NO. 156A13 DISTRICT SEVEN A

SUPREME COURT OF NORTH CAROLINA

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PAUL E. WALTERS Plaintiff	)	
v.	)	
	)	From Nash
ROY A. COOPER, III, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL FOR THE STATE OF NORTH CAROLINA Defendant.	)	12 CVS 622

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NEW BRIEF FOR DEFENDANT/APPELLANT

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OFFICIAL CAPACITY AS	)	
ATTORNEY GENERAL FOR THE	)	
STATE OF NORTH CAROLINA	)	
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NEW BRIEF FOR DEFENDANT/APPELLANT

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ISSUE PRESENTED

I. WHETHER THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANT BASED UPON ITS DETERMINATION THAT PLAINTIFF HAS A "REPORTABLE CONVICTION" FOR SEXUAL BATTERY REQUIRING HIM TO MAINTAIN REGISTRATION PURSUANT TO THE NORTH CAROLINA SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS?

STATEMENT OF THE CASE

On 4 April 2012, Plaintiff Paul E. Walters initiated this civil action by filing his Complaint for Declaratory Judgment in the Superior Court, Nash County, naming Roy A. Cooper, III in his official capacity as the Attorney General of North Carolina as the Defendant. (R pp 2-6) On or about 7 May 2012, Defendant moved to dismiss Plaintiff's complaint and moved alternatively for summary judgment. (R pp 7-10) On 22 May 2012, Plaintiff moved for summary judgment. (R pp 11-12)

The matter came on for hearing on Plaintiff's motion for summary judgment at the 9 July 2012 Civil Session of the Superior Court, Nash County, the Honorable Quentin T. Sumner, senior resident superior court judge, presiding. (R p 1) By order filed 23 July 2012, the trial court granted summary judgment in favor of Defendant. (R pp 13-16) Plaintiff thereafter appealed to the Court of Appeals. (R pp 17-18)

On 19 March 2013, the Court of Appeals issued a divided, published opinion (Hunter, Jr., Robert N., j., with Geer, j., concurring) reversing the trial court's order and "remand[ing] for entry of an order directing the Office of the Attorney General to remove Plaintiff's name and other information from the sex offender registry." See No. COA12-1221. Judge Steelman filed a dissenting opinion and would have affirmed the trial court's order granting summary judgment to Defendant. See id., slip

op. at 1 (Steelman, j., dissenting).[1] On 2 April 2013, Defendant noticed appeal to this Court on the basis of Judge Steelman's dissenting opinion, moved for a temporary stay, and petitioned for the writ of supersedeas. Defendant's motion and petition were both allowed by this Court on 3 April 2013.

STATEMENT OF THE GROUNDS FOR APPELLATE REVIEW

Defendant appeals to this Court as a matter of right pursuant to N.C. Gen. Stat. § 7A-30(2) and in accordance with Rule 16 of the North Carolina Rules of Appellate Procedure. Defendant presents, based upon the dissenting opinion of Judge Steelman, the sole issue which was raised by Plaintiff's initial appeal from the trial court's 23 July 2012 order granting Defendant summary judgment.

STATEMENT OF THE FACTS

At the hearing on 9 July 2012, the parties stipulated to several facts, as reflected in the trial court's 23 July 2012 order, which are set forth in pertinent part as follows: (R pp 13-14)

On 16 August 2006, Plaintiff pleaded guilty to the criminal charge of misdemeanor sexual battery in Nash County Superior Court, case number 06-CRS-051670. On the same date, prayer for judgment was continued "on payment of cost and attorney fees, $910.00; not have any contact with, communicate with, in

[1] The pagination for the dissenting opinion restarts at 1.

any shape, form, or fashion, the victim, not be on her property or contact any member of her immediate family." Plaintiff was not notified by the court at that time of any requirement to register pursuant to the Sex Offender and Public Protection Registration Programs.

From the date that prayer for judgment was continued until November 2011, Plaintiff resided in Franklin County, N.C. and was not registered as a sex offender. In November 2011, the Franklin County Sheriff's Office advised Plaintiff that because of his conviction for sexual battery he was required to register and would have to do so within ten (10) business days or else be charged criminally for his failure to register.

