IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 19-126

Filed: 17 September 2019

Mecklenburg County, Nos. 17 CRS 220028, 17 CRS 220032

STATE OF NORTH CAROLINA,

v.

ANTE NEDLKO PAVKOVIC, Defendant.

Appeal by defendant from final judgment entered 9 May 2018 by Judge Hugh B. Lewis in Mecklenburg County Superior Court. Heard in the Court of Appeals 22 August 2019.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Karen A. Blum, for the State.

Bell Law Firm, by Hannah R. Bell, for defendant-appellant.

ARROWOOD, Judge.

In this appeal, defendant raises multiple issues relating to: (1) the constitutionality of a Charlotte noise ordinance, of his arrest, and of his probation sentence; and (2) alleged errors by the trial court in interpreting the noise ordinance, admitting certain evidence, and finding he resisted an officer. For the reasons set forth below, we affirm.

I. Background

On 27 May 2017, Ante Nedlko Pavkovic ("defendant") was speaking at an anti-abortion event held outside an abortion clinic located at 3220 Latrobe Drive, Charlotte, North Carolina ("the abortion clinic"). Charlotte-Mecklenburg Police Department ("CMPD") officers testified that they observed defendant standing at a table yelling into a microphone. CMPD Officer James Gilliland, testified that on the table was the amplifier or controls for the speaker to which the microphone transmitted, and defendant "was the only one on the microphone." Using a department-issued 3M™ sound meter ("the noise meter"), CMPD officers observed "sustained readings" over eighty decibels, with occasional "spikes" up to eighty-four decibels. The officers alerted CMPD Sergeant B.K. Smith, who was also there to help monitor the event, of the violation. They then wrote a citation to the permit holder for the event, David Jordan.

Officers then approached defendant, informed him of the violation, and asked for his identification so that they could issue a citation to him as well. Officer Gilliland twice asked defendant for his identification, but defendant refused both requests. Sergeant Smith then asked defendant three times to present his identification, with defendant refusing each time. After defendant's fifth refusal to present his identification, he attempted to argue that the officers could only cite the permit holder for any noise violations. After approximately one minute of argument, Sergeant Smith told Officer Graham to arrest defendant. As Officer Graham began

handcuffing defendant, he stated that his identification was in his car, not on his person. CMPD charged defendant with violating Charlotte Ordinance § 15-64 ("the noise ordinance"), and resisting an officer by refusing to provide his identifying information to the CMPD officers.

On 5 September 2018, sitting without a jury, the Honorable Judge Hugh B. Lewis concluded that defendant was guilty of both charges, but dismissed the charge of violating the noise ordinance. The court noted that the City of Charlotte ("the City") had discretion to decide which enforcement penalties it would levy against a violator of the noise ordinance, but that the City failed to do so. The trial court thus found the magistrate's order for defendant's noise ordinance violation "defective," because the State failed to clearly express which enforcement penalty it would levy against the defendant. Due to the defective order, the trial court dismissed the noise ordinance violation and concluded it would "not take any further action, *other than saying the defendant violated the ordinance*[.]" (emphasis added).

The court convicted defendant of resisting an officer, and sentenced him to forty-five days imprisonment, and imposed a fine of $200.00. The sentence was suspended, and defendant was placed on supervised probation for twenty-four months. As a condition of probation, defendant was restrained from being within 1500 feet of the abortion clinic at which he had been protesting.

Defendant gave oral notice of appeal in open court.

II. Discussion

On appeal, defendant argues (1) that CMPD had no reasonable suspicion to arrest him; (2) that the noise ordinance is facially unconstitutional; (3) that the Superior Court erred in allowing the meter used to measure defendant's volume to be admitted as evidence; (4) that the Superior Court erred in restraining defendant from being within 1500 feet of the abortion clinic for the term of his probation; and (5) that the Superior Court erred in concluding that defendant was "operating or allowing the operation of any sound amplification equipment" under the noise ordinance. To the extent that the first three arguments raise constitutional issues, we address them together.

