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IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-259

No. COA20-375

Filed 1 June 2021

Pitt County, No. 15 CRS 57830

STATE OF NORTH CAROLINA

v.

MICHAEL ANTHONY O'NEAL, Defendant.

Appeal by Defendant from judgment entered on 3 May 2018 by Judge Jeffery B. Foster in Pitt County Superior Court. Heard in the Court of Appeals 13 April 2021.

Glover & Petersen, P.A., by Ann B. Petersen, for the Defendant.

Attorney General Joshua H. Stein, by Assistant Attorney General Steven Armstrong, for the State.

JACKSON, Judge.

¶ 1 The issue in this case is whether the trial court erred by disallowing the defense to introduce evidence regarding the victim's mental health history, after the State allegedly "opened the door" to this topic by having the victim's aunt testify about his prior mental health diagnosis. Because we conclude that the trial court did not abuse its discretion, we find no error as to Defendant's conviction.

I. Factual and Procedural Background

¶ 2 On 19 October 2015, Michael Anthony O'Neal ("Defendant") engaged in a physical altercation with Steven Rouse that led to Mr. Rouse incurring fatal stabbing wounds. Defendant maintained that Mr. Rouse instigated the altercation and that Defendant only acted in self-defense, while the State alleged that Defendant was the one who chased down and attacked Mr. Rouse. Defendant was indicted for first-degree murder on 26 October 2015 in Pitt County. Trial was held on 23 April 2018 in Pitt County Superior Court.

¶ 3 According to Defendant's trial testimony, on 19 October 2015, Defendant spent the morning and afternoon at his apartment complex, Park West apartments, located in Greenville, North Carolina. Around 6:00 in the evening, Defendant's girlfriend Ms. Z. Taylor arrived home from work, appearing "scared, shaken up, crying," and informing Defendant that she had been harassed by a man on the bus ride home. Defendant borrowed a friend's car and drove down to the bus station, intending to ask the bus driver about what had happened, but could not find the bus driver.

¶ 4 Shortly after arriving at the bus station, Defendant received a call from his neighbor Ms. C. Gramby, who said that a man was chasing her and Ms. Taylor outside of the apartment, and that it was "the same guy who was on the bus messing with your girlfriend." Ms. Gramby told Defendant to "come quick" back to the apartment complex, so Defendant quickly drove back. When Defendant arrived, Ms. Gramby and Ms. Taylor informed him that they had been chased by a man with a knife in his

hand, and that the man was "acting crazy" and "had threatened them." They asked that Defendant go find the man to "talk to him and calm him down."

¶ 5 As Defendant parked, he saw the man for the first time on the sidewalk in front of his car. The man was a tall white man who Defendant had never seen before, and Defendant noticed that the man seemed angry and confused. He heard the man saying, "I'm not talking, I'm stabbing and killing." Before Defendant exited the car, he grabbed a pocketknife that he had noticed in the car's middle console, in case the man tried to attack him. Defendant got out of the car and approached the man, intending to "talk to him, diffuse the situation," and began asking him "why he was messing with these women, can he just leave."

¶ 6 He noticed that the man had a phone in his left hand, and a knife in his right hand, and that he "looked angry and his eyes were glossy" and he seemed "agitated, like he didn't want to talk." The man would not answer any of Defendant's questions. As Defendant continued questioning the man, his neighbor C. Wade approached and yelled, "hey, what's going on," at which point the man started running back towards the apartment building. Concerned that the man was trying to run back to harass the two women or other residents of the building, Defendant began pursuing the man in an attempt to cut him off as the man ran away into a wooded area abutting the apartment complex.

¶ 7 As he followed the man, Defendant noticed that the man appeared to be talking

and still held a phone in his left hand, but Defendant could not hear what he was saying. Defendant saw the man run into a small tree and stumble, and Defendant also stumbled on the uneven ground while trying to keep his eyes on the man. The man then raised "the knife above his head and swung"; Defendant ducked and fell to the ground; and the man jumped on top of him and stabbed Defendant in the back of his shoulder. A struggle for the knife ensued, during which both men were "fighting, scrabbling, both tussling on the ground." Fearing for his life, Defendant grabbed the pocket knife out of his pocket and stabbed the man in the upper chest, believing he had "no other choice but to stab him and get him off of me." Defendant then "tried [his] best to shove him off," but the man stabbed Defendant again in the side. Defendant then stabbed the man twice more in the chest and abdomen.