On 30 November 2011, Plaintiff completed his initial county registration as a sex offender with the Franklin County Sheriff's Office. Plaintiff remained registered as of at least 9 July 2012. Besides the guilty plea in question, Plaintiff had no criminal convictions requiring him to maintain registration as a sex offender under Article 27A of Chapter 14 of the North Carolina General Statutes.

ARGUMENT

I. THE COURT OF APPEALS ERRED IN REVERSING THE TRIAL COURT'S ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANT, INSOFAR AS PLAINTIFF HAS A "REPORTABLE CONVICTION" UNDER N.C. GEN. STAT. § 14-208.6 BY VIRTUE OF HIS PLEA OF GUILTY TO SEXUAL BATTERY AND THE TRIAL COURT'S ORDER CONTINUING PRAYER FOR JUDGMENT UPON PAYMENT OF COSTS AND OTHER CONDITIONS.

A. Standard of Review

The issue presented in this case is whether Defendant was "entitled to judgment as a matter of law," a question which is subject to de novo review. See Summey v. Barker, 357 N.C. 492, 497, 586 S.E.2d 247, 249 (2003). "If the granting of summary judgment can be sustained on any grounds, it should be affirmed on appeal. If the correct result has been reached, the judgment will not be disturbed even though the trial court may not have assigned the correct reason for the judgment entered." Shore v. Brown, 324 N.C. 427, 428, 378 S.E.2d 778, 779 (1989) (citations omitted). This rule should hold whether the appropriate grounds be raised by the party which prevailed at trial or by the reviewing court *sua sponte.*

B. Plaintiff Has a "Reportable Conviction" for Sexual Battery, Requiring Him to Maintain Registration under the North Carolina Sex Offender and Public Protection Registration Programs

A "final conviction" for sexual battery in North Carolina constitutes a "reportable conviction" for a "sexually violent offense." See N.C. Gen. Stat. §

14-208.6(4)(a), (5) (2011). By statute, a resident of this State who "has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides." N.C. Gen. Stat. § 14-208.7(a).

"It is well settled law in this State that a plea of guilty, freely, understandingly, and voluntarily entered, is equivalent to a conviction of the offense charged." State v. Watkins, 283 N.C. 17, 27, 194 S.E.2d 800, 808, cert. denied, 414 U.S. 1000, 38 L. Ed. 2d 235, 94 S. Ct. 353 (1973). Plaintiff, by virtue of his plea of guilty for the offense of sexual battery, was therefore "convicted" of this offense, regardless of any entry of judgment. See id.; State v. Sidberry, 337 N.C. 779, 782, 448 S.E.2d 798, 800 (1994) (holding that a plea of guilty constitutes a prior conviction for purposes of Rule of Evidence 609(a) even if prayer for judgment was continued)

The question presented by this appeal is whether Plaintiff has a "final conviction" for purposes of N.C. Gen. Stat. § 14-208.6(4)(a). Defendant contends Plaintiff does, in fact, have a "final conviction" for sexual battery; therefore, the trial court's order granting summary judgment should have been affirmed by the Court of Appeals.

1. The order continuing prayer for judgment after Plaintiff's plea of guilty was in its nature "final" because it imposed conditions other than the payment of costs.

Defendant contends, primarily, that the imposition of conditions in an order

continuing prayer for judgment makes a defendant's conviction "final," insofar as the order effectively determines the action, at least with respect to the conviction.

"After a conviction or plea (guilty or nolo contendere) the court has power: (1) To pronounce judgment and place it into immediate execution; (2) to pronounce judgment and suspend or stay its execution; (3) to continue prayer for judgment." State v. Griffin, 246 N.C. 680, 682, 100 S.E.2d 49, 50 (1957). "When prayer for judgment is continued, the judgment is suspended. When judgment is pronounced and sentence is suspended, execution of sentence is stayed." State v. Miller, 225 N.C. 213, 215, 34 S.E.2d 143, 144 (1945).

