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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-346

Filed: 18 December 2018

Wayne County, No. 15CRS051463

STATE OF NORTH CAROLINA

v.

KENNETH MORGAN STANCIL, III

Appeal by defendant from judgment entered on or about 2 May 2017 by Judge Jay D. Hockenbury in Superior Court, Wayne County. Heard in the Court of Appeals 14 November 2018.

*Attorney General Joshua H. Stein, by Assistant Attorney General Nicholaos G. Vlahos, for the State.*

*Michael E. Casterline for defendant-appellant.*

STROUD, Judge.

Defendant appeals his judgment for first degree murder. Because defendant did not raise any issue regarding his competency to stand trial before the trial court and defendant's behavior was not so irrational as to require the trial court to raise the issue *sua sponte*, the trial court did not err by failing to inquire into his competency as part of its *Harbison* inquiry.

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## *Opinion of the Court*

### I. Background

The State's evidence showed that in April of 2015, defendant shot and killed Mr. Ronald Lane, who worked in the print shop at a community college. Defendant was a student at the college and had worked in the print shop in the fall semester of 2014 and spring semester of 2015, but his job was terminated in February of 2015 after he missed several days of work. Mr. Lane was defendant's supervisor in the print shop. On the day of the shooting, a witness saw and recognized defendant. Security cameras at the college recorded defendant on campus getting his shotgun, entering the print shop, and running away. Prior to the shooting, defendant made a video of himself saying he was "going to be on tv" and "in prison for life," probably maximum security prison, because he was going to kill "this person[,] and you would soon find out about who the person was. On or about 2 May 2017, a jury found defendant guilty of first degree murder and the trial court sentenced him to life imprisonment without parole. Defendant appeals.

### II. Mental Capacity

Defendant's only argument on appeal is that "the trial court's conclusion that [he] fully understood the consequences of admitting two elements of first degree murder is unsupported, when the court failed to address his mental health issues during the inquiry." (Original in all caps.) Defendant frames his issue as a failure of

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the trial court to conduct a proper *Harbison*<sup>1</sup> inquiry where his counsel acknowledged some elements of the crime, that defendant shot Mr. Lane and that the shot was the cause of Mr. Lane's death. The State contends that a *Harbison* inquiry was not required because defendant's counsel acknowledged only some elements of first degree murder but not defendant's guilt of any crime. But we need not resolve the question of whether a *Harbison* inquiry was required, as both parties agree that the trial court conducted a *Harbison* inquiry.

Defendant's argument does not directly raise his competency to stand trial, but he implies that he was not competent to consent to his counsel's admissions as discussed in the *Harbison* inquiry. But if he was competent to stand trial, he was competent to agree to trial strategy, including his counsel's admissions in his argument to the jury. *See State v. Willard*, 292 N.C. 567, 575, 234 S.E.2d 587, 592 (1977) ("The test of a defendant's mental capacity to proceed to trial is whether he has the capacity to comprehend his position, to understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate with his counsel to the end that any available defense may be interposed."). Defendant's only argument on appeal is that the trial court should have *sua sponte* addressed his mental capacity during the *Harbison* inquiry, although he does not

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<sup>1</sup> "In *Harbison*, we held that ineffective assistance of counsel, per se in violation of the Sixth Amendment, has been established in every criminal case in which the defendant's counsel admits the defendant's guilt to the jury without the defendant's consent." *State v. Matthews*, 358 N.C. 102, 106, 591 S.E.2d 535, 539 (2004) (citation and quotation marks omitted).

argue that he did not have capacity to stand trial in general. In other words, defendant contends that due to his mental health, it was impossible for him to give a knowing and intelligent admission for purposes of *Harbison*, and the trial court erred in failing to address the issue *sua sponte*.

Defendant contends that

[e]ven if there is no question of capacity under N.C. Gen. Stat. § 15A-1001(a), the court nonetheless needed to conduct an adequate inquiry to insure that the admissions were the knowing and informed choice of the defendant, given the possibility that [defendant] may have been suffering acute mental illness. Evidence at trial shows that [defendant's] behavior in the few months before the shooting was a stark departure from his life up to that point.

Defendant then directs this Court's attention to what he contends is evidence of his mental unfitness, focusing on the confession and crime itself and

[defendant's] first appearance in court in April of 2015 provided further evidence of irrational conduct and disorder thought. [Defendant] repeatedly ignored the court's advisement that he was facing the death penalty and refused an attorney. His behavior deteriorated and became explosive as he overturned the defense table before being ejected from the court room.

Shortly after this first appearance, [defendant] was determined to be suicidal.

In *State v. Reid*, we explained,

It is mandated by statute that no person may be tried, convicted, sentenced, or punished for a crime when by reason of mental illness or defect he is unable to understand the nature and object of the proceedings

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against him, to comprehend his own situation in reference to the proceedings, or to assist in his defense in a rational or reasonable manner. The courts of this State have frequently cited the factors in the quoted statute as determinative of a defendant's mental capacity to proceed to trial. The question of defendant's capacity is within the trial judge's discretion and his determination thereof, if supported by the evidence, is conclusive on appeal.