¶ 8 At that point, the neighbor, Mr. Wade, arrived and broke up the fight by pulling the man off of Defendant, telling both of them that "the police are on the way, it's over." As Mr. Wade led Defendant away, Defendant looked back and saw the man stand up, knife still in hand, looking at them and "rocking side to side." Mr. Wade then drove Defendant to the hospital, and on the way Defendant dropped the pocketknife out of the car window. At the hospital Defendant received treatment for his two stab wounds, one in his side and one in his shoulder. At some point two police officers came in to question Defendant, and he told them that he had been stabbed in a fight by a man who had harassed his girlfriend on the bus, but Defendant did not

tell the officers that he had stabbed the man too. The officers showed Defendant the I.D. of a man named Steven Rouse, and Defendant agreed that it "look[ed] like the guy that I just got in a fight with."

¶ 9 The State presented evidence that Steven Rouse had died of three lethal stab wounds to the chest. Mr. Rouse's body also displayed a number of smaller scrapes, cuts, and abrasions indicative of a defensive struggle. The State also played for the jury a recorded 911 call that Mr. Rouse had placed while Defendant pursued him through the woods, during which Mr. Rouse can be heard to say, "leave me alone man, I called the police."

¶ 10 The State introduced testimony from Stephanie Rouse, the aunt of Mr. Rouse. Ms. Rouse testified that her nephew had been living at the Park West apartments for about a month at the time of his death. She stated that he did not work, and was receiving social security disability benefits due to his mental illness condition. She testified that Mr. Rouse was "last diagnosed with Asperger's when he was an adult," and that he had "a little bit of shyness, social anxiety." She stated that he lived by himself, did not drive, and relied on the bus for transportation. On cross-examination, Ms. Rouse specified that Mr. Rouse had been diagnosed with Asperger's sometime during "his adult years" by the Eastern Psychiatric Clinic. She also stated that Mr. Rouse had spent some years living in a group home as a teenager. She said that although Mr. Rouse had "some learning struggles," he did not have any

deficiencies in verbal communication. The State also presented testimony from several of Mr. Rouse's neighbors at Park West, who described Mr. Rouse as "different" and "quiet," and said that Mr. Rouse "didn't bother anybody."

¶ 11 The defense attempted on several occasions to present evidence to rebut this depiction of Mr. Rouse's mental health. First, the defense tried to introduce several of Mr. Rouse's prior medical records via the testimony of Detective Brian Gillen, who had reviewed these records during his investigation of the stabbing incident. The defense argued that these records should be admitted because they were indicative of Mr. Rouse's true mental health diagnoses (most notably schizophrenia), and that the State had "opened the door to that subject by presenting a witness in Stephanie Rouse at the beginning of this trial, who they specifically elicited comments [from] about his mental health." The trial court did not allow admission of the medical records, ruling that Detective Gillen was not a qualified witness to speak on these records, and that the records were irrelevant and likely to be prejudicial. The trial court explained that

> this witness is not qualified to present those records, in that his reading of diagnoses contained in the record would be done out of context, that he has not demonstrated a sufficient knowledge, medical knowledge, to be able to explain the effects that those diagnoses would have, and therefore that the probative value of the evidence would be substantially outweighed by its prejudicial effect.
>
> The Court further notes that there's no indication

> that the acts that were included in these records were known to the Defendant at the time of the incident, and are therefore irrelevant, and that records going back as far as 2009 are remote in time and are not probative and would be prejudicial as well.
>
> Further, the Court has questions at this point in time whether the defense of self-defense has been established, which would make such a showing appropriate at this time. So I'm going to grant the State's motion, the State's objection, it's sustained.

