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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-607

Filed 20 February 2024

Beaufort County, No. 16 CRS 260

STATE OF NORTH CAROLINA

v.

BETSY ANN HARRIS, Defendant.

Appeal by Defendant from judgment entered 31 October 2022 by Judge Eula E. Reid in Beaufort County Superior Court. Heard in the Court of Appeals 23 January 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Jessica Helms, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender David W. Andrews, for defendant-appellant.

MURPHY, Judge.

Defendant appeals from the judgment of the trial court revoking her probation. On appeal, she argues the trial court was without subject matter jurisdiction to revoke her probation because probation had expired and the prosecutor failed to show good cause to revoke probation after its expiration. She also argues the trial court violated her constitutional right to confrontation during the probation revocation

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hearing. However, the constitutional right to confrontation during a probation revocation hearing is not recognized in North Carolina, and all features jurisdictionally necessary for the trial court to retain subject matter jurisdiction over the revocation of Defendant's probation were present on the record. We therefore hold that the trial court did not err in either respect.

BACKGROUND

On 6 November 2014, Defendant Betsy Ann Harris pled guilty to breaking and entering and larceny after breaking and entering. The trial court sentenced Defendant to 10 to 21 months imprisonment, which was suspended for 24 months of supervised probation.

On 8 March 2016, a probation violation report was filed in which it was alleged that Defendant violated the terms of her probation by absconding supervision, moving without informing her probation officer of her new address, missing scheduled home contacts and calls, being indebted in court and supervision fees, and testing positive for marijuana use. A hearing was held on 31 October 2022 in which a probation officer not personally responsible for Defendant's supervision testified repeatedly as to the bases for probation revocation with reference to the supervising officer's notes regarding her violations. Defendant objected multiple times on the basis that, inter alia, the testimony violated her right to confrontation; however, the trial court overruled each objection.

At the close of the hearing, the trial court found there was good cause to revoke Defendant's probation. Defendant timely appealed.

ANALYSIS

On appeal, Defendant makes two arguments: first, that the trial court lacked subject matter jurisdiction over her case because the prosecutor failed to show good cause for revoking her probation after its expiration; and, second, that the trial court violated her right to confrontation during the probation revocation hearing. However, at the threshold, we note that “a [constitutional] right to confrontation in a probation revocation hearing does not exist.” *State v. Hemingway*, 278 N.C. App. 538, 548 (2021) (citing *State v. Braswell*, 283 N.C. 332, 337 (1973)). As Defendant's second argument is predicated on an alleged constitutional right¹ that does not apply to probation revocation hearings, we devote no further analysis to this issue.

With respect to Defendant's subject matter jurisdiction argument, we begin with the governing statute:

The court may extend, modify, or revoke probation after the expiration of the period of probation if all of the following apply:

- (1) Before the expiration of the period of probation the State has filed a written violation report with the clerk indicating its intent to conduct a hearing on one or more violations of one or more conditions of probation.

¹ Defendant has cursorily referenced the fact that “[t]he right to confrontation in probation cases is [] reflected in [N.C.G.S.] § 15A-1345(e)[.]” However, none of her substantive arguments relate to the statutory right to confrontation, nor did her objections at trial. We therefore do not address any potential arguments Defendant could have made regarding the statutory right to confrontation.

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(2) The court finds that the probationer did violate one or more conditions of probation prior to the expiration of the period of probation.

(3) The court finds for good cause shown and stated that the probation should be extended, modified, or revoked.

(4) If the court opts to extend the period of probation, the court may extend the period of probation up to the maximum allowed under [N.C.G.S. §] 15A-1342(a).

N.C.G.S. § 15A-1344(f) (2023); *see also State v. Camp*, 299 N.C. 524, 527-28 (1980)

("[T]he State may not [attempt to revoke probation] after the expiration of the period of probation except as provided in [N.C.G.S.] § 15A-1344(f). . . . Consequently, jurisdiction was lost by the lapse of time and the court had no power to enter a revocation judgment . . ."). Under N.C.G.S. § 15A-1344(f)(3), a trial court may revoke probation after its expiration, but only if it "finds for good cause shown and stated that the probation should be extended, modified, or revoked." N.C.G.S. § 15A-1344(f)(3) (2023). Under this standard,

[w]hether the jurisdictional requirements of N.C.G.S. § 15A-1344(f)(3) are satisfied is a question of law: (1) whether a probation violation report was filed prior to the expiration of the defendant's probation; (2) whether the trial court found that the defendant violated one or more conditions of his or her probation; and (3) whether the trial court found good cause that the probation should be extended, modified, or revoked. But whether good cause exists, being fact-intensive and dependent on the circumstances which result in the delay of a probation revocation hearing, is a finding of fact delegated to the discretion of the trial court.

State v. Geter, 383 N.C. 484, 492 (2022). Furthermore, the finding of good cause "must actually be made by the trial court[;] [] such a finding cannot simply be inferred from

the record.” *State v. Morgan*, 372 N.C. 609, 616 (2019).

Here, the basic facts informing jurisdiction are unambiguously present in the record. The probation violation report was filed in March of 2016, prior to the expiration of Defendant’s probation in November of the same year. The trial court found that Defendant violated conditions of her probation in that she, inter alia, absconded supervision, tested positive for marijuana, and missed visits with her probation officer. Finally, the trial court did find—albeit at the prompting of the State—that good cause had been shown to revoke Defendant’s probation.²

Having established the presence of all jurisdictionally necessary factors, we have left only to determine whether the trial court abused its discretion in determining whether good cause existed. *See Geter*, 383 N.C. at 492. Having found numerous bases on which Defendant violated her probation based on competent evidence, we cannot say that it did.³

CONCLUSION

All features jurisdictionally necessary for the trial court to retain subject matter jurisdiction over the revocation of Defendant’s probation were present on the record, and we cannot say the trial court abused its discretion in its finding of good

² Defendant takes issue with the fact that “neither the prosecutor nor the judge stated what the good cause was[,]” with the trial court only having specified that good cause existed. However, we do not read *Geter*, *Morgan*, or N.C.G.S. § 15A-1344(f) as requiring that the trial court specify what it found to constitute good cause, only that good cause exist.

³ Indeed, it is not apparent from Defendant’s brief that she even contests the discretionary component of the trial court’s finding of good cause.

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cause. The trial court did not err.

NO ERROR.

Judges ZACHARY and COLLINS concur.

Report per Rule 30(e).