A. Standard of Review

"When the trial court sits without a jury, the standard of review for this Court is whether there was competent evidence to support the trial court's findings of fact and whether its conclusions of law were proper in light of such facts." *State v. Dunn*, 200 N.C. App. 606, 608, 685 S.E.2d 526, 528 (2009) (citing *State v. Lazaro*, 190 N.C. App. 670, 670-71, 660 S.E.2d 618, 619 (2008)). "The well-established rule is that findings of fact made by the court in a non-jury trial have the force and effect of a jury verdict and are conclusive on appeal if there is evidence to support them, although the evidence might have supported findings to the contrary." *Henderson County v. Osteen*, 297 N.C. 113, 120, 254 S.E.2d 160, 165 (1979) (citation omitted). "A trial

court's unchallenged findings of fact are 'presumed to be supported by competent evidence and [are] binding on appeal.' " *State v. Evans*, __ N.C. App. __, __, 795 S.E.2d 444, 448 (2017) (quoting *Hoover v. Hoover*, __ N.C. App. __, __, 788 S.E.2d 615, 616 (2016)).

B. Rules of Appellate Procedure Violations

Defendant's brief contains numerous violations of our Rules of Appellate Procedure, including violations of Rule 26(g), Rule 28(b)(6), Rule 28(e), and Rule 28(g)(2).

Defendant's brief is single spaced. Rule 26(g) requires appellate briefs to be double spaced. N.C.R. App. P. Rule 26(g) (2019). Rule 26(g), requiring parties double-space their briefs, "facilitates the reading and comprehension of large numbers of legal documents by members of the Court and staff." *State v. Riley*, 167 N.C. App. 346, 347-48, 605 S.E.2d 212, 214 (2004). Rule 26(g) is plain on its face and a cursory reading of the Appellate Rules by counsel would have avoided such a blatant violation.

Additionally, the brief fails to contain a proper table of authorities, fails to support its factual assertions with any reference to the Record or Transcript, and fails to properly arrange the argument consistent with the briefing requirements, all in violation of the provisions of Rule 28 of the Rules of Appellate Procedure. N.C.R. App. P. Rule 28 (2019). Finally, while the brief complies with the word limits set forth in

the Rules, the declaration contained in the brief is deficient in that, while it attests compliance, the Court was required to conduct its own analysis of the documents to ascertain that the number of words was within the limits of Rule 28(j).

1. Noncompliance

North Carolina Rules of Appellate Procedure 25(b) provides that an appellate court "may, on its own initiative . . . impose a sanction against a party or attorney or both when the court determines that such party or attorney or both substantially failed to comply with these rules." N.C.R. App. P. 25(b) (2019). Sanctions allowable under Rule 25(b) are "of the type and in the manner prescribed by Rule 34 for frivolous appeals," *id.*, which include dismissal, single or double costs, "damages occasioned by delay," or "any other sanction deemed just and proper." N.C.R. App. P. 34(b) (2019).

"The Rules [of Appellate Procedure] are mandatory, and serve particular purposes[.]" *Riley*, 167 N.C. App. at 347, 605 S.E.2d at 214. If a court determines that "a party fails to comply with one or more nonjurisdictional appellate rules," and that "noncompliance is substantial or gross under Rules 25 and 34 . . . [the court] should then determine which, if any, sanction under Rule 34(b) should be imposed." *Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co.*, 362 N.C. 191, 201, 657 S.E.2d 361, 367 (2008).

While defendant's violations of Rules 26, 28(b), and 28(e) are substantial and gross and impaired this Court's ability to discern the merits of defendant's arguments, the noncompliance is not enough to warrant dismissal of his appeal. *See Dogwood*, 362 N.C. at 200, 657 S.E.2d at 366 ("[O]nly in the most egregious instances of nonjurisdictional default will dismissal of the appeal be appropriate."). Nevertheless, considering both the extent to which "the noncompliance impair[ed] the court's task of review" and "the number of rules violated," defendant's noncompliance with the rules is "substantial or gross under Rules 25 and 34." *Id*. at 200-201, 657 S.E.2d at 366-67. As such, this Court will determine which sanctions under Rule 34(b) should be imposed.

