

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA13-440
NORTH CAROLINA COURT OF APPEALS

Filed: 5 November 2013

STATE OF NORTH CAROLINA

v.

Cleveland County
No. 11 CRS 4001

MATTHEW DANE BRYANT

Appeal by defendant from judgments entered 11 October 2012 by Judge Robert T. Sumner in Cleveland County Superior Court. Heard in the Court of Appeals 21 October 2013.

Attorney General Roy Cooper, by Assistant Attorney General Jane Rankin Thompson, for the State.

Cheshire Parker Schneider & Bryan, PLLC, by John Keating Wiles, for defendant-appellant.

STEELMAN, Judge.

Where the trial court denied defendant's motion to suppress his statement, and defendant failed to object to its introduction at trial, the denial of his pre-trial motion is not properly before this Court, and we dismiss defendant's appeal.

I. Factual and Procedural Background

On 14 November 2011, Matthew Dane Bryant (defendant) was indicted for the felonies of first-degree statutory rape, kidnapping, and taking indecent liberties with a child. On 4 October 2012, defendant filed a motion seeking the suppression of his statement to deputies of the Cleveland County Sheriff's Department.

On Monday, 8 October 2012, the State voluntarily dismissed the kidnapping charge. Also on 8 October 2012, the court conducted a *voir dire* hearing on defendant's motion to suppress his statement. On the morning of 9 October 2012, the trial court denied the motion, and entered findings of fact and conclusions of law into the record. Following this ruling, the jury was selected in this case. The State began its evidence on Wednesday morning, 10 October 2012. The jury found defendant guilty of both charges. On the rape charge, defendant was sentenced to an active term of imprisonment of 144-182 months, from the mitigated range of sentences. On the indecent liberties charge, defendant was sentenced to 10-12 months, at the expiration of the first judgment. This sentence was suspended and defendant was to be placed on 30 months supervised probation.

Defendant appeals.

II. Denial of Motion to Suppress

In his only argument on appeal, defendant contends that the trial court erred in denying his pre-trial motion to suppress. We hold that defendant has failed to preserve this issue for appellate review, and dismiss his appeal.

"A motion *in limine* does not preserve a question for appellate review in the absence of the renewal of the objection at trial." *State v. Crandell*, 208 N.C. App. 227, 235, 702 S.E.2d 352, 358 (2010) (citing *State v. Oglesby*, 361 N.C. 550, 554-55, 648 S.E.2d 819, 821 (2007)). Nevertheless, where a defendant does not object at trial to the admissibility of the evidence he sought to suppress, the defendant may still be "entitled to relief if he can demonstrate plain error." *State v. Hartley*, 212 N.C. App. 1, 6, 710 S.E.2d 385, 392, *disc. review denied*, 365 N.C. 339, 717 S.E.2d 383 (2011); *see also* N.C.R. App. P. 10(a)(4) ("In criminal cases, an issue that was not preserved by objection noted at trial . . . may be made the basis of an issue presented on appeal when the judicial action questioned is specifically and distinctly contended to amount to plain error.").

Defendant did not object to the admission of his statement at trial. On appeal, defendant does not argue plain error and

has thus waived review of this issue on appeal. *State v. Goss*, 361 N.C. 610, 622, 651 S.E.2d 867, 875 (2007), *cert. denied*, 555 U.S. 835, 172 L. Ed. 2d 58 (2008). Because defendant's sole argument on appeal is not properly before this Court, we must dismiss his appeal.

DISMISSED.

Judges CALABRIA and STROUD concur.

Report per Rule 30(e).