

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA23-272

Filed 12 September 2023

Duplin County, No. 20CRS50621

STATE OF NORTH CAROLINA

v.

SHONN SIRHARRIS SLOAN, Defendant.

Appeal by defendant from judgment entered 23 August 2022 by Judge Henry L. Stephens, IV in Duplin County Superior Court. Heard in the Court of Appeals 29 August 2023.

Attorney General Josh H. Stein, by Assistant Attorney General Benjamin Szany, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Nicholas C. Woomer-Deters, for Defendant-Appellant.

PER CURIAM.

On 23 August 2022, Defendant Shonn Sirharris Sloan was convicted of one count of third-degree sexual exploitation of a minor pursuant to a plea agreement where the State agreed to dismiss other charges. The trial court entered a criminal judgment imposing a sentence of eight to 19 months of imprisonment, which was suspended for 24 months. The trial court also entered a civil judgment directing

Defendant to pay attorney's fees in the amount of \$1,950. Defendant seeks review of the civil judgment.

Defendant argues that the trial court erred by not affording him an opportunity to be heard before entering its judgment for attorney's fees. However, Defendant lost his right to appeal when he attempted to enter his notice of appeal orally, and as a result, he has petitioned our Court to issue a writ of certiorari. N.C. R. App. P. 3(a) & (c) (2021).

"[T]his Court has regularly allowed certiorari in order to correct a trial court's error in failing to directly address a criminal defendant directly and afford a defendant the basic right to be heard prior to entering a civil judgment against that defendant for the attorneys' fees of defense counsel." *State v. Baungartner*, 273 N.C. App. 580, 583, 850 S.E.2d 549, 551 (2020); *See also State v. Mayo*, 263 N.C. App. 546, 549, 823 S.E.2d 656, 659 (2019); *State v. Friend*, 257 N.C. App. 516, 519, 809 S.E.2d 902, 905 (2018); *State v. Elder*, 278 N.C. App. 493, 517-18, 863 S.E.2d 256, 275 (2021).

In our discretion, we grant certiorari to review Defendant's appeal. N.C. R. App. P. 21(a)(1) (2021).

It is well established that before imposing a judgment for attorney's fees, a trial court must afford the defendant notice and the opportunity to be heard. *State v. Crews*, 284 N.C. 427, 442, 201 S.E.2d 840, 849-50 (1974); *Friend*, 257 N.C. App. at 523, 809 S.E.2d at 907. The State concedes that the trial court erred by not affording Defendant notice and the opportunity to be heard before entering the judgment.

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Additionally, the transcript of the proceeding does not contain any record showing that Defendant was informed of or given the opportunity to be heard on this issue. Therefore, we vacate the trial court's civil judgment and remand for further proceedings consistent with this opinion.

VACATED AND REMANDED.

Panel consisting of Judges DILLON, MURPHY, and RIGGS.

Report per Rule 30(e).