¶ 12 Later in the trial, the defense attempted to introduce the testimony of Dr. Maureen Reardon, a forensic psychologist who had reviewed these same medical records as well as a collection of Mr. Rouse's "academic records, social services records, and other legal records." The defense hoped to introduce Dr. Reardon as a mental health expert to elicit her opinion on "what Mr. Rouse may have been suffering from on" the date of the incident. The evidence offered in connection with this witness included copies of the records that she had reviewed, and a written report which described her conclusions regarding Mr. Rouse. The trial court allowed Dr. Reardon to testify during a voir dire hearing, outside of the presence of the jury, in order to assess the content of her projected testimony and rule on its admissibility.

¶ 13 Dr. Reardon began by describing her education and qualifications, and then described the documents that she reviewed and the methods that she used to reach her determination regarding Mr. Rouse's diagnoses. She then summarized Mr. Rouse's history of chronic mental illness throughout his childhood and youth,

including a period of involuntary commitment in 2015 "due to what appeared to be intractable psychotic features," and volatile and aggressive acts against his family and against staff in institutions where he was treated.

¶ 14 She explained that she believed there was sufficient evidence in the records to support Mr. Rouse's diagnoses of "attention deficit hyperactivity disorder[,] . . . conduct disorder[,] . . . possible cannabis use disorder[,] . . . and a serious mental condition involving both mood-related symptoms and psychotic symptoms." She explained that "'psychotic symptoms' is a broad label used to identify many of the common features of schizophrenia." She described how Mr. Rouse's records indicated psychotic symptoms:

> In particular, he was showing what they described as disorganized behavior. He was aggressive with his family members. He had delusions involving what I would call paranoid delusions, meaning he believed that others were out to get him. In particular, he thought that the devil was out to get him. He started boarding up his house to protect himself against persons from harming him.
>
> He had what are called grandiose delusions, according to the records, meaning he thought of himself as having very special importance, that he was a genius, a biochemist; that Jesus died on the cross exclusively for him. He also – what was documented in the records, he spoke of having what's called somatic delusions, meaning he believed that there were things wrong with his body. So he thought his bones were broken, or that there was a hole in the roof of his mouth. Just very bizarre ideas about the world around him that were not accurate.

¶ 15 Her ultimate professional conclusion was that "[g]iven that [Mr. Rouse] had a chronic mental health condition called schizophrenia that does not remit on its own, it is my opinion that he was most likely experiencing symptoms of schizophrenia at [the time of the incident]." However, given that the records did not demonstrate whether or not Mr. Rouse had been actively taking his prescribed anti-psychotic medications at the time of the incident, Dr. Reardon clarified that she could not assess with full medical certainty what symptoms he may have been suffering from on the day of the incident.

¶ 16 After hearing arguments from both the State and the defense, the trial court ultimately ruled as follows regarding Dr. Reardon's testimony:

> That upon the testimony of the witness, the Court finds that this witness cannot say what the victim's state of mind was at the time of the events that we're at trial for, other than to say that the victim had a chronic mental health illness that may have had conformity with that chronic illness.
>
> The Court further finds that this evidence would not assist the trier of fact, and that the direct evidence from the witnesses that have testified is more probative of the victim's state of mind that any evidence that could be determined from the records of the victim over the course of, I guess, fifteen years.
>
> Therefore, the Court finds that pursuant to Rule 403, that the probative value of this evidence is substantially outweighed by its prejudicial – the danger of unfair prejudice, and the Court is going to rule that it's inadmissible.

¶ 17 Following the presentation of all evidence, the jury was instructed on first-degree murder, second-degree murder, and voluntary manslaughter, as well as receiving an instruction on defendant's self-defense claim. On 3 May 2018, the jury returned a verdict finding Defendant guilty of second-degree murder. The jury also returned a verdict finding that the State had proven two aggravating factors: (1) that the offense was especially heinous, atrocious, or cruel; (2) that Defendant committed the offense while on pre-trial release for another charge. The trial court found that the two aggravating factors outweighed the mitigating factor that Defendant had a support system in the community. Defendant was sentenced to a minimum of 300 months and a maximum of 370 months imprisonment. Defendant gave notice of appeal in open court following the entry of judgment, and filed a written notice of appeal on 3 May 2018.

