IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-76

No. COA20-15

Filed 1 February 2022

Union County, Nos. 17 CRS 53084-85

STATE OF NORTH CAROLINA

v.

WILLIAM GLASSON, Defendant.

Appeal by defendant from judgment entered on or around 12 June 2019 by Judge Jeffery K. Carpenter in Superior Court, Union County. Heard in the Court of Appeals 8 June 2021.

Attorney General Joshua H. Stein, by Assistant Attorney General Tracy Nayer, for the State.

Kimberly P. Hoppin for defendant-appellant.

STROUD, Chief Judge.

¶ 1 William Glasson ("Defendant") appeals from a judgment entered upon jury verdicts finding him guilty of two counts of first-degree statutory rape and two counts of taking indecent liberties with a child. Defendant argues that the trial court erred by submitting an aggravating factor to the jury, allowing the introduction of certain "bad acts evidence," and permitting witnesses to vouch for the credibility of the

complainant. Because the State presented evidence Defendant was in a relationship with K.T.'s[1] mother for most of K.T.'s childhood and lived with them for substantial periods of time, the trial court properly submitted the aggravating factor that Defendant "took advantage of a position of trust or confidence, including a domestic relationship, to commit the offense" to the jury. The trial court's instructions regarding the aggravating factor were also proper. The trial court did not commit plain error by allowing the State's witness to lay a foundation for admission of change of address forms which were relevant to show where Defendant resided when not incarcerated. Nor did the trial court plainly err by allowing evidence of prior "bad acts" to the extent the database tended to show Defendant had been incarcerated, as there was other evidence of his periods of incarceration. Finally, expert witnesses did not improperly vouch for K.T.'s credibility by testimony regarding "disclosures" she made and forensic interview techniques.

I. Background

¶ 2 The State's evidence tended to show that in February of 2006, K.T.'s mother began dating Defendant. K.T. was six years old and lived in a trailer (the "first residence") with her mother and her older brother. At the start of the relationship, Defendant would occasionally spend the night but, as time went on, he would stay

[1] We use a pseudonym to protect the identity of the complainant.

over more often.

¶ 3 Approximately five months into the relationship, K.T.'s family moved to a three-bedroom house (the "2006 residence"), which was owned by K.T.'s maternal grandparents, and Defendant moved in with them. K.T. observed Defendant physically abuse her mother and her brother at the 2006 residence. K.T. described Defendant's interaction with her as "touchy." On most days, K.T.'s mother and Defendant both would pick K.T. up from school; however, sometimes, Defendant would pick K.T. up by himself.

¶ 4 One time at the 2006 residence, Defendant took K.T. into the shed, where he pulled her pants down and "licked [her] in [her] area" where she goes "pee." During the assault, Defendant asked K.T., "Do you like that?" Defendant then told K.T. that if she fought back, "[h]e would kill [her] and [her] brother and all the people that [she] cared about." K.T. was seven years old.

¶ 5 K.T. testified that she did not tell her mother immediately because she "was afraid." After the assault, K.T. took a bath; Defendant entered the bathroom and demanded that K.T. stand up so he could "see." K.T. obliged, and Defendant "gave [her] this weird smirk" before leaving the bathroom. K.T. testified that she told her mother about the assault one day when they were cleaning the house; K.T. testified that her mother said she would say something to Defendant.

¶ 6 K.T.'s family and Defendant moved back to the first residence. One night, K.T.

was sleeping in the bed she shared with her brother when Defendant entered her bedroom and touched her in the area she used to pee. K.T. "just squirmed around in her bed hoping he would leave [her] alone." Eventually, after DSS got involved with the family, K.T. moved in with her grandparents.

¶ 7 K.T.'s mother and Defendant moved to a house (the "2008 residence") and K.T. adopted a dog, Sprinkles, who stayed at the 2008 residence. One day when K.T. was eight years old, Defendant said that Sprinkles had escaped and he insisted K.T. come with him to search for the dog. Defendant led K.T. into the woods, where he ordered her to lay down and pulled her pants down. After removing his pants, Defendant "moved his private parts on [her private parts]" and attempted to penetrate her vagina with his penis but "it didn't work so he just stopped." On the way back to the house, Defendant threatened to kill K.T. and the people she loved if she told anyone.