2. Sanctions

Given defendant's numerous violations of the Rules—some, if not most, of which could have been avoided by an even cursory reading of the Rules—we hereby sanction counsel for defendant. Counsel is ordered to personally pay double the court-imposed costs of this appeal, including all costs of printing the briefs and records in this matter within 30 days of the date this Opinion is certified.

C. Constitutional Challenges

Having determined that the rule violations do not merit dismissal, we now consider the merits of defendant's arguments.

Defendant asserts three arguments consisting of constitutional challenges. Defendant argues (1) that CMPD had no reasonable suspicion to stop him, and by extension, no authority to arrest him; (2) that the noise ordinance is facially unconstitutional; and (3) that the probation requirement banning defendant from coming within 1500 feet of the abortion clinic violates the First Amendment. We address each of these arguments in turn.

1. Reasonable Suspicion to Stop Defendant

Defendant first argues CMPD did not have reasonable suspicion to stop him, thereby rendering his subsequent arrest for resisting an officer illegal. Though defendant does not expressly refer to the constitutionality of the stop, the argument that CMPD lacked reasonable suspicion to effect a stop is the standard for Fourth Amendment challenges. *See, e.g., State v. Barnard*, 184 N.C. App. 25, 29, 645 S.E.2d 780, 783 (2007) (citing *Terry v. Ohio*, 392 U.S. 1, 21, 20 L.Ed.2d 889, 906 (1968)). Defendant did not raise this argument at trial, thus failing to preserve the issue for appeal. *State v. Lloyd*, 354 N.C. 76, 86-87, 552 S.E.2d 596, 607 (2001) (citing *State v. Benson*, 323 N.C. 318, 322, 372 S.E.2d 517, 519 (1988)) ("Constitutional issues not raised and passed upon at trial will not be considered for the first time on appeal."). Accordingly, this Court will not address it.

Alternatively, defendant argues there was "no reason to stop" defendant because the trial court dismissed defendant's noise-ordinance-violation charge. In

support of his argument, defendant contends because "the record is silent as to the reason for dismissal, this Court cannot assume why the case was dismissed." Rather, defendant asserts this Court "must find that there was no noise ordinance violation," which would in turn negate any reason to stop defendant in the first place.

In addition to defendant failing to cite any statute or precedent to support this claim, defendant also misstates the facts of the dismissal. The trial court expressly stated it found "[defendant] is in violation of the ordinance." However, pursuant to the ordinance, the particular punishment for violating the ordinance was left to the City's discretion. Charlotte, N.C., Municipal Code § 15-64 (2018). Unable to ascertain in what way the City had exercised its discretion, the trial court decided it "[would] not take any further action, other than saying the defendant violated the ordinance[.]" Thus, the charge was dismissed because it was unclear which penalty the City chose to levy against defendant, not because defendant had not violated the ordinance. We therefore reject defendant's argument that dismissing the charge meant "that there was no noise ordinance violation."

2. Facial Unconstitutionality

Defendant next argues that the noise ordinance is facially unconstitutional because it vests CMPD with "unbridled discretion" to grant or deny permits. Once again defendant did not raise this argument at trial, so this Court will not address it. *Lloyd*, 354 N.C. at 86-87, 552 S.E.2d at 607.

3. First Amendment Challenge to Ban from Clinic

Finally, defendant argues banning him from being within 1500 feet of the abortion clinic as a condition of his probation violates his First Amendment right to free speech. As with his other constitutional arguments, defendant failed to raise this issue at trial. Failure to challenge a sentence at trial is not always fatal, however, because our legislature has preserved for "appellate review even though no objection, exception or motion has been made in the trial division," allegations that "[t]he sentence imposed was unauthorized at the time imposed, exceeded the maximum authorized by law, was illegally imposed, or is otherwise invalid as a matter of law." N.C. Gen. Stat. § 15A-1446(d)(18) (2017). However, our State's Supreme Court has held that a defendant cannot preserve a constitutional argument using paragraph (d)(18), "even when a sentencing issue is intertwined with a constitutional issue." *State v. Meadows*, __ N.C. __, __, 821 S.E.2d 402, 407 (2018). Therefore, to the extent that defendant grounds this argument in a First Amendment challenge, defendant failed to properly preserve this argument, and we will not address it.