"In this state, we have made a distinction between cases in which prayer for judgment is continued with conditions imposed and cases in which prayer for judgment is continued without any conditions." State v. Absher, 335 N.C. 155, 157, 436 S.E.2d 365, 366 (1993) (citation omitted); see also State v. Graham, 225 N.C. 217, 218, 34 S.E.2d 146, 147 (1945). In In re Greene, this Court contrasted:

> the plenary inherent power of the courts temporarily to delay, for judicial purposes, pronouncement of judgment or execution of sentence under a pronounced judgment, so as to afford time to consider post-trial motions, to prevent a miscarriage of justice, and for other like purposes contemplated by law and justice[] [with] the claimed "inherent" power of the court to continue prayer for judgment on conditions or suspend execution of sentence on conditions.

297 N.C. 305, 307, 255 S.E.2d 142, 144 (1979). "When either judgment or sentence

is suspended on condition, *the ultimate purpose is the same.*" Miller, 225 N.C. at 215, 34 S.E.2d at 144-45 (emphasis added)

A trial court which continues prayer for judgment retains jurisdiction to pronounce judgment at a subsequent term, so long as no terms or conditions are imposed by the order. Graham, 225 N.C. at 219, 34 S.E.2d at 147. Additionally, "[w]here prayer for judgment is continued and no conditions are imposed, there is no judgment, no appeal will lie, and the case remains in the trial court for appropriate action upon motion of the solicitor." State v. Pledger, 257 N.C. 634, 638, 127 S.E.2d 337, 340 (1962) (emphasis added and citations omitted). By contrast, an order continuing prayer for judgmentupon conditions "is in substitution of the right of the court to pronounce judgment or invoke execution, after the adjournment of theterm, so long as the defendant observes the conditions imposed." Miller, 225 N.C. at 215, 34 S.E.2d at 145.

In Miller, this Court stated further:

> [T]he order suspending the imposition or execution of sentence on condition is favorable to the defendant in that it postpones punishment and gives him an opportunity to escape it altogether. When he sits by as the order is entered and does not then appeal, he impliedly consents *and thereby waives or abandons his right to appeal on the principal issue of his guilt or innocence and commits himself to abide by the stipulated conditions.* He may not be heard thereafter to complain that his conviction was not in accord with due process of law. *He is relegated to his right to contest the imposition of judgment or the execution of sentence*, as the case may be, for that there is no evidence to support a

> finding that the conditions imposed have been breached, or the conditions are unreasonable and unenforceable, or are for an unreasonable length of time.

Id. at 215-16, 34 S.E.2d at 145 (emphasis added and citations omitted); see also State v. Pelley, 221 N.C. 487, 499, 20 S.E.2d 850, 858 (1942) ("'The defendant, having pleaded guilty of a misdemeanor, and having consented, or, at least, offered no objection to the conditionsupon which the prayer for judgment was continued . . . is in no position now to complain.'" (quoting State v. Ray, 212 N.C. 748, 194 S.E. 472 (1938)); State v. Tripp, 168 N.C. 150, 154, 83 S.E. 630, 632 (1914) ("The course, then, being only permissible with the consent of the defendant, when such assent appears, as it does in this case, it may properly be considereda waiver of his right of appeal on the principal issue of his guilt or innocence and of the right given by this statute in which a trial *de novo* is provided for; and the further consideration of the cause involves only the proper disposition of the right and propriety of imposing the suspended sentence."). Cf. Miller, 225 N.C. at 216, 34 S.E.2d at 145 ("It is otherwise when the order continuing prayer for judgment is not predicated upon stipulated conditions.").

Within the context of Chapter 20 of the General Statutes, this Court has stated that "[a] conviction alone, without the imposition of a judgment from which an appeal might be taken, is not a final conviction." Barbour v. Scheidt, 246 N.C. 169, 173, 97

S.E.2d 855, 858 (1957). The relevant orders confronted in Barbour were such that "no judgment [was] imposed on the verdict, *but merely an order [was] entered continuing prayer for judgment upon payment of costs.*" See id. at 171, 97 S.E.2d at 857 (emphasis added). Indeed, the Barbour Court appears to have assumed that a suspended judgment--*i.e.*, an order continuing prayer for judgment--would be an order from which a criminal defendant might take appeal if conditions besides the payment of costs were imposed. See id. at 172, 97 S.E.2d at 858.

