

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA13-555  
NORTH CAROLINA COURT OF APPEALS

Filed: 5 November 2013

STATE OF NORTH CAROLINA

v.

Craven County  
No. 12 CRS 357

RONNIE DUANE LEWIS

Appeal by defendant from order entered 12 September 2012 by Judge Benjamin G. Alford in Craven County Superior Court. Heard in the Court of Appeals 21 October 2013.

*Attorney General Roy Cooper, by Special Deputy Attorney General Joseph Finarelli, for the State.*

*Law Office of Glenn Gerding, by Glenn Gerding for defendant-appellant.*

STEELMAN, Judge.

Where there was no evidence that the defendant's SBM hearing was conducted in his county of residence, the trial court was without jurisdiction to hear the matter, and the trial court's order is vacated.

I. Factual and Procedural Background

On 16 March 2004, defendant pled guilty to two counts of indecent liberties with a child in Johnston County Superior

Court. For the first offense, the court sentenced defendant to eleven to fourteen months imprisonment. For the second offense, defendant was sentenced to eleven to fourteen months imprisonment. This sentence was suspended, and the defendant was placed on supervised probation for sixty months.

On 22 March 2012, defendant received written notice to appear for a hearing in Craven County Superior Court to determine whether he should be required to enroll in satellite based monitoring (SBM) pursuant to N.C. Gen. Stat. § 14-208.40B (2011). On 30 August 2012, a hearing was held in Craven County Superior Court. At the conclusion of the hearing, an order was entered requiring defendant to enroll in SBM for twenty-five years.

Defendant appeals.

## II. Lack of Jurisdiction

In his first argument on appeal, defendant contends that the trial court lacked subject matter jurisdiction when it ordered him to enroll in SBM because there was no evidence that the SBM hearing was conducted in the county in which defendant resides. The State concedes error, and we agree.

"A trial court must have subject matter jurisdiction over a case in order to act in that case." *State v. Reinhardt*, 183 N.C.

App. 291, 292, 644 S.E.2d 26, 27 (2007). "Where jurisdiction is statutory and the Legislature requires the Court to exercise its jurisdiction in a certain manner, to follow a certain procedure, or otherwise subjects the Court to certain limitations, an act of the Court beyond these limits is in excess of its jurisdiction." *Eudy v. Eudy*, 288 N.C. 71, 75, 215 S.E.2d 782, 785 (1975), *overruled on other grounds by Quick v. Quick*, 305 N.C. 446, 290 S.E.2d 653 (1982).

Defendant's SBM hearing was held pursuant to N.C. Gen. Stat. § 14-208.40B(b) which reads, in relevant part:

If the Division of Adult Correction determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing the Division of Adult Correction, shall schedule a hearing in superior court for the county in which the offender resides.

N.C. Gen. Stat. § 14-208.40B(b) (2011) (emphasis added).

Defendant contends, and the State concedes, that the record fails to show that defendant resided in Craven County as required by N.C. Gen. Stat. § 14-208.40B(b). Defendant and the State agree that the State did not present testimony that defendant resided in Craven County at the time the notice was filed or at the time of the hearing; that the written notice of the SBM hearing bears no address; that the trial court made no

statement in open court that defendant resided in Craven County; and that the trial court made no finding of fact in its September order that the SBM hearing had been scheduled in defendant's county of residence.

We vacate the trial court's 12 September 2012 order for lack of jurisdiction. Because we hold that the trial court was without jurisdiction, we do not address defendant's remaining arguments.

VACATED.

Judges CALABRIA and STROUD concur.

Report per Rule 30(e).