¶ 8 K.T. testified that she continued to visit her mother during that time "[b]ecause [she] loved her mother and [she] knew it would hurt her" mother if K.T. did not visit. She remembered a period of time when Defendant was incarcerated and did not live in the home with K.T.'s mother. When Defendant was released from prison, he moved with K.T.'s mother into a different house (the "last residence"). One day when K.T. was visiting her mother at the last residence, she agreed to ride on the lawnmower with Defendant. Defendant drove the lawnmower behind some trees, where he proceeded to lay K.T. down, pull her pants down, and remove his own pants.

Defendant rubbed his penis on the outside of K.T.'s vagina and inserted "just the tip" of his penis inside her vagina. Defendant told K.T that he would "kill [her] family if [she] told anyone."

¶ 9 K.T. testified about occasions when she "would just be sitting there with clothes on and [Defendant] would tell [her] to take it off, let [him] see it." K.T. testified that Defendant "was always trying to tickle" her, "as close as he could get to [her private] area." K.T. explained that when she was around thirteen years old, Defendant stopped touching her. K.T. testified that in middle and high school, she struggled with "aggression and anxiety" and "cut [her] arms." When K.T. was in eleventh grade, she moved in with her father, stepmother, sister, and stepbrother in Rock Hill, South Carolina. K.T. told her stepmother about the abuse, but her stepmother did not report it. After one of K.T.'s classmates committed suicide, K.T. told her guidance counselor at school about the abuse. The guidance counselor notified the school's resource officer, who reported the abuse to law enforcement in Union County.

¶ 10 K.T. was interviewed by Alaka Ayres at the Turning Point's Treehouse Advocacy Center on 15 May 2017. K.T. was seventeen years old. At trial, Ms. Ayres was admitted as an expert in forensic interviewing and child abuse disclosure patterns. A recording of Ms. Ayres's interview with K.T. was played at trial.

¶ 11 Physician assistant Adona Struve was admitted as an expert in the field of

child sex abuse forensic evaluations at trial. In addition to observing K.T.'s interview with Ms. Ayres, Ms. Struve reviewed K.T.'s medical records and performed a physical examination on K.T. Ms. Struve testified that K.T.'s hymen was intact and her anogenital exam was normal; however, she also testified that when a child's disclosure comes years after abuse, she would not expect to uncover physical findings.

¶ 12 Detective Megan Kimball of the Union County Sheriff's Office testified about her role "maintain[ing] the database for offenders" during the relevant time. Before Detective Kimball testified, the prosecutor explained that the State would only introduce redacted change of address forms that "say offender change of address form not sex offender change of address form." The prosecutor stated, "obviously we will not be referring to the sex offender registry, we will refer to it as an offender registry or a database." The trial court responded, "I would prefer database." Detective Kimball testified about Defendant's change of address forms, which indicated when he moved to each address and when he was incarcerated. Defendant did not present any evidence.

¶ 13 Defendant was indicted with two counts of first-degree statutory rape, one count of first-degree statutory sexual offense, and two counts of taking indecent liberties with a child. At the close of the evidence, Defendant moved to dismiss the charges; the trial court dismissed the charge of first-degree statutory sexual offense and denied the motion as to the other charges. On 13 June 2019, the jury returned

verdicts finding Defendant guilty of two counts of first-degree statutory rape and two counts of taking indecent liberties with a child. The jury also found Defendant guilty of the aggravating factor of taking advantage of a position of trust and confidence. Defendant was sentenced to two consecutive terms of life imprisonment without parole. Defendant appeals.

II. Aggravating Factor

¶ 14 Defendant argues the record evidence is insufficient to support the finding as an aggravated circumstance that Defendant "took advantage of a position of trust or confidence, including a domestic relationship." (Capitalization altered.) Defendant also contends the trial court's instruction to the jury regarding the aggravating factor constituted instructional error.

A. Sufficient Evidence

¶ 15 First, Defendant argues the evidence presented at trial does not demonstrate "that a relationship of trust existed" between himself and K.T. because the evidence shows "that neither K.T. nor her brother cared for" Defendant.