D. Court's Discretion to Impose Conditions of Probation

In addition to the constitutional argument, defendant also argues that a court may not, as a condition of probation, "ban[a defendant] from a premises" unless it is "protecting an identified victim." Accordingly, he argues because the State did not identify a victim at sentencing, the trial court could not ban defendant from the

abortion clinic. In support of his argument, defendant cites statutory provisions regarding domestic protection orders, N.C. Gen. Stat. § 50B-3 (2017); trespass relief, N.C. Gen. Stat. §§ 14-159.11-13 (2017); and larceny relief, N.C. Gen. Stat. § 14-72 (2017). None of these statues are relevant to the facts of this case.

This Court reviews a challenge to a trial court's decision to impose a condition of probation for abuse of discretion. *State v. Allah*, 231 N.C. App. 88, 98, 750 S.E.2d 903, 911 (2013).

Defendant offered three statutory authorities which provide examples of restraining orders involving a "victim," but has presented no precedent, regulation, statute, or any other reason to interpret these statutes to restrict trial courts' statutorily granted authority to impose probation conditions in situations such as this. In fact, there is precedent contradicting defendant's assertion a court may not "ban[a defendant] from a premises" unless it is "protecting an identified victim." In *Harrington*, this Court upheld a trial court order banning the defendant, during the hours of 8:00 p.m. to 6:00 a.m., from premises selling or serving alcohol. *State v. Harrington*, 78 N.C. App. 39, 48, 336 S.E.2d 852, 857 (1985). The ban was a condition of the defendant's probationary sentence imposed as punishment for a DWI. *Id.* Similar to the present case, there was no "identifiable victim" in *Harrington*; no one was harmed by the defendant's violation of the law. Yet, we upheld the condition. *Id.*

More importantly, "[u]nder N.C. Gen. Stat. § 15A-1343(b1), the trial court may impose any conditions on probation that it determines 'to be reasonably related to [defendant's] rehabilitation.' " *State v. Johnston*, 123 N.C. App. 292, 304, 473 S.E.2d 25, 33 (1996). "The trial court is accorded 'substantial discretion' in imposing conditions under this section." *Id.* at 305, 473 S.E.2d at 33 (quoting *State v. Harrington*, 78 N.C. App. at 48, 336 S.E.2d at 857 (1985)). Its discretion is not boundless, however, but is limited to "whether the challenged condition bears a reasonable relationship to the offenses committed by the defendant, whether the condition tends to reduce the defendant's exposure to crime, and whether the condition assists in the defendant's rehabilitation." *Allah*, 231 N.C. App. at 98, 750 S.E.2d at 911 (citing *State v. Cooper*, 304 N.C. 180, 183, 282 S.E.2d 436, 438 (1981)).

Here, the condition that defendant not come within 1500 feet of the abortion clinic is reasonably related to the offense because defendant violated the noise ordinance while speaking in protest outside the clinic. The condition also tends to reduce defendant's opportunity to violate the ordinance again, especially given that defendant regularly speaks at abortion protests that take place at or near that particular clinic. Lastly, the condition assists in defendant's rehabilitation by discouraging future misconduct. We therefore reject this argument.

E. Admissibility of the Noise-Meter Reading

Defendant next argues the trial court erred in admitting, over defendant's objection, Officer Gilliland's testimony that defendant exceeded the volume allowed by the ordinance. Defendant contends it should not have been admitted because Officer Gilliland based his testimony on readings from a noise meter that defendant argues "did not have the characteristics established by the American National Standards Institute."