A criminal defendant's *statutory* right to appeal would not arise absent the entry of judgment by pronouncement of a sentence of imprisonment or fine. See N.C. Gen. Stat. § 15A-1444; see also id. § 15A-101(4a) (defining "entry of judgment"). But Barbour does not directly refute Miller and other cases in which this Court has placed an affirmative duty upon a criminal defendant to object to an order continuing prayer for judgment which imposes conditions and to appeal therefrom, or else forever waive any challenge to the underlying conviction (adjudication of guilt).

Early decisions recognizing a right to direct appeal may have been rendered in the context of different statutes or rules governing appeal in criminal cases. See, e.g., State v. Burgess, 192 N.C. 668, 670, 135 S.E. 771, 772 (1926) (considering the defendant's appeal taking exception to the trial court's order continuing prayer for judgment indefinitely upon payment of costs only); State v. Jaynes, 198 N.C. 728, 153

S.E. 410 (1930) (permitted a defendant to take immediate appeal from an order continuing prayer for judgment upon conditions, finding error in the order and remanding for further proceedings);[2] State v. Crook, 115 N.C. 760, 763, 20 S.E. 513, 514 (1894) (referring to an order suspending judgment upon payment of costs as being "in effect a final judgment forthe whole or a certain proportion of the costs incurred in the prosecution of the charge, but a suspension of the sentence of fine or imprisonment, either generally and indefinitely or till some specified term of the court."). Cf. State v. Webb, 155 N.C. 426, 430, 70 S.E. 1064, 1066 (1911) ("[A]n ordinary statutory appeal will not be entertained except from a judgment on conviction or some judgment in its nature final," but also "from any *order* . . . in its nature final" (emphasis added and citations omitted)).

Two of the later decisions cited by Barbour suggest there was no longer such a direct appeal right by that point in time, just as under the State's current criminal procedure laws. See generally State v. Kay, 244 N.C. 117, 92 S.E.2d 667 (1956); State v. Koone, 243 N.C. 628, 91 S.E.2d 672 (1956).[3]

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[2] In Griffin, this Court noted that a fine had been imposed in Jaynes, see 246 N.C. at 683, 100 S.E.2d at 51, which under the rule announced in Griffin would have made the order a judgment on conviction instead of a true prayer for judgment continued. However, Jaynes itself turned merely on the fact that the defendant had objected to the order continuing prayer for judgment, citing Burgess for this proposition. See 198 N.C. at 730, 153 S.E. at 411 ("Prayer for judgment may not be continued over the defendant's objection. Here the defendant did object to its continuance.").

[3] Strictly speaking, the appeal in Kay was not *dismissed*. Instead the matter was remanded "for judgment *or* for correction of the record so as to reveal the actual status of the record. *Then*

Nevertheless, appeal from an order continuing prayer for judgment and imposing conditions, apart from taxing costs only, should lie by way of certiorari. See N.C. Gen. Stat. § 15A-1444(g); N.C. R. App. Proc. 21. Such an order is final in nature with respect to the conviction, see Miller, 225 N.C. at 215-16, 34 S.E.2d at 145, even if it would be considered "interlocutory" in the sense of not being taken from the entry of judgment. It is an order which, if rendered in a civil case, would "[i]n effect determine[] the action and prevent[] a judgment fromwhich appeal might be taken," or even potentially "[d]iscontinue[] the action." See N.C. Gen. Stat. § 7A-27(d).