¶ 16 "When a defendant alleges that a trial court erred by imposing a sentence that is invalid as a matter of law, the defendant's argument is preserved for appellate review, even if the defendant failed to object on this basis at sentencing." *State v. Ray*, 274 N.C. App. 240, 243–44, 851 S.E.2d 653, 656 (2020) (citations omitted). It is the State's burden to prove beyond a reasonable doubt the existence of an aggravating

factor. N.C. Gen. Stat. § 15A-1340.16(a) (2019). During the sentencing phase of a trial, the trial court may impose an aggravated offense if the jury finds "[t]he defendant took advantage of a position of trust or confidence, including a domestic relationship, to commit the offense." N.C. Gen. Stat. § 15A-1340.16(d)(15).

¶ 17 Our courts have upheld the finding that a defendant took advantage of a position of trust or confidence "in very limited factual circumstances." *Compare State v. Farlow*, 336 N.C. 534, 542, 444 S.E.2d 913, 918 (1994) (factor properly found when nine-year old victim spent significant amount of time at the defendant's house and "essentially lived" with the defendant when his long-distance truck driver mother was away); *State v. Bingham*, 165 N.C. App. 355, 366–67, 598 S.E.2d 686, 693 (2004) (factor properly found when the thirteen-year old child's mother was dating the defendant and lived with the defendant for seven months before the abuse began); *State v. McGriff*, 151 N.C. App. 631, 640, 566 S.E.2d 776, 782 (2002) (factor properly found where fourteen year-old child frequently visited the house of the defendant—who was dating and living with her friend's sister—and after two months, the defendant began calling, writing, and touching her inappropriately); *State v. Gilbert*, 96 N.C. App. 363, 365–66, 385 S.E.2d 815, 817 (1989) (factor properly considered when six-year old child frequently visited the house of the defendant, who let her play with his dog, gave her candy, and paid her for small jobs around the house) *with State v. Helms*, 373 N.C. 41, 42, 832 S.E.2d 897, 898 (2019) (factor not proper when three-

year-old child was only in the defendant's presence on two occasions and the child's mother was also present); *State v. Blakeman*, 202 N.C. App. 259, 270, 688 S.E.2d 525, 532 (2010) (factor not proper when there was no familial relationship between the thirteen year-old child and the defendant, who played no role in the child's life "other than being her friend's stepfather").

¶ 18 In this case, Defendant dated K.T.'s mother from 2006 to 2015 and, except for three periods of incarceration, Defendant lived with K.T.'s mother during that whole time. When the family resided at the 2006 residence, Defendant sexually abused K.T. in the shed in the backyard and moments later, commanded her to stand up in the bathtub so he could observe her naked body. On one occasion when K.T. was visiting her mother after moving in her grandparents in 2007, Defendant instructed K.T. to help him find her lost dog in the woods, where he proceeded to rape her and threated to kill the people she loved if she ever told anyone. On another occasion, Defendant drove K.T. on the lawnmower to a field and sexually assaulted her. The evidence showed that K.T.'s fear that Defendant would harm the people she loved allowed Defendant to exploit his position of trust and confidence. When K.T. lived under the same roof as Defendant, Defendant picked her up from school and cared for her when her mother worked. After K.T. moved in with her grandparents, Defendant remained a fixture in her mother's home and was present when K.T. would go to visit her mother. He used his access to K.T. while living in the same home with her family or

with her mother to commit each alleged act of abuse. Therefore, the record contained sufficient evidence to support the trial court's finding as an aggravating factor that Defendant took advantage of a position of trust and confidence.

B. Instructional Error

¶ 19 Defendant argues the trial court's instruction to the jury regarding the aggravating factor that Defendant acted in a position of trust and confidence was incomplete because the "instruction failed to convey the Supreme Court's explanation . . . of the 'very limited factual circumstances' in which this factor applies, namely a relationship 'conducive of the reliance by one upon the other.'"

¶ 20 Acknowledging that he did not object to the jury instructions he challenges on appeal, Defendant requests this Court review the trial court's instruction for plain error. The State asserts that because "counsel affirmed to the court at the end of the conference that she reviewed the proposed instructions and had no objection to their form or substance," this error constituted invited error, and Defendant has waived his right to appeal. Recently, this Court clarified the distinction between plain error and invited error in the context of jury instructions:

> While the Supreme Court [in *State v. Chavez*, 378 N.C. 265, 2021-NCSC-86] did not address the invited error versus plain error issue directly, it applied plain error review in a case where the defendant did not object to an allegedly erroneous jury instruction on conspiracy to commit murder. Based on that ruling and the fact that plain error review typically applies to instructional error, we will

> apply plain error review, rather than review for invited error.

