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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-665

Filed: 7 July 2020

Wake County, No. 17CRS764702

STATE OF NORTH CAROLINA

v.

ROSZELL LAND, Defendant.

Appeal by Defendant from judgment entered 19 February 2019 by Judge Stephan R. Futrell in Wake County Superior Court. Heard in the Court of Appeals 27 May 2020.

Attorney General Joshua H. Stein by Assistant Attorney General Jason Rosser, for the State.

Richard J. Costanza for the Defendant.

DILLON, Judge.

I. Background

On 24 November 2017, Defendant Roszell Land was pulled for speeding by a state trooper. Defendant's speed clocked in at 92 miles an hour in a 70 miles per hour zone. Defendant was issued a citation for speeding. A jury convicted Defendant of speeding 15 miles per hour or more over the posted speed limit.

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During sentencing, the State contended that Defendant should be sentenced at a prior record level three based on prior convictions. To prove the existence of these prior convictions, the State offered a “CJ-Leads” computer printout showing Defendant’s record. Defendant objected.

The court relied on the printout and found that Defendant had seven prior convictions for sentencing purposes. Accordingly, the court imposed an active sentence of five days, as well as costs and a fine. Defendant appealed.

II. Analysis

Defendant makes two arguments on appeal: (1) whether it was proper to sentence Defendant as a prior record level three when the only evidence to support that information was a prior record level worksheet, and (2) whether it was proper for Defendant to have received sentencing points for offenses that could have been labeled as infractions.

The State concedes that the use of only a prior record level worksheet to determine Defendant’s prior record level is insufficient. *See State v. Alexander*, 359 N.C. 824, 827, 616 S.E.2d, 914, 917 (2005) (“There is no doubt that a mere worksheet, standing alone, is insufficient to adequately establish a defendant’s prior record level.”). Thus, this issue will be remanded to the trial court so that it can be revised.

The State does not concede the second issue. However, due to the concession of the first issue, we need not address the second issue at this time.

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III. Conclusion

We, therefore, uphold the conviction but remand for resentencing.

REMANDED FOR RESENTENCING.

Judges ZACHARY and BROOK concur.

Report per Rule 30(e).