

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-31

Filed: 16 June 2015

Martin County, No. 12 CRS 51235

STATE OF NORTH CAROLINA

v.

TANISHA DECOLE BELCHER

Appeal by defendant from judgments entered 29 May 2014 by Judge Marvin K. Blount in Martin County Superior Court. Heard in the Court of Appeals 1 June 2015.

*Attorney General Roy Cooper, by Assistant Attorney General David Gordon, for the State.*

*Mark Montgomery for defendant-appellant.*

BRYANT, Judge.

Defendant appeals from judgments entered upon a jury's verdict finding her guilty of two counts of first-degree rape involving an eight-year-old boy, which sentenced her to two consecutive terms of 216 to 320 months' imprisonment. Because defendant has waived her right to review the trial court's denial of her motion to suppress, we dismiss her appeal.

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Immediately prior to trial, defendant made an oral motion to suppress portions of her medical records that the State intended to introduce at trial. Defendant argued that the records were testimonial in nature and their introduction through a witness who did not create the records would violate her constitutional right to confront her accusers. *See Crawford v. Washington*, 541 U.S. 36, 158 L. Ed. 2d 177 (2004). After hearing arguments from counsel for the defense and the State, the trial court denied the motion.

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Defendant's sole argument on appeal is that the trial court erred as a matter of law in not making findings of fact and conclusions of law before denying her motion to suppress. Defendant, however, did not file a written motion accompanied by a supporting affidavit as required by N.C. Gen. Stat. § 15A-977(a). N.C.G.S. § 15A-977(a) (2013); *see also id.* § 15A-975(a) (2013) ("In superior court, the defendant may move to suppress evidence only prior to trial . . ."). Defendant also has not, either at trial or on appeal, made any argument as to why she should be excused from having to file a pre-trial written motion and affidavit. *See id.* § 15A-975(a)-(c) (permitting a defendant to move to suppress evidence at trial in limited circumstances). Defendant has, thus, failed to comply with the procedural requirements of N.C.G.S. §§ 15A-975 and 15A-977 and has waived review of this issue on appeal. *State v. Holloway*, 311 N.C. 573, 578, 319 S.E.2d 261, 264 (1984) ("[B]y failing to comply with statutory

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requirements set forth in N.C.G.S. 15A-977 [defendants] waive their rights to contest on appeal the admission of evidence on constitutional or statutory grounds.” (citations omitted)). Defendant’s appeal is, therefore, dismissed.

DISMISSED.

Judges DIETZ and TYSON concur.

Report per Rule 30(e).