State v. Jones, 2021-NCCOA-592, ¶ 41 (citations omitted). Accordingly, we apply plain error review. *Id.* "In order to rise to the level of plain error, the error in the trial court's instructions must be so fundamental that (i) absent the error, the jury probably would have reached a different verdict; or (ii) the error would constitute a miscarriage of justice if not corrected." *State v. Holden*, 346 N.C. 404, 435, 488 S.E.2d 514, 531 (1997) (citation omitted).

¶ 21 Here, the jury instruction accurately stated the law: whether "Defendant took advantage of a position of trust or confidence, which included a domestic relationship, to commit the offense." This language almost verbatim matches the language of North Carolina General Statute § 15A-1340.16(15) ("The defendant took advantage of a position of trust or confidence, including a domestic relationship, to commit the offense") and Pattern Jury Instruction N.C.P.I.—Crim 204.25(18) ("The defendant took advantage of a position of trust or confidence (which includes a domestic relationship) to commit the offense"). We find no error, much less plain error, in the trial court's jury instruction, which correctly stated the law and was supported by the evidence. *See State v. Cagle*, 266 N.C. App. 193, 202, 830 S.E.2d 893, 900 (2019).

III. Bad Acts Evidence

¶ 22 Defendant argues "the trial court erred in admitting irrelevant and unfairly

prejudicial evidence of [his] other bad acts." (Capitalization altered.) We address each piece of evidence below.

A. "Offender Registry"

¶ 23 During direct examination, in response to Detective Kimball's testimony that part of her job was "maintain[ing] the database for offenders[,]" the prosecutor inquired, "[t]hat's a database of offenders; correct?" The following exchange ensued:

> A Yes, ma'am.
> Q All right. So this database of offenders, is that made up of certain individuals who, due to past conduct, are required to keep the sheriff's office notified of their current address?
> A Yes, ma'am.
> Q Are those individuals also required to submit to current photographs of themselves?
> A Yes, ma'am.
> Q Is that database, is that a public database or private?
> A That's a public database.
> Q If someone who is required to be on this database is--they don't provide the sheriff's office with their address, what could happen?
> A They can be charged with a felony for failing to report change of address.
> Q Okay. So these individuals that are maintained on this database are incentivized to give the correct address if they move; correct?
> A Yes.
> Q All right. So what exactly does supervising the database involve?
> A Supervising the database involves making sure that the offenders are residing at their address via going out to their physical registered address that they provided us and making sure they still reside there. Making sure their address is not within a thousand feet of any school or

> daycare. Making sure that the offender's picture that's provided on the database matches their current appearance. And if they don't, they are ordered to come into the sheriff's office within three business days to update that photograph. Making sure that they are completing their verification letters. And also making sure that we are up to date on their duty to register in compliance with the State Bureau of Investigations guidelines.

Then, during jury deliberations, the jury foreman asked: "We were made to believe that there is a registry that he is a part of that is public record and if that's public record we'd like to know what specific registry he's on and what – if it's also public record what the reasons for incarceration were during the time he was incarcerated." In response to the jury's inquiry on incarceration dates, the trial court allowed the jury to review Exhibits 7-15, public records of Defendant's change of address forms. Regarding the jury's request about records of the offenses, the trial court explained that it was the jury's "duty to determine the facts of this case from the evidence presented." Defense counsel did not request any additional instruction regarding the question, and after the trial court responded to the jury's question, it inquired whether Defendant's attorney had any objections; defense counsel responded, "No, your honor."

¶ 24 Defendant contends that allowing Detective Kimball to elaborate on the database "defeated the purpose of calling this a 'database' rather than the sex offender registry" and, further, eliciting testimony that an offender was listed on the

database after committing past offenses "served no other relevant purpose than to alert the jury to [Defendant's] prior bad behavior and bad character." Defendant did not object to this testimony and thus, we review for plain error. *See State v. Garcell*, 363 N.C. 10, 35, 678 S.E.2d 618, 634 (2009).