Regarding sound measurements, the noise ordinance provides "the noise shall be measured on the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute." Charlotte, N.C., Code § 15-62 (2018).

At trial, defendant objected that the State had not laid proper foundation establishing the noise meter's characteristics conformed with those established by the American National Standards Institute (ANSI). Where a defendant objects to the introduction of evidence because "the State had not laid a proper foundation that they [sic] complied with the statutory procedures" for obtaining that evidence, "defendant open[s] the door for testimony" that the State *did* comply with those statutory procedures. *State v. Berry*, 143 N.C. App. 187, 193-94, 546 S.E.2d 145, 151 (2001).

Here, following defendant's objection, the trial court instructed counsel for the State to "ask a few additional foundation questions[.]" Counsel then asked whether the noise meter "has the characteristics established by the [ANSI]." In response,

Officer Gilliland testified that the noise meter is "approved by the department" and is "a department-owned device," but did not explicitly say it met the characteristics established by the ANSI. When pressed again about whether the noise meter "meet[s] the standards set by any national organizations though," Officer Gilliland testified it has "a certificate of approval that it is accepted approved [sic]." Defendant objected after this testimony, arguing the State still had not laid proper foundation on the meter. The trial court overruled this second objection.

"On appeal, the standard of review of a trial court's decision to exclude or admit evidence is that of an abuse of discretion. An abuse of discretion will be found only when the trial court's decision was so arbitrary that it could not have been the result of a reasoned decision." *Brown v. City of Winston-Salem,* 176 N.C. App. 497, 505, 626 S.E.2d 747, 753 (2006) (citing *Williams v. Bell*, 167 N.C. App. 674, 678, 606 S.E.2d 436, 439 (2005)) (internal quotation marks omitted). Here, the trial court decided to admit the evidence over defendant's second objection after it had already required the prosecution to lay additional foundation. In the course of laying foundation, the prosecution elicited testimony that CMPD's noise meter was both approved by the police department and had a certificate of approval from a national organization. Although unclear whether the national organization that issued approval was the ANSI, the trial court's decision was not "so arbitrary that it could not have been the result of a reasoned decision." The trial court could rationally infer, from the context

of the prosecution's questions, that Officer Graham's response was addressing both whether the noise meter was approved by any national organization and the ANSI specifically. Thus, we hold the trial court did not err in admitting evidence of the noise meter readings.

Defendant further argues that "if the alleged violation was based on a faulty decibel reading, then police never had reasonable suspicion to stop" him, essentially asserting the very basis for his convictions was invalid. Defendant's argument rests on the assumption the noise meter was faulty, without providing any evidence of such an assertion. Although defendant objected at trial to whether the State laid a proper foundation, he made no challenge to the sufficiency of the evidence presented by the State, nor offered any evidence of his own. A defendant may only challenge the sufficiency of the evidence on appeal if he had moved to dismiss at the close of the State's evidence, the close of all evidence, or both. N.C.R. App. P. 10(a)(3) (2019). Defendant made no such motions at trial, and thus failed to preserve this issue for appeal. This Court will therefore not address it.

We note that intertwined in defendant's evidentiary challenge is also a constitutional argument regarding whether the police had reasonable suspicion to stop defendant. However, defendant failed to preserve this argument because he did not raise any objection at trial "referenc[ing] . . . the Fourth Amendment, . . . privacy, or reasonableness, [and therefore] it is 'not apparent from the context,' N.C.R. App.

P. 10(a)(1), that defense counsel intended to raise a constitutional issue." *State v. Bursell*, __ N.C. __, __, 827 S.E.2d 302, 305 (2019) (citation in original). Defendant "thereby waiv[ed] the ability to raise th[is] issue on appeal." *Id.* at __, 827 S.E.2d at 305.

