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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-201

Filed 16 January 2024

Rowan County, No. 19 CRS 52075

STATE OF NORTH CAROLINA

v.

SHA'LE MONIQUE GLENN, Defendant.

Appeal by defendant from judgment entered 26 July 2021 by Judge Lori I. Hamilton in Rowan County Superior Court. Heard in the Court of Appeals 22 August 2023.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Alexander G. Walton, for the State.

Stephen G. Driggers for the defendant-appellant.

STADING, Judge.

Sha'le Monique Glenn (“defendant”) appeals from judgment after she entered an *Alford* guilty plea and was convicted of felony fleeing/eluding arrest with a motor vehicle and resisting a public officer. For the reasons set forth below, we deny defendant’s petition for a writ of *certiorari* and dismiss the appeal.

I. Background

On 22 May 2019, defendant drove past Officers Bunch and Smith of the

Salisbury Police Department, who were parked at an intersection. Officer Bunch believed defendant was speeding, but did not track her speed with radar and did not initiate a traffic stop. A short time later, defendant returned to the intersection where the officers were parked. Using his radar, Officer Bunch clocked defendant's speed at fifty-one miles per hour in a thirty-five miles per hour zone. Officer Bunch relayed this radar reading to Officer Smith, who then initiated the first traffic stop of defendant. In the course of the traffic stop, defendant sped off and led the officers on a high-speed chase until defendant's subsequent apprehension in an adjacent county.

Defendant was indicted on 17 February 2020 for felony fleeing to elude an arrest with a motor vehicle and resisting a public officer. On 26 July 2021, defendant filed a motion to suppress evidence obtained from the traffic stop, alleging that the officers lacked reasonable suspicion of a crime to initiate the traffic stop. That same day, the trial court conducted a hearing and denied defendant's motion. Thereafter, defendant entered an *Alford* guilty plea and was sentenced accordingly. On 27 July 2021, after the trial court accepted her *Alford* guilty plea, defendant filed a "Notice of Appeal of Denial of Motion to Suppress," but did not appeal the final judgment. Therefore, on 10 April 2023, defendant petitioned this Court for a writ of *certiorari*.

II. Analysis

Defendant's notice of appeal was defective as it purported to appeal the trial court's denial of her motion to suppress rather than the final judgment. *State v.*

Horton, 264 N.C. App. 711, 714, 826 S.E.2d 770, 773 (2019) (“If the defendant merely appeals the denial of his motion, rather than the final judgment, this Court lacks jurisdiction over the appeal.” (citation omitted)). Defendant seeks to remedy this error by filing a petition for a writ of *certiorari*—requesting appellate review of the trial court’s judgment under Rule 21 of the North Carolina Rules of Appellate Procedure. For the reasons discussed below, in the exercise of our discretion, defendant’s petition is denied, and her appeal is dismissed.

A. N.C. Gen. Stat. § 15A-979(b)

The relevant statutory authority provides a *conditional* right to appeal an order denying a motion to suppress evidence under circumstances when the defendant pleads guilty. N.C. Gen. Stat. § 15A-979(b) (2021) (emphasis added). To properly appeal under N.C. Gen. Stat. § 15A-979(b), a defendant who enters a guilty plea must: (1) give notice of his intent to appeal the motion to suppress before entering the plea, and (2) appeal the final judgment of conviction. *See State v. Stevens*, 151 N.C. App. 561, 563, 566 S.E.2d 149, 150 (2002) (citation omitted) (holding that a defendant bears the burden of notifying the State and the trial court during plea negotiations of the intention to appeal the denial of a motion to suppress, or the right to do so is waived after a plea of guilty); *see also State v. Miller*, 205 N.C. App. 724, 725, 696 S.E.2d 542, 543 (2010) (dismissing the defendant’s appeal on account of failure to appeal from the final judgment as statutorily required).