II. Analysis

¶ 18 On appeal, Defendant argues that the trial court erred by disallowing the introduction of Mr. Rouse's mental health records (via the testimony and reports of Dr. Reardon), contending that this evidence should have been admitted because the State had "opened the door" to the issue of Mr. Rouse's mental health. Defendant further argues that the exclusion of this evidence prejudiced his self-defense claim, as the excluded records would have shown that Mr. Rouse had a history of delusions and violent outbursts. We disagree, and hold that the trial court committed no error

in its evidentiary decisions.

A. Standard of Review

¶ 19 We review a trial court's evidentiary decision for an abuse of discretion. "A trial court's decision on whether to admit rebuttal evidence will not be overturned absent a showing of gross abuse of discretion." *State v. Jones*, 265 N.C. App. 293, 299, 827 S.E.2d 754, 759 (2019) (internal marks and citation omitted). *See also State v. Sharpless*, 221 N.C. App. 132, 141, 725 S.E.2d 894, 901 (2012) ("We review the admission of otherwise inadmissible evidence, where the defendant first opened the door for abuse of discretion.").

¶ 20 "In determining relevant rebuttal evidence, we grant the trial court great deference, and we do not disturb its rulings absent an abuse of discretion and a showing that the ruling was so arbitrary that it could not have been the result of a reasoned decision." *Williams v. CSX Transp., Inc.*, 176 N.C. App. 330, 338, 626 S.E.2d 716, 724 (2006) (internal marks and citations omitted). Moreover, "[e]videntiary errors are harmless unless a defendant proves that absent the error a different result would have been reached at trial." *State v. Ferguson*, 145 N.C. App. 302, 307, 549 S.E.2d 889, 893 (2001).

B. Rebuttal Evidence

¶ 21 We first address whether the State "opened the door" to Defendant's rebuttal evidence on the matter of Mr. Rouse's mental health. "[A] trial court may permit

otherwise inadmissible evidence to be admitted if the opposing party opens the door" to that subject by eliciting witness testimony which paints an incomplete or incorrect picture of the matter. *State v. Thaggard*, 168 N.C. App. 263, 273, 608 S.E.2d 774, 782 (2005). "'Opening the door' is the principle where one party introduces evidence of a particular fact and the opposing party may introduce evidence to explain or rebut it, even though the rebuttal evidence would be incompetent or irrelevant, if offered initially." *Id*. In other words, "[w]here one party introduces evidence as to a particular fact or transaction, the other party is entitled to introduce evidence in explanation or rebuttal thereof." *State v. Albert*, 303 N.C. 173, 177, 277 S.E.2d 439, 441 (1981).

¶ 22 While this doctrine is most "commonly applied in situations where the defendant offers misleading testimony . . . thereby opening the door to the State to introduce otherwise incompetent evidence to rebut or explain," it is well-established that "the prosecution can open the door just the same . . . by introducing evidence that requires clarification." *State v. Simmons*, 793 S.E.2d 291, 292, 2016 WL 7100565, at *3 (N.C. Ct. App. 2016) (unpublished). *See also State v. Lloyd*, 354 N.C. 76, 96, 552 S.E.2d 596, 612 (2001) ("Only when the State initially elicits the evidence may defendant's otherwise inadmissible evidence be offered to explain or rebut the State.").

¶ 23 Our Supreme Court has previously explained the proper scope of the rebuttal

doctrine in *State v. Lynch*, 334 N.C. 402, 432 S.E.2d 349 (1993). There, the defendant took the stand to testify, and began his testimony by including "a summary of his criminal record." *Id.* at 406, 432 S.E.2d at 351. During cross-examination, the prosecution asked the defendant "numerous, detailed questions" about the particulars of his prior convictions, as well as questioning him about an unrelated, uncharged shooting incident. *Id.* at 408, 432 S.E.2d at 352. The trial court allowed the questioning, over defense counsel's objections. *Id.*

¶ 24 On appeal, the defendant challenged the admissibility of this testimony about his prior bad acts, but the State contended that the cross-examination was proper because defendant had "opened the door" to the topic by testifying about his criminal record. *Id.* at 412, 432 S.E.2d at 354. The Supreme Court disagreed, holding that the defendant's testimony had not opened the door to such detailed cross-examination. *Id.* The Court explained that, under the rebuttal evidence doctrine, the State is entitled to

> elicit evidence on cross-examination that would be otherwise incompetent or irrelevant in order to rebut or explain evidence offered by the defendant. Such cross-examination is permissible, however, *not to expose an entirely new line of inquiry otherwise impermissible under the Rules*, but only to correct inaccuracies or misleading omissions in the defendant's testimony or to dispel favorable inferences arising therefrom. For example, when the defendant "opens the door" by misstating his criminal record or the facts of the crimes or actions, or when he has used his criminal record to create an inference favorable to

> himself, the prosecutor is free to cross-examine him about details of those prior crimes or actions.