The decision in Griffin stands for the proposition that imposition of a fine or imprisonment in an order *purportedly* continuing prayer for judgment is actually in the nature of a final judgment, allowing immediate appeal (of right) and giving rise to double jeopardy concerns if the trial court pronounces judgment thereafter. See 246 N.C. at 683, 100 S.E.2d at 51. However, Griffin does not end the inquiry, for our courts should still determine whether other types of orders continuing prayer for judgment may give rise to a "final conviction" even if it does not constitute a "final judgment" or "entry of judgment." Since the Barbour Court confronted only an order

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defendant may appeal, or proceed otherwise as he may be advised." See 244 N.C. at 118, 92 S.E.2d at 668 (emphasis added). Also, the order continuing prayer for judgment in Koone was unique insofar as it was effectively a child support and visitation order following the defendant's conviction for child abandonment, and the order provided for a set term of five years during which the trial court expressly retained jurisdiction to modify the terms. See 243 N.C. 628, 91 S.E.2d 672.

continuing prayer for judgment without imposing conditions other than costs, the specific question presented here has not been ruled upon by this Court.

Plaintiff's *conviction* is no less "final" than in cases where the trial court accepts a defendant's plea of guilty enters judgment imposing an active sentence. The right of such a defendant to appeal, if any, would be limited to challenging the sentence imposed. See N.C. Gen. Stat. § 15A-1444(a2). He would have no right to appeal from his conviction (his plea of guilty), unless he had moved to withdraw the plea before entry of judgment, and would have recourse to the writ of certiorari only. See id. § 15A-1444(e).

Additionally, Plaintiff's *conviction* is no less "final" than in cases where a defendant is convicted and the trial court enters judgment suspending sentence conditioned upon a term of supervised or unsupervised probation. If such defendant accepts the conditions of his suspended sentence and does not appeal from the entry of judgment, he cannot later contest the underlying conviction, or adjudication of guilt. See State v. Caudle, 276 N.C. 550, 553, 173 S.E.2d 778, 781 (1970) (citations omitted). In this sense, not only is the *purpose* of suspended judgments and suspended sentences one and the same when imposing conditions, these orders are alike in that they foreclose further consideration of the underlying *convictions*, even though subsequent proceedings might be initiated either to *pronounce* sentence or to

impose sentence by lifting the suspension of it.

Defendant contends, therefore, that the line for "finality" should not be drawn between orders suspending judgment upon condition and orders suspending sentence upon condition. Instead, and in light of the foregoing authorities, "finality" should result from the imposition of any condition other than the payment of costs in continuing prayer for judgment, since such an order is "one in its nature final," precluding a criminal defendant who does not appeal from thereafter challenging the adjudication of his guilt, whether by jury verdict or by entry of plea. Accordingly, Defendant was entitled to summary judgment with respect to Plaintiff's registration requirement, and the trial court's order granting this relief should have been affirmed by the Court of Appeals.

2. Alternatively, this Court may consider whether the order continuing prayer for judgment imposed conditions "amounting to punishment," such that this order was effectively an entry of judgment upon conviction.

"[W]hen the court enters an order continuing the prayer for judgment and at the same time imposes conditions amounting to punishment (fine or imprisonment) the order is in the nature of a final judgment." Griffin, 246 N.C. at 683, 100 S.E.2d at 51. On the other hand, "[p]unishment having been once inflicted, the court has exhausted its power and cannot thereafter impose additional punishment. '*Nemo debet bis puniri pro uno delicto*'--no one may be punished twice for one offense." Id. (citation

omitted).[4]

The imposition of court costs alone does not constitute punishment. See Barbour, 246 N.C. at 172, 97 S.E.2d at 858 (citations omitted). A condition to be of good general behavior is not a condition amounting to punishment, either. See State v. Johnson, 169 N.C. 311, 311, 84 S.E. 767, 768 (1915).

Here, the order continuing prayer for judgment was issued subject to " payment of cost and attorney fees, $910.00; not have any contact with, communicate with, in any shape, form, or fashion, the victim, not be on her property or contact any member of her immediate family." Cf. N.C. Gen. Stat. § 15A-1343(b2)(3) (special condition of probation); id. § 50C-5 (conditions of civil no-contact order). If this Court determines that these conditions effectively "amount to [imprisonment]," then Plaintiff's conviction would be "final" by application of Griffin to the instant case.

3. Alternatively, this Court may distinguish the meaning of "final conviction" in N.C. Gen. Stat. § 14-208.6 from the way this term has been interpreted in the context of Chapter 20 of the General Statutes.