Here, defendant did not give notice of her intent to appeal the denial of her motion to suppress after the trial court announced its ruling or before entering her guilty plea. Further, as defendant concedes, she did not file a notice of appeal of the final judgment. Thus, defendant failed to satisfy either requirement imposed by N.C. Gen. Stat. § 15A-979(b). Nonetheless, since this Court “has jurisdiction and authority to issue the writ of certiorari here, although it is not compelled to do so, in the exercise of its discretion,” we find it prudential to consider the merits of the petition. *State v. Killette*, 381 N.C. 686, 691, 873 S.E.2d 317, 320 (2022).

B. N.C. App. P. Art. V, Rule 21

North Carolina Appellate Procedure Rule 21 provides three grounds for which this Court may grant *certiorari*: (1) “when the right to prosecute an appeal has been lost by failure to take timely action,” (2) “when no right of appeal from an interlocutory order exists,” or (3) to “review pursuant to N.C. [Gen. Stat.] § 15A–1422(c)(3) of an order of the trial court ruling on a motion for appropriate relief.” N.C. R. App. P. 21. “*Certiorari* is a discretionary writ, to be issued only for good and sufficient cause shown.” *State v. Gantt*, 271 N.C. App. 472, 474, 844 S.E.2d 344, 346 (2020) (citation omitted). Additionally, the petitioner must show that “the ends of justice will be . . . promoted.” *Id.* (citation omitted). Furthermore, the decision of “[w]hether to allow a petition and issue the writ of certiorari is not a matter of right and rests within the discretion of this Court.” *Id.* at 474–75, 844 S.E.2d at 346. Such

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“petition for the writ must show merit or that error was probably committed below.” *State v. Grundler*, 251 N.C. 177, 189, 111 S.E.2d 1, 9 (1959) (citations omitted).

The sole issue presented at the suppression hearing was whether law enforcement officers had reasonable suspicion to initiate a stop of defendant’s vehicle. “Reasonable suspicion is a ‘less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence.’” *State v. Styles*, 362 N.C. 412, 414, 665 S.E.2d 438, 439 (2008) (quoting *Illinois v. Wardlow*, 528 U.S. 119, 123, 120 S. Ct. 673, 675–76 (2000)). “The only requirement is a minimal level of objective justification, something more than an ‘unparticularized suspicion or hunch.’” *State v. Watkins*, 337 N.C. 437, 442, 446 S.E.2d 67, 70 (1994) (quoting *United States v. Sokolow*, 490 U.S. 1, 7, 109 S. Ct. 1581, 1585 (1989)). “[T]he overarching inquiry when assessing reasonable suspicion is always based on the totality of the circumstances.” *State v. Maready*, 362 N.C. 614, 619, 669 S.E.2d 564, 567 (2008).

Here, Officer Bunch testified that he witnessed defendant’s vehicle approaching his location at a high rate of speed. Furthermore, Officer Bunch testified that he was certified to operate the radar system which he used determine that defendant’s rate of speed was fifty-one miles per hour in a thirty-five miles per hour zone. This speeding violation was “sufficient to satisfy the reasonable suspicion standard.” *State v. Walton*, 277 N.C. App. 154, 159, 857 S.E.2d 753, 759 (2021).

Moreover, at the hearing—despite contesting reasonable suspicion—defendant conceded to the essential fact underlying the basis for the traffic stop. Defendant

testified that she estimated she “could have been doing maybe 40.” The record contains ample competent evidence to support the trial court’s findings of fact regarding the traffic stop, and those findings of fact support the trial court’s conclusion that reasonable suspicion existed for law enforcement to stop defendant. Therefore, the trial court did not err in denying defendant’s motion to suppress. This matter does not show merit or that error was probably committed below. *Grundler*, 251 N.C. at 189, 111 S.E.2d at 9 (citation omitted).

III. Conclusion

For the reasons stated herein, defendant’s petition for a writ of *certiorari* is denied and her appeal is dismissed.

DISMISSED.

Judges STROUD and FLOOD concur.

Report per Rule 30(e).