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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-1159

Filed: 16 August 2016

Union County, Nos. 13 CRS 54343, 14 CRS 1911

STATE OF NORTH CAROLINA

v.

ODESSIA MAYNOR

Appeal by defendant from judgment entered 5 June 2015 by Judge Stuart Albright in Union County Superior Court. Heard in the Court of Appeals 14 April 2016.

*Attorney General Roy Cooper, by Special Deputy Attorney General Durwin P. Jones, for the State.*

*Willis Johnson & Nelson PLLC, by Drew Nelson, for defendant-appellant.*

BRYANT, Judge.

Where defendant's last known address was in the same county as the trial court revoking probation and where defendant admitted that she absconded from all supervision of her probations issued by two separate counties, the trial court revoking

STATE V. MAYNOR

*Opinion of the Court*

probation had subject matter jurisdiction, and we affirm the disposition of the trial court.

On 7 February 2014, Odessia Maynor, defendant, pled guilty to one count of felony possession of stolen goods in Union County Superior Court, the Honorable Lisa Bell, Judge presiding. Defendant was given a suspended sentence of five to fifteen months and was placed on supervised probation for a term of twenty-four months.

On 14 May 2014, defendant pled guilty to one count of felony breaking and entering in Montgomery County Superior Court, the Honorable V. Bradford Long, Judge presiding. Defendant was given a suspended sentence of six to seventeen months and was placed on supervised probation for a term of twenty-four months.

On 21 August 2014, a Union County probation officer filed two probation violation reports. One report concerned the probationary sentence issued in Union County and the other concerned the probationary sentence issued in Montgomery County. Union County subsequently issued two warrants for defendant's arrest based on the two probation violation reports. The Montgomery County probation violation report identified defendant as residing in "Monroe, NC 28110." The Order for Arrest on the Montgomery County probation violation report stated "1 F-Fel Prob Viol Out of County," and listed defendant's address as "716 Maple Hill Rd, . . . Monroe, NC 28110 Union County."

STATE V. MAYNOR

*Opinion of the Court*

On 5 June 2015, defendant appeared in Union County Superior Court and, through counsel, admitted to violating the terms of her probation as set forth in both the Montgomery County judgment and the Union County judgment. The Union County trial court revoked her probation and activated both sentences, ordering that they run consecutively. Defendant appeals.

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On appeal, defendant's central argument is that the Union County trial court did not have subject matter jurisdiction and therefore erred by activating the sentence issued in Montgomery County. Defendant contends the trial court activated her sentence even though there was no evidence that her Montgomery County probation had been transferred to Union County.

Pursuant to N.C. Gen. Stat. § 15A-1344(a), a court has jurisdiction to revoke a defendant's probation "where the sentence of probation was imposed, where the probationer violates probation, or where the probationer resides." N.C.G.S. § 15A-1344(a) (2015).

A hearing to revoke a defendant's probationary sentence only requires that the evidence be such as 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. The judge's finding of such a violation, if supported by competent evidence, will not be overturned absent a showing of manifest abuse of discretion.

STATE V. MAYNOR

*Opinion of the Court*

*State v. Young*, 190 N.C. App. 458, 459, 660 S.E.2d 574, 576 (2008) (citations and quotation marks omitted). Further, pursuant to N.C. Gen. Stat. § 15A-1344(a), a court has subject matter jurisdiction to revoke probation in the county where a defendant violated probation. N.C.G.S. § 15A-1344(a). The State must offer substantial evidence of a probation violation before the alleged violation can serve as a reason to activate a sentence. *State v. Millner*, 240 N.C. 602, 605, 83 S.E.2d 546, 548 (1954).

Here, defendant was charged with violating both the Montgomery and Union County probations in Union County by, *inter alia*, absconding from all supervision sometime between 14 July and 13 August 2014. Both the Montgomery and Union County probations included the regular condition that defendant not abscond “by willfully avoiding supervision or by willfully making . . . defendant’s whereabouts unknown to the supervising probation officer . . . .” See N.C. Gen. Stat. § 15A-1343(b)(3a) (2015).

Defendant asserts that there was no evidence before the trial court indicating that defendant resided in Union County or that she violated her Montgomery County probation while in Union County. Accordingly, defendant argues that the Union County trial court did not have statutory authority to revoke defendant’s Montgomery County probation and activate her sentence. We disagree.

STATE V. MAYNOR

*Opinion of the Court*

In *State v. Caldwell*, No. COA13-272, 2013 WL 6237347 (N.C. Ct. App. Dec. 3, 2013) (unpublished), this Court found that the trial court had authority under N.C. Gen. Stat. § 15A-1344(a) to revoke a defendant's probation imposed by courts in two other counties because the defendant admitted that his last known address was in the county where the trial court revoked probation and the verified violation reports used this same address. *Id.* at \*1–2.

There is evidence in the record that defendant's last known address prior to her Montgomery County probation violations was in Union County. Orders for arrest were issued by Union County for both the Union County and Montgomery County probation violations. One order for arrest listed a Wake County address, the other a Union County address. Further, the probation violation reports for both Union County and Montgomery County were issued by the same Union County chief probation officer. This is a strong indication the Montgomery County probation was transferred to Union County. Defendant did not challenge the issue of transferred probation at the trial court and will not be heard further on appeal.

Also, the record shows defendant and her attorney had proper notice under N.C. Gen. Stat. § 15A-1345(a) and (e) that the Union County revocation hearing would include the violations of her Montgomery County probation. At the revocation hearing, defendant's attorney admitted that she violated all the conditions set forth in the Montgomery and Union county probation violation reports.

STATE V. MAYNOR

*Opinion of the Court*

Based on the foregoing, where the violations occurred in Union County, the Union County trial court had subject matter jurisdiction to revoke defendant's probation that originated in Montgomery County, and accordingly, the revocation of defendant's probation is

AFFIRMED.

Judges DILLON and ZACHARY concur.

Report per Rule 30(e).