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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-367

Filed 19 March 2024

Mecklenburg County, Nos. 20CRS 221045, 221048, 221052-56

STATE OF NORTH CAROLINA

v.

LIONEL OCTAVIOUS PRICE

Appeal by defendant from judgments entered 27 September 2022 by Judge Athena Fox Brooks in Mecklenburg County Superior Court. Heard in the Court of Appeals 6 March 2024.

Attorney General Joshua H. Stein, by Special Deputy Attorney General John P. Barkley, for the State.

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

TYSON, Judge.

Lionel Octavious Price (“Defendant”) appeals from judgments entered upon a jury’s verdicts of guilty of possession of a firearm by a felon, two counts of attempted murder, two counts of assault with a deadly weapon with intent to kill inflicting serious injury, and two counts of discharging a firearm into an occupied car. We

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discern no error at trial but vacate the judgment for restitution and remand.

I. Background

Defendant was charged with the numerous crimes listed above and was convicted by a jury of all charges. Defendant's convictions for one count of attempted first degree murder and assault with a deadly weapon with intent to kill inflicting serious injury were each consolidated, and he was sentenced to two consecutive sentences of 314 to 389 months. Defendant's convictions for two counts of discharging a weapon into an occupied car and possession of a firearm by a felon were consolidated, and he was sentenced to an active sentence of 50 to 72 months to run consecutive to his other sentences. Defendant was ordered to pay \$200 in restitution by the trial court. Defendant appeals.

II. Jurisdiction

Jurisdiction lies in this Court pursuant to N.C. Gen. Stat. §§ 15A-1444(a) and 7A-27(b) (2023).

III. Issue

Defendant argues the trial court erred by ordering him to pay \$200 in restitution.

IV. Order of Restitution

A. Standard of Review

"[A]wards of restitution are reviewed *de novo*." *State v. Buchanan*, 260 N.C. App. 616, 623, 818 S.E.2d 703, 709 (2018) (citation omitted).

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B. Analysis

Defendant argues, and the State concedes, the trial court erred in ordering him to pay \$200 in restitution, because the amount was unsupported by any evidence. “When a restitution award is vacated, the typical remedy is to remand the restitution portion of the sentence for a new sentencing hearing.” *State v. Hunt*, 250 N.C. App. 238, 253, 792 S.E.2d 552, 563 (2016) (citation omitted).

V. Conclusion

Defendant received a fair trial, free from prejudicial errors he preserved or argued. Defendant does not challenge the sentences imposed.

The State’s evidence did not support the trial court’s restitution award of \$200. The award is vacated and the restitution portion of that judgment is remanded for a new sentencing hearing. Defendant’s convictions and sentences remain undisturbed. *It is so ordered.*

NO ERROR AT TRIAL, RESTITUTION JUDGMENT VACATED AND REMANDED.

Judges ARROWOOD and COLLINS concur.

Report per Rule 30(e).