38 N.C. App. 547, 548-49, 248 S.E.2d 390, 391 (1978) (citations, quotation marks, and brackets omitted). Furthermore,

The question of capacity may be raised at any time by motion of the prosecutor, the defendant or defense counsel, or the court. Once a defendant's capacity to stand trial is questioned, the trial court must hold a hearing pursuant to N.C. Gen. Stat. § 15A-1002(b) (2003). A defendant has the burden of proof to show incapacity or that he is not competent to stand trial.

The test for capacity to stand trial is whether a defendant has capacity to comprehend his position, to understand the nature of the proceedings against him, to conduct his defense in a rational manner and to cooperate with his counsel so that any available defense may be interposed. It is well established that the court gives significant weight to defense counsel's representation that a client is competent, since counsel is usually in the best position to determine if his client is able to understand the proceedings and assist in his defense. So long as there is competent evidence to support the findings of fact, a trial court's conclusion that a defendant is competent to proceed to trial will not be disturbed, even if there is evidence to the contrary.

A trial court has a constitutional duty to institute, *sua sponte*, a competency hearing if there is substantial evidence that the accused may be mentally incompetent. In other words, a trial judge is required to hold a competency hearing when there is a *bona fide* doubt as to the defendant's competency even absent a request.

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Evidence of a defendant's irrational behavior, his demeanor at trial, and any prior medical opinion on competence to stand trial are all relevant to a *bona fide* doubt inquiry. There are, of course, no fixed or immutable signs which invariably indicate the need for further inquiry to determine fitness to proceed; the question is often a difficult one in which a wide range of manifestations and subtle nuances are implicated.

*State v. Staten*, 172 N.C. App. 673, 677-79, 616 S.E.2d 650, 654-55 (2005) (citations, quotation marks, and footnote omitted).

As to the crime itself, announcements of forthcoming violent behavior are not necessarily evidence of incompetency. If we viewed the irrationality of the crime itself as evidence of incompetence, many defendants would be incompetent, as most murders are irrational. Defendant's confession does not demonstrate that he did not understand what he was about to do – quite the opposite – as defendant notes the next time he's seen will "be on tv" and he knows he will be "in prison for life," likely maximum security. Clearly, defendant was aware of his actions and the consequences of his actions.

During defendants' first appearance he interacted with the trial court. While defendant was belligerent, cursed at the trial judge and turned over a table, after a 15 minute break he quickly settled down, responded appropriately, and agreed to have an attorney represent him. Thereafter, during his trial, defendant behaved in a rational manner; addressed the trial court when called upon; acquiesced to the statements of his attorney regarding him; and sat without incident throughout his

jury trial. In *Staten*, the defendant testified and this Court noted

evidence before the trial court was not so substantial as to indicate defendant was mentally incompetent. Throughout the trial proceedings, defendant acted in a manner exhibiting competence. . . . Although sometimes a bit bizarre, defendant's testimony for the most part was coherent and displayed defendant's understanding of the proceedings.

*Id.* at 681, 616 S.E.2d at 656. Here too, the evidence “was not so substantial as to indicate defendant was mentally incompetent. Throughout the trial proceedings, defendant acted in a manner exhibiting competence. . . . Although sometimes a bit bizarre, defendant . . . for the most part was coherent and displayed defendant's understanding of the proceedings.” *Id.*; see also *State v. Badgett*, 361 N.C. 234, 259-60, 644 S.E.2d 206, 221 (2007) (concluding no need for competency hearing where defendant “[j]1) wrote numerous letters to the trial court and the district attorney expressing his desire for a speedy trial resulting in a death sentence; (2) read a statement to the jury during the penalty phase in which he impliedly asked for a death sentence; and (3) had an emotional outburst coupled with verbal attacks on the assistant district attorney who delivered the state's closing argument during the sentencing proceeding” but overall interacted appropriately during his trial).

Last, we note that being “suicidal” is not enough to render a defendant incompetent:

In the present case, there is some evidence in the record indicating that defendant had received

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precautionary treatment for depression and suicidal tendencies several months before trial. However, this evidence of past treatment, standing alone, does not constitute substantial evidence before the trial court, indicating that defendant lacked the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense at the time his trial commence. Moreover, the record does not indicate that either defendant or defense counsel raised any questions about defendant's capacity to proceed at any time during defendant's trial and capital sentencing proceeding. Accordingly, the trial court did not err by failing to institute, on its own motion, a hearing to determine defendant's capacity to proceed. This assignment of error is overruled.

*State v. King*, 353 N.C. 457, 467, 546 S.E.2d 575, 585 (2001) (citations, quotation marks, and brackets omitted). Accordingly, we conclude the trial court did not err in failing to hold a competency hearing or otherwise question defendant's mental capacity *sua sponte* while conducting the *Harbison* inquiry. This argument is overruled.

III. Conclusion

We conclude there was no error.

NO ERROR.

Judges DIETZ and MURPHY concur.

Report per Rule 30(e).