.*

*J. Edward Yeager, Jr., for the defendant.*

THIGPEN, Judge.

Lindsey Marie Syler ("Defendant") appeals from the superior court's judgment revoking her probation and activating her suspended sentence. We affirm.

On 4 March 2010, defendant entered a plea of guilty to the charges of trafficking in opium or heroin by possession and conspiracy to traffic opium or heroin. On 4 November 2010, the trial court found that defendant provided substantial assistance

to the State and imposed a suspended sentence of 35 to 42 months incarceration, and placed defendant on 36 months of supervised probation.

On 10 March 2011, defendant's probation officer filed a violation report, which alleged the following violations: (1) defendant had failed to report to an office visit and had not made contact with her probation officer since 15 December 2010; (2) defendant was in arrears of \$48.00 on her court fee obligation; (3) defendant left her last known residence on or about 18 February 2011 and failed to make her whereabouts known.

The trial court conducted a probation revocation hearing and entered an order on 15 June 2011 finding that defendant had violated the conditions of her probation as set forth in the probation violation report. The trial court, however, continued defendant's disposition until 19 September 2011.

The trial court conducted a second hearing on 19 September 2011, in which defendant admitted her violations. Defendant requested an additional 90 days to comply with the terms of her probation. The trial court denied defendant's request, found that she had willfully violated the terms of her probation as alleged in the violation report, and activated her suspended sentence of 35 to 42 months incarceration. Defendant appeals.

Defendant's sole argument is that the trial court abused its discretion in revoking her probation. Under N.C. Gen. Stat. § 15A-1344 (2011), a trial court has authority to reduce, terminate, continue, extend, modify, or revoke probation upon a finding that the defendant violated the conditions of probation. During a probation revocation hearing, the State bears the burden of presenting evidence "to reasonably satisfy the judge in the exercise of his sound discretion that the defendant has willfully violated a valid condition of probation or that the defendant has violated without lawful excuse a valid condition upon which the sentence was suspended." *State v. Lucas*, 58 N.C. App. 141, 145, 292 S.E.2d 747, 750 (internal quotation omitted), *disc. review denied*, 306 N.C. 390, 293 S.E.2d 593 (1982). Such evidence is sufficient to support a finding of a violation unless the defendant successfully carries the burden of showing lawful excuse or lack of willfulness. *See State v. Crouch*, 74 N.C. App. 565, 567, 328 S.E.2d 833, 835 (1985). "Findings made in support of revoking probation must be supported by competent evidence, and will not be disturbed on appeal without a showing that the trial court committed a manifest abuse of discretion." *State v. Sherrod*, 191 N.C. App. 776, 777-78, 663 S.E.2d 470, 472 (2008) (internal quotation omitted).

Defendant argues that the trial court failed to properly apply its discretion by not considering her youthful age, cooperation with law enforcement, and alleged efforts to comply with probation. We disagree. Defendant admitted that she willfully violated the terms of her probation, and she provided no evidence of lawful excuse or inability to comply with the conditions of her probation. Thus, defendant's argument goes solely to the trial court's disposition, which is a matter within the trial court's discretion. We cannot say that the trial court's decision to revoke probation was a manifest abuse of discretion. Therefore, we hold that the trial court did not err in revoking defendant's probation.

AFFIRMED.

Chief Judge Martin and Judge Steelman concur.

Report per Rule 30(e).