

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA19-143

Filed: 17 September 2019

Wake County, Nos. 15 CRS 209413, 214761

STATE OF NORTH CAROLINA

v.

TYREE DEVON HERRING

Appeal by defendant from judgment entered 26 July 2018 by Judge W. Osmond Smith III in Wake County Superior Court. Heard in the Court of Appeals 4 September 2019.

Attorney General Joshua H. Stein, by Assistant Attorney General Anna M. Davis, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Emily Holmes Davis, for defendant-appellant.

PER CURIAM

Tyree Devon Herring (“Defendant”) appeals from a judgment entered finding him guilty of a parole violation and also revoking his probation. We reverse and remand.

STATE V. HERRING

Opinion of the Court

On 11 September 2015, Defendant pled guilty to assault by strangulation and habitual misdemeanor assault. Defendant was sentenced to two consecutive terms of eight to nineteen months imprisonment, suspended for twenty-four months of probation. As a term of his probation, Defendant was ordered not to have any contact with the victim in the assault, Iesha Duffy (“Duffy”).

Defendant was charged with assaulting Duffy on 12 November 2015. On 20 November 2015, Defendant’s probation officer filed a probation violation report asserting Defendant had violated an express term of his probation by contacting Duffy. On 7 January 2016, Defendant stabbed Duffy, and was charged with attempted murder and assault with a deadly weapon with intent to kill inflicting serious bodily injury. On 12 January 2016, Defendant’s probation officer filed a probation violation report for the stabbing of Duffy, and the criminal charges related thereto.

On 26 July 2016, Defendant was tried before a jury and convicted of attempted murder and assault with a deadly weapon with intent to kill inflicting serious bodily injury. Immediately following the conviction and judgment, Defendant’s probation was revoked. From the judgments revoking probation Defendant gave oral notice of appeal in open court.

During the hearing on whether to revoke Defendant’s probation the court did not address all of the requirements under N.C. Gen. Stat. § 15A-1344(f) (2017). For

STATE V. HERRING

Opinion of the Court

the reasons stated in our Supreme Court's opinion in *State v. Morgan*, ___ N.C. ___, ___ S.E.2d ___, 2019 WL 3916733 (2019) the decision of the trial court is reversed and the case is remanded for a determination of whether good cause exists to revoke Defendant's probation. Defendant's convictions for attempted murder and assault with a deadly weapon with intent to kill inflicting serious bodily injury were not appealed and remain undisturbed. *It is so ordered.*

REVERSED AND REMANDED

Panel consisting of: Dietz, Tyson, and Young, JJ.

Report per Rule 30(e).