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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-822

Filed: 21 March 2017

Transylvania County, No. 11 CRS 50642

STATE OF NORTH CAROLINA

v.

CHARLES RICHARD O'SHIELDS

Appeal by defendant from order entered 3 December 2015 by Judge Forrest Donald Bridges and judgment entered 25 February 2016 by Judge Eric L. Levinson in Transylvania County Superior Court. Heard in the Court of Appeals 7 February 2017.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Richard L. Harrison, for the State.

Michael E. Casterline for defendant.

DIETZ, Judge.

Defendant Charles Richard O'Shields appeals his conviction for first degree murder. O'Shields's son died tragically in December 2010. O'Shields blamed another man, Toby Mathis, for his son's death. O'Shields later suffered a stroke. He also suffered from depression and post-traumatic stress disorder and struggled with

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substance abuse, all of which appear to stem from the death of his son. Several months after his son's death, O'Shields walked into a discount store in Transylvania County and shot Mathis repeatedly at close range, killing him.

Before his trial on murder charges, two psychiatrists examined O'Shields to determine if he was competent to stand trial. Those experts disagreed about whether O'Shields was able to assist in his own defense. After a hearing, the trial court ruled that O'Shields was competent to stand trial.

O'Shields argues that the trial court's competency ruling is erroneous because the trial court did not state on the record that it was applying the proper evidentiary standard of review. As explained below, we reject this argument because the trial court was not required to state the applicable standard of review in its ruling. Thus, absent some indication to the contrary, we must presume on appeal that the trial court applied the proper legal standard. Nothing in the record before us suggests that the trial court applied the wrong legal standard in its analysis.

O'Shields also challenges the trial court's denial of his oral request for a special jury instruction on specific intent, premeditation, and deliberation. To properly preserve an objection to the trial court's jury instructions in this context, a defendant must submit the proposed alternative instruction in writing. O'Shields did not do so and thus his challenge to the court's instructions is waived. In any event, the trial

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court's instructions conformed, in substance, to the special instruction requested by O'Shields. Accordingly, we find no error in O'Shields's conviction and sentence.

Facts and Procedural History

On 17 December 2010, O'Shields's son complained to his mother that his ex-girlfriend and her new boyfriend, Toby Mathis, were harassing him. At some point that evening, a confrontation occurred and O'Shields's son jumped into the back of a truck occupied by Mathis. The truck sped away with O'Shields's son still in the back. Onlookers later found O'Shields's son on the side of the road some distance away, bleeding heavily and suffering from a shattered skull. O'Shields arrived in time to see his son on the side of the road. His son later died after being airlifted to a nearby hospital.

Four days after his son's death, O'Shields suffered a stroke. O'Shields then endured a series of illnesses and personal challenges that stemmed from his son's death, including severe clinical depression and post-traumatic stress disorder. O'Shields wept frequently, spoke less, and ceased interacting with many members of his family. He also began abusing alcohol.

On 6 April 2011, after drinking heavily and visiting his son's grave, O'Shields entered a discount store and saw Toby Mathis. O'Shields approached Mathis, drew a pistol he carried with him, and shot Mathis multiple times at close range. Mathis died at the scene.

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O'Shields hid in the woods for several days before turning himself in. The State indicted O'Shields for murder.

On 11 July 2012, O'Shields moved for a hearing on his competency to stand trial. Two psychiatrists, Dr. Charles Vance and Dr. George Corvine, evaluated O'Shields and testified at the hearing. The experts agreed that O'Shields understood the nature of the charges against him and consequences of the criminal proceeding. But the experts disagreed about whether O'Shields was capable of assisting with his own defense. Dr. Vance believed he was, and Dr. Corvine believed he was not. Ultimately, on 3 December 2015, the trial court entered a written order finding O'Shields competent to stand trial.

At trial, O'Shields requested a special jury instructions on first degree murder that emphasized that specific intent to kill must be formed *after* premeditation and deliberation. The trial court denied that request.

The jury convicted O'Shields of first degree murder, and the court sentenced him to life in prison without the possibility of parole. O'Shields timely appealed.

Analysis

I. Ruling on Capacity to Stand Trial

O'Shields first argues that the trial court erred by failing to articulate the evidentiary standard of review the court applied in its analysis of O'Shields's competency to stand trial. As explained below, neither the statutes governing

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capacity to stand trial nor the applicable case law on this issue requires the trial court to expressly state in its ruling the standard of review the court employs. Accordingly, we reject this argument.

The Supreme Court of the United States has held that a state may, consistent with due process, require a criminal defendant to prove he is incapable to stand trial subject to the preponderance-of-the-evidence standard of proof. *Medina v. California*, 505 U.S. 437, 440–42, 446–52 (1992). A state may not, however, impose a more demanding standard, such as clear and convincing evidence. *Cooper v. Oklahoma*, 517 U.S. 348, 355–56 (1996).

But neither this precedent from the Supreme Court nor our State's statutes governing capacity to stand trial require the trial court to expressly state the evidentiary burden of proof it employs in its ruling. Absent a requirement that the trial court do so, we apply the general rule that a trial court need not expressly identify the evidentiary standard of proof in its order. *See Meekins v. Box*, 152 N.C. App. 379, 386, 567 S.E.2d 422, 427 (2002).

This general rule stems from the principle that “the trial court is presumed to know the law.” *State v. Newson*, 239 N.C. App. 183, 195, 767 S.E.2d 913, 920 (2015). Thus, if a litigant believes the trial court might be applying the wrong legal standard in its analysis—as O'Shields argues here—the burden is on that litigant to establish on the record what legal standard the court applied. Notably, O'Shields does not

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contend that he asked the court to clarify the evidentiary standard of review it employed, or even that he expressed any concern that the court might be using the wrong standard. Moreover, nothing in the record before us suggests that the trial court misapprehended the law or applied a stricter evidentiary standard than that permitted by the Supreme Court in *Medina* and *Cooper*. Accordingly, we reject O'Shields's argument. *See State v. Kinlock*, 152 N.C. App. 84, 89, 566 S.E.2d 738, 741 (2002) ("In North Carolina the burden is on the appellant to show error An appellate court is not required to, and should not, assume error by the trial court when none appears on the record before the appellate court." (brackets and citation omitted)), *aff'd per curiam*, 357 N.C. 48, 577 S.E.2d 620 (2003).

II. Denial of Request for Special Jury Instruction

O'Shields next argues that the trial court erred by denying his request for a special instruction on the specific intent element of first degree murder. O'Shields asked the court to emphasize to the jury that specific intent to kill must be formed *after* premeditation and deliberation. O'Shields made this request for a modified instruction orally, rather than in writing, as the law requires. *See* N.C. Gen. Stat. § 15A-1231(a). It is well-settled that "a trial court's ruling denying requested instructions is not error where the defendant fails to submit his request for instructions in writing." *State v. McNeill*, 346 N.C. 233, 240, 485 S.E.2d 284, 288 (1997) (citing *State v. Martin*, 322 N.C. 229, 237, 367 S.E.2d 618, 623 (1988)).

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In any event, the trial court's instructions to the jury twice stated "that you must find beyond a reasonable doubt that the defendant killed the deceased with malice and in the execution of an actual specific intent to kill formed *after* premeditation and deliberation." Thus, the trial court's instructions conformed, in substance, to the special instruction requested by O'Shields. We therefore find no error in the trial court's instructions to the jury.

Conclusion

For the reasons explained above, we find no error in the trial court's judgment.

NO ERROR.

Judges BRYANT and HUNTER, JR. concur.

Report per Rule 30(e).