Id. (emphasis added).

¶ 25 The Court then explained that, under this standard, the defendant's testimony had not opened the door to further cross-examination, because the "defendant's brief summary of his criminal record was accurate and complete, and he did not use it to create inferences favorable to himself." *Id*. at 413, 432 S.E.2d at 354. "[A]ccurate yet unfavorable testimony [does] not open the door to further damaging questions about the details of . . . prior crimes." *Id*. Thus, the Supreme Court held that the trial court had erred in allowing the State to present such a multitude of rebuttal evidence, given that the defendant's brief testimony had not opened the door to this topic. *Id*.

¶ 26 Here, as in *Lynch*, we conclude that Ms. Rouse's brief description of Mr. Rouse's Asperger's diagnosis did not open the door to "an entirely new line of inquiry" regarding Mr. Rouse's mental health history. Ms. Rouse's testimony was brief and summary, simply stating that her nephew had been "last diagnosed with Asperger's" sometime during "his adult years" by the Eastern Psychiatric Clinic, and that he had "a little bit of shyness, social anxiety." As in *Lynch*, this testimony was not inaccurate or grossly misleading. Indeed, the report prepared by defendant's own expert, Dr. Reardon, noted that Mr. Rouse had "been assigned the following mental health diagnoses at least once in his lifetime[,] . . . Autism/Asperger's Disorder." Nor do we

believe that Ms. Rouse's testimony was particularly favorable to the prosecution, as evidence that a victim suffered from mental health issues can act as a double-edged sword in a criminal prosecution such as this. On the one hand, the victim's mental illness could tend to show that the victim was particularly vulnerable (and thus be favorable to the prosecution), but on the other hand, the victim's mental illness could also tend to show that the victim had a tendency to act delusionally or unpredictably (and thus be favorable to Defendant's self-defense claim).

¶ 27 In addition to the fact that Ms. Rouse's testimony was not inaccurate or overly favorable to the prosecution, our holding is also reinforced by the sheer quantity of evidence that the defense sought to introduce based on this simple statement by Ms. Rouse. The defense sought to introduce over twelve years' worth of Mr. Rouse's medical records; a detailed, nine-page report authored by Dr. Reardon; and extensive testimony from Dr. Reardon discussing Mr. Rouse's various diagnoses, behaviors, and treatments over the years. Such evidence would have gone above and beyond rebutting Ms. Rouse's simple statement, and would have had the effect of "expos[ing] an entirely new line of inquiry otherwise impermissible under the Rules," in violation of our Supreme Court's holding in *Lynch*. 334 N.C. at 412, 432 S.E.2d at 354.

¶ 28 Finally, we acknowledge that Ms. Rouse's testimony did not paint a complete picture of Mr. Rouse's mental health, as the record does show that Mr. Rouse had suffered from a variety of other mental health conditions in addition to Asperger's.

But under the applicable standard of review, we are unable to say that the trial court abused its discretion by holding that Ms. Rouse's brief and accurate statement about her nephew's Asperger's diagnosis did not open the door to the voluminous medical evidence that the defense sought to introduce. We accordingly hold that the trial court committed no abuse of discretion in sustaining the State's objection to the introduction of Mr. Rouse's medical records, Dr. Reardon's report, and Dr. Reardon's testimony.

III. Conclusion

¶ 29 Because the witness' brief description of the victim's Asperger's diagnosis did not open the door to an entirely new line of inquiry regarding the victim's mental health history, the trial court committed no error as it did not abuse its discretion in disallowing the introduction of medical records, reports, and expert testimony about the victim's mental health.

NO ERROR.

Chief Judge STROUD and Judge ARROWOOD concur.

Report per Rule 30(e).