F. "Operating or Allowing Operation"

Defendant's sole remaining argument is that the trial court erred in concluding that speaking into a microphone constitutes "operating . . . sound amplification equipment" under the noise ordinance. Interpreting statutes is a question of law, reviewed *de novo*. *In re Foreclosure of Vogler Realty, Inc.*, 365 N.C. 389, 392, 722 S.E.2d 459, 462 (2012). The noise ordinance states, in pertinent part:

> (a) It shall be unlawful to:
>
> . . . .
>
> (3) Operate or allow the operation of any sound amplification equipment in the public right-of-way, including streets or sidewalks . . . (ii) so as to produce sounds registering more than 75 db(A) ten feet or more from any electromechanical speaker . . . . In addition to the person operating or allowing the operation of sound amplification equipment in violation of this subsection, the person to whom the permit was issued must be present at the location and during the times permitted and shall be liable for any and all violations.

Charlotte, N.C., Code § 15-64. The Superior Court concluded that "[t]he defendant in this case is shown in a video speaking into a microphone which exhibits loud sound which, as testified by an officer, spiked at 84 decibels. *In the plain English*, the individual was operating that sound equipment, therefore he is in violation of the

ordinance." (emphasis added). Though defendant did not specifically allege that the ordinance is ambiguous, he notes the ordinance is silent as to what defines an "operator." While the noise ordinance likely does not define the term "operator" because it does not *use* the term "operator"—instead referring to a "person operating or allowing the operation of sound amplification equipment"—we note that the ordinance does not define "operating or allowing the operation," either.

Defendant argues he was not "operating" because (1) there was no evidence that he had volume control on his wireless microphone; (2) there was no evidence he "had actual physical control over any sound equipment that could control the volume;" and (3) there was no evidence that he owned the equipment.[1] Defendant thus restricts "operating or allowing the operation of sound equipment" to either controlling the volume or holding title to the equipment.

We find defendant's interpretations unduly narrow and instead will use the plain meaning of "operate" to determine the noise ordinance's breadth. Definitions for "operate"—as a transitive verb, how it is used in the statute—include "to cause to function." "Operate." Merriam-Webster Online Dictionary. 2019. https://www.merriam-webster.com/dictionary/operate (26 Aug. 2019). The "function" of a microphone connected to a speaker is to receive sound from the person or thing

[1] To the extent this is also an insufficiency of the evidence issue, we note that defendant failed to challenge the sufficiency of the evidence at trial. Accordingly, any such argument is waived. N.C.R. App. P. 10(a)(3).

inputting sound, and output amplified sound via the speaker. An electromechanical speaker will not produce any sound without such an input, regardless of how high that speaker's volume setting is. Hence, volume control is not, per se, necessary to "operate . . . sound amplification equipment," but an "input" is "necessarily implied" for sound amplification equipment to ever violate the noise ordinance. Therefore "operating or allowing the operation of sound amplification equipment" necessarily includes inputting the sound which the equipment amplifies. *See Iredell Cty. Bd. of Educ. v. Dickson*, 235 N.C. 359, 361, 70 S.E.2d 14, 17 (1952) (Statutes' "meanings are to be found in what they necessarily imply as much as in what they specifically express.").

Here, defendant input sound by "speaking into the microphone," which the connected speaker output at a volume over the limit prescribed by the noise ordinance. As the trial court concluded, this act was "[i]n the plain English, . . . operating that sound equipment." We therefore affirm the trial court's conclusion that the defendant was operating the sound equipment in violation of the noise ordinance.

Furthermore, even if we were to accept that "operating or allowing the operation of sound amplification equipment" requires control over the amplifier's volume, the trial court had sufficient evidence to determine that defendant was operating the equipment. At trial, CMPD officers testified that while the volume was

exceeding the limit of the ordinance, defendant was standing at a table on which sat the controls for the amplifier. This testimony was uncontradicted at trial, and therefore is competent evidence upon which the trial court could find that defendant had control over the sound amplification equipment's volume. This finding could in turn support the trial court's conclusion that defendant was operating the sound amplification equipment, even under defendant's narrow interpretation.

