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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-80

Filed: 2 October 2018

Catawba County, No. 09 CRS 57498

STATE OF NORTH CAROLINA

v.

DAKOTA KARL LEE SPICER

Appeal by defendant from judgment entered 22 September 2017 by Judge Nathaniel J. Poovey in Catawba County Superior Court. Heard in the Court of Appeals 5 September 2018.

*Attorney General Joshua H. Stein, by Assistant Attorney General Kimberly S. Murrell, for the State.*

*Morgan & Carter PLLC, by Michelle F. Lynch, for defendant.*

ELMORE, Judge.

Defendant Dakota Karl Lee Spicer appeals the trial court's revocation of his probation and imposition of a sentence of twenty-three to thirty-seven months' imprisonment on the grounds that he committed an additional crime of defrauding a drug test in violation of N.C. Gen. Stat. § 15A-1343(b)(1). Defendant contends the trial court abused its discretion by revoking his probation under N.C. Gen. Stat. §

15A-1343(b)(1) because there was no evidence he defrauded a drug test, and the trial court failed to make an independent finding on the matter. We affirm.

***I. Background***

On 21 September 2010, defendant pled guilty to second-degree kidnapping and was sentenced to twenty-three to thirty-seven months' imprisonment. The trial court suspended the sentence and placed defendant on supervised probation for thirty-six months, to begin after he was released from prison on a conviction of robbery with a dangerous weapon.

On 27 March 2017, Choua Vang, defendant's probation officer, filed a probation violation report alleging that defendant had tested positive for marijuana on two occasions and failed to report to his supervising officer on three occasions. On 9 May, Vang filed a second probation violation report alleging that defendant had tested positive for marijuana on 9 May and was with his girlfriend, who was a known drug user, on 8 May. On 14 August, Vang filed a third probation violation report alleging that defendant was terminated from the Treatment Accountability for Safer Communities ("TASC") program. On 29 August, Vang filed a fourth probation violation report alleging that defendant had failed to report to his supervising officer on five occasions, was charged with committing the criminal offense of defrauding a drug test in violation of N.C. Gen. Stat. § 14-401.20, and had defrauded a drug test on 29 August by using a device containing urine.

On 22 September 2017, the trial court held a probation violation hearing, wherein defendant admitted to violating the terms and conditions of his probation. The trial court found defendant violated his probation and revoked his probation, thereby activating his suspended sentence. Defendant appeals.

## ***II. Analysis***

Defendant's sole argument on appeal is that the trial court abused its discretion in revoking his probation because there was no evidence he violated the conditions of his probation by defrauding a drug test. We disagree.

[A] proceeding to revoke probation is not a criminal prosecution and is often regarded as informal or summary. Thus, the alleged violation of a valid condition of probation need not be proved beyond a reasonable doubt. Instead, all that is required in a hearing of this character is 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.

*State v. Murchison*, 367 N.C. 461, 464, 758 S.E.2d 356, 358 (2014) (citation and internal quotation marks omitted). "An abuse of discretion will be found when the trial court's ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision." *State v. Johnson*, 246 N.C. App. 132, 134, 782 S.E.2d 549, 551 (2016) (citation and internal quotation marks omitted).

Here, the 29 August 2017 violation report alleged that defendant violated the condition of his probation that he commit no criminal offense in that a charge of defrauding a drug screen in violation of N.C. Gen. Stat. § 14-401.20 (2017) was

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pending against him and that he had defrauded a drug test by using a device containing urine. At the probation violation hearing, defendant admitted he violated the terms and conditions of his probation and “accepted responsibility for the violations . . . alleged against him[.]” This admission alone was sufficient to support the trial court’s revocation of defendant’s probation. *See State v. Sawyer*, 10 N.C. App. 723, 725, 179 S.E.2d 898, 900 (1971) (affirming the defendant’s probation revocation where he admitted to violating two conditions of his probation). Further, Probation Officer Vang testified that although the criminal charge was pending, defendant defrauded a drug test by “bring[ing] in a device containing someone else’s urine. . . . [H]e was caught with this device on him[.]” Probation Officer Vang tendered to the trial court the device defendant was caught using.

***III. Conclusion***

The trial court did not abuse its discretion in revoking defendants’ probation under section 15A-1343(b)(1). Accordingly, we affirm the trial court’s judgment revoking defendant’s probation and imposing an active sentence.

AFFIRMED.

Judges DILLON and DAVIS concur.

Report per Rule 30(e).