Whether Plaintiff's conviction constitutes a "final conviction" under N.C. Gen. Stat. § 14-208.6(4) presents a question of statutory interpretation. "When interpreting

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[4] The majority's opinion precludes Plaintiff's requirement to maintain registration, whereas the dissenting opinion would tend to preclude a trial court from imposing a sentence of fine or imprisonment upon finding a breach of conditions similar to those imposed here, whether such conditions are set forth in an order suspending judgment or suspending sentence.

a statute, the cardinal principle is to ensure that the purpose of the legislature is accomplished." Harris Through Freedman v. Nationwide Mut. Ins. Co., 332 N.C. 184, 191, 420 S.E.2d 124, 128 (1992) (citation omitted). This Court should therefore consider the statute in its entirety, "weighing the language of the statute, its spirit, and that which the statute seeks to accomplish." Id. (citation and internal quotation marks omitted).

The Court of Appeals majority interpreted the term "final conviction" as employed in N.C. Gen. Stat. § 14-208.6(4) to be synonymous with the same term appearing in the Motor Vehicle Laws of North Carolina, codified in Chapter 20 of the General Statutes. See slip op. at 7 (citing Florence v. Hiatt, 101 N.C. App. 539, 400 S.E.2d 118 (1991)). In determining it was bound by the statutory interpretation of Chapter 20 provisions in Florence, the majority relied upon the following language from State v. Benton: "It is always presumed that the legislature acted with care and deliberation and with full knowledge of prior and existing law." 276 N.C. 641, 658, 174 S.E.2d 793, 804 (1970) (citations omitted); see also Redmond v. Tarboro, 106 N.C. 122, 135, 10 S.E. 845, 849 (1890) ("It is presumed that the Legislature which passed the latter statute knew the judicial construction which had been placed on the former one, and such construction becomes a part of the law." (citing, *inter alia*, Bridgers v. Taylor, 102 N.C. 86, 8 S.E. 893 (1889))). This rule is "is used as a

valuable aid in the construction of laws" but it is "not absolutely binding," Redmond at 135, 10 S.E. at 849, and in other contexts this Court has not terminated its inquiry there. See, e.g., Harris Yacht Co. v. High, 265 N.C. 653, 657, 144 S.E.2d 821, 824 (1965) ("Definitions of 'highway' contained in other statutes are not controlling. *The same is true of judicial constructions of the term as used in other statutes.* At best, they only throw some light upon the normal usage of the term[.]" (emphasis added)). Consequently, the Court of Appeals was not bound by prior decisions construing "final conviction" in the context of Chapter 20 of the General Statutes, and should have engaged in further statutory construction to determine whether this term carries a different meaning within the context of N.C. Gen. Stat. § 14-208.6(4).

The Barbour decision is instructive, then, but is not controlling and may be distinguished in several ways. First, as stated in Barbour, the "ordinary legal definition" of "conviction" is satisfied by the "ascertainment of guilt by verdict or plea." Id. at 173, 97 S.E.2d at 858 (citation and internal quotation marks omitted). The entry of judgment upon conviction, on the other hand, is "the restricted or technical legal sense" of the word, which "ought not to be attributed to it, unless there is something in the context to indicate that it was used in such sense." Id. (citation and internal quotation marks omitted).

Second, since 1973, criminal defendants no longer have the right, generally, to

appellate review of a plea of guilty entered in superior court except by the writ of certiorari. See Act of March 30, 1973, ch. 122, sec. 1, 1973 N.C. Sess. Laws 104 ("An Act to Provide that Appeals in Criminal Cases After Pleas of Guilty or Nolo Contendere Shall Be Only by Writ of Certiorari"); see also N.C. Gen. Stat. § 15A-1444. This would lead to an incongruous result if Plaintiff's proposed meaning of "final conviction" were adopted: One who enters a plea of guilty in superior court and who has judgment entered against him would have a "final conviction" even though he has no statutory right to appeal with respect to the conviction itself; whereas Plaintiff would not have a "final conviction," even though the entry of judgment would in no way afford Plaintiff a statutory right to appellate review of his guilty plea.