Defendant further requests that this Court "find that [the noise] ordinance does not even apply to a guest speaker." We reject this argument for two reasons. First, defendant argues that applying the ordinance to guest speakers erodes the First Amendment. To the extent that this raises a Constitutional argument "not raised and passed upon at trial[,]" defendant may not now argue it on appeal. *Lloyd*, 354 N.C. at 86-87, 552 S.E.2d at 607. Second, to accept this argument would be to "add to or subtract [an exception] from the language of the" ordinance, which our State's Supreme Court has held courts may not do. *Ferguson v. Riddle*, 233 N.C. 54, 57, 62 S.E.2d 525, 528 (1950). Defendant's narrow reading requires us to pretend that there are no circumstances in which one who is—or claims to be—a "guest speaker" could not also be an operator. If Charlotte's City Council had intended to carve out a specific exception for "guest speakers," it would have done so.

Given that defendant was "operating" the amplified sound equipment above the 75 db(A) permitted under the ordinance, we also agree with the trial court's

conclusion that defendant resisted an officer by refusing CMPD officers' requests to provide his identification. Specifically, defendant was found guilty of violating N.C. Gen. Stat. § 14-223, which provides "[i]f any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge a duty of his office, he shall be guilty of a Class 2 misdemeanor." N.C. Gen. Stat. § 14-223 (2017). In *State v. Friend*, we interpreted "resistance, delay, or obstruction" under N.C. Gen. Stat. § 14-223 to include "the failure to provide information about one's identity during a lawful stop" when such failure hinders the police from discharging their duties. 237 N.C. App. 490, 493, 768 S.E.2d 146, 148 (2014). There, we held the defendant guilty of resisting an officer because his refusal to provide identification hindered the police officer from completing a traffic citation. *Id.* at 493, 768 S.E.2d at 148.

Here, CMPD officers were present on the scene to "keep the peace," which included "enforc[ing] any ordinances or state laws that may be violated." Upon registering defendant was violating the noise ordinance, they requested defendant provide identification in order to issue him a citation. Defendant's subsequent refusal to provide identification hindered the police from issuing defendant a citation, and thereby amounted to resisting an officer. *See id.* Thus, we hold the trial court did not err in finding defendant guilty of resisting an officer.

III. Conclusion

For the foregoing reasons, we affirm the trial court's judgment and sentence. For violation of the Rules of Appellate Procedure, we sanction counsel for defendant personally by directing counsel for defendant to pay double the court-imposed costs of this appeal, including, but not limited to, the costs for printing of the records and briefs within 30 days of the date this Opinion is certified.

AFFIRMED.

Judge COLLINS concurs.

Judge BERGER concurs by separate opinion.

BERGER, Judge, concurring in separate opinion.

I concur in the result reached by the majority.

That we may agree with the cause does not grant us license to ignore the law. That we may disagree with the cause does not provide us a privilege to punish arbitrarily. Justice resides in the consistent enforcement and application of the law. While Defendant may argue that he has been treated unjustly given the peaceful nature of his actions when compared to violent and destructive riots which have not resulted in criminal convictions, we are not at liberty to put social justice above the letter of the law.

This case is not about abortion, a pro-life demonstration, or the First Amendment. This case is about a defendant who hindered or delayed an officer in the performance of that officer's duties. No matter the importance an individual assigns to his or her cause, there is an obligation to comply with a law enforcement officer's lawful request. *See State v. Friend*, 237 N.C. App. 490, 493, 768 S.E.2d 146, 148 (2014) ("failure to provide information about one's identity during a lawful stop can constitute resistance, delay, or obstruction within the meaning of N.C. Gen. Stat. § 14–223.").

Here, Defendant was lawfully stopped for a noise ordinance violation. When officers requested identifying information from Defendant to issue a citation, he refused at least five times. Even though Defendant did not have his identification on

him, he was not prevented from providing his identifying information. Further, it is irrelevant that Defendant provided the requested information after being arrested. By his refusal, Defendant resisted and delayed an officer in the performance of his duties. While Defendant has a constitutionally protected right to argue the justness of his cause in the public forum, he is not exempt from his obligation to abide by the law.