Third, although Barbour suggests a conviction under Chapter 20 might notbe "final" even while pending review in the appellate division, this is *expressly* not the case for Article 27A of Chapter 14. If a criminal defendant is not committed to a penal institution, the duty to register with the sheriff is triggered "[i]mmediately upon conviction for a reportable offense." N.C. Gen. Stat. § 14-208.7(a)(2).

Finally, the legislative purposes of the North Carolina Sex Offender and Public Protection Registration Programs should be considered. By statute, the General Assembly has recognized the fact "that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration or commitment

and that protection of the public from sex offenders is of paramount governmental interest." N.C. Gen. Stat. § 14-208.5. Article 27A of Chapter 14 of the General Statutes promotes and protects this public safety interest "by requiring persons who are convicted of sex offenses" to register pursuant to the applicable provisions of that Article. Id. (emphasis added). The stated legislative objective is clear and unambiguous: "to establish a 30-year registration requirement for persons *convicted* of certain offenses against minors or sexually violent offenses"; therefore, "[a]ny person *convicted* of an offense against a minor or of a sexually violent offense as defined by this Article shall register in person as an offender in accordance with Part 2 of this Article." N.C. Gen. Stat. § 14-208.6A (emphasis added). Additionally, the registration period for a sex offender "shall be discontinued only if *the conviction* requiring registration is reversed, vacated, set aside, or if the registrant has been granted an unconditional pardon of innocence for the offense requiring registration." N.C. Gen. Stat. § 14-208.6C (emphasis added).

Throughout Article 27A of Chapter 14, the registration requirement is associated with a criminal conviction, and is in no way dependent upon an entry of judgment. Cf. N.C. Gen. Stat. § 15A-101(4a) (defining "entry of judgment" as follows: "Judgment is entered when sentence is pronounced. Prayer for judgment continued upon payment of costs, without more, does not constitute entry of

judgment."). As a civil regulatory scheme, Article 27A operates independently of any punitive sentence resulting from conviction of a criminal offense. State v. White, 162 N.C. App. 183, 198, 590 S.E.2d 448, 458 (2004).

Although this interpretation may leave the word "final" without an obvious meaning, the alternative construction of "final conviction" applied by the Court of Appeals majority has the effect of forcing "conviction" to mean "judgment" even though the latter word does not appear in N.C. Gen. Stat. § 14-208.6(4). But see In re Watson, 273 N.C. 629, 634, 161 S.E.2d 1, 6-7 (1968) (stating the general rule that each word in a statute should be given some meaning, if consistent with legislative intent).

The General Assembly intended for an adjudication of guilt, such as a plea of guilty, to constitute a reportable conviction for purposes of section 14-208.6(4)(a). Plaintiff, whose guilt for the registerable offense of sexual battery has been definitively established in a court of law, should not be permitted to evade the civil regulatory scheme of the Registration Programs, the purpose of which is to protect the general public, regardless of whether he has received any *criminal* punishment.

Therefore, based upon his plea of guilty for the offense of sexual battery on August 16, 2006 in the Superior Court, Nash County (06-CRS-051670), which constitutes a "reportable conviction" under Article 27A of Chapter 14 of the General

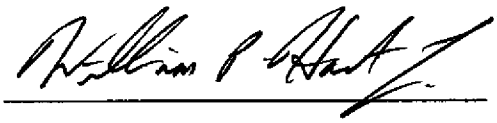
Statutes, Plaintiff is required to maintain registration pursuant to the same. Defendant was entitled to summary judgment as a matter of law, and the trial court's order was not in error.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests this Court reverse the judgment of the Court of Appeals.

This the 26th day of April, 2013.

ROY COOPER
Attorney General



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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing NEW BRIEF FOR DEFENDANT/APPELLANT has been duly served upon the Plaintiff by placing a copy in the United States mail, postage prepaid, addressed to his attorney of record as follows:

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Nashville, North Carolina 27856

This the 26th day of April, 2013.

William P. Hart, Jr.
Assistant Attorney General