¶ 25 We reject Defendant's assertion that Detective Kimball's testimony "improperly and prejudicially suggested to the jury that the 'database' was the commonly-known public sex-offender registry" and that "[t]he question posed by the jury during deliberations made evident that the jury made this connection." When the trial court indicated its preference that the State refer to the sex offender registry as the "database[,]" defense counsel declined to be heard further and, instead, stated, "No, your Honor. I think that summarizes it." Defendant's counsel did not request that the witness be prohibited from explaining how the database was maintained or type of information included, nor did he object to Detective Kimball's testimony regarding the database. In addition, Defendant stipulated to one change of address form but he did not stipulate to the other change of address forms. Since Defendant had not stipulated to the remaining change of address forms, the State had to present testimony to lay the foundation for this evidence, so Detective Kimball testified about her role in maintaining the database.

¶ 26 Moreover, the evidence regarding the database was relevant for a purpose other than "to alert the jury to [Defendant's] prior bad behavior and bad character."

The State presented evidence of Defendant's addresses over the years to show he lived with K.T.'s mother. This evidence showed Defendant had access to K.T. by living in a residence with K.T. and her mother for years, and the State also used this evidence to support the aggravating factor of taking advantage of a position of trust or confidence, including a domestic relationship. To the extent this evidence tended to show Defendant's "prior bad behavior and bad character" by showing he had been incarcerated, evidence of his periods of incarceration had already been presented to the jury without objection. K.T. testified on direct examination that Defendant was in prison when she was approximately seven or eight years old. Further, K.T. testified that the instance when Defendant assaulted her while they looked for Sprinkles was before Defendant was in prison and Defendant got back together with her mother after he got out of prison. K.T.'s mother testified that Defendant "was in and out of jail our [their] whole relationship." Defendant's attorney did not object to K.T.'s or her mother's references to Defendant's incarceration. "Defendant can show no prejudice where evidence of a similar import has also been admitted without objection and has not been made the subject of an assignment of error on appeal." *State v. Trull*, 349 N.C. 428, 456, 509 S.E.2d 178, 197 (1998); *see also State v. Wilson*, 313 N.C. 516, 532, 330 S.E.2d 450, 461 (1985) ("Where evidence is admitted without objection, the benefit of a prior objection to the same or similar evidence is lost, and the defendant is deemed to have waived his right to assign as error the prior

admission of the evidence.").

B. K.T.'s mother's evidence of infidelity, sexual positions, and domestic violence

¶ 27 Defendant challenges certain portions of K.T.'s mother's testimony, including: Defendant said "he would cut the brake lines on my parents' car[;]" Defendant "would get money from others . . . [o]ther females[;]" Defendant "hit me, he made me do positions that I didn't like[;]" Defendant "had relations with the [landlord's] daughter[;]" Defendant "would want to like I guess role play maybe raping. Like he wanted to be in charge. He wanted to choke you[;]" and that Defendant wanted to have sex "[a]ll day every day." Defendant argues "[t]estimony about [Defendant's] alleged infidelity with other women and sexual predilections with the adult women with whom he was in a relationship had no relevance to prove any fact at issue in this case." Defendant did not object to this testimony and thus, we review for plain error. *See Garcell*, 363 N.C. at 35, 678 S.E.2d at 634.

¶ 28 In addition to these portions of testimony Defendant contends are plain error, evidence of Defendant's abuse and violence was before the jury in other testimony elicited on cross-examination. During cross-examination, Defendant's counsel asked K.T., "You told them [the social workers] that [Defendant] had hit you and your mom and your brother[;]" "you saw [Defendant] throw her [K.T.'s mother] against a wall and try to choke her; correct[;]" and "You were mad at [Defendant] for taking you're

[sic] mom's money." Also on cross-examination, Defendant's counsel asked K.T.'s mother, "at some point in time you said [Defendant] had gotten into an altercation out in the front yard with several other people[;]" "this was before or after the altercation that your father was involved in[;]" "at some point in time do you recall that [Defendant] had to leave [the first residence] because your father took out a restraining order on him[;]" and "Do you recall how you responded to social services when they asked you about whether or not [Defendant] had been hitting your children?" We hold that "Defendant can show no prejudice where evidence of a similar import has also been admitted without objection and has not been made the subject of an assignment of error on appeal." *Trull*, 349 N.C. at 456, 509 S.E.2d at 197. Moreover, "[s]tatements elicited by a defendant on cross-examination are, even if error, invited error, by which a defendant cannot be prejudiced as a matter of law." *State v. Gobal*, 186 N.C. App. 308, 319, 651 S.E.2d 279, 287 (2007) (citation omitted).

C. K.T.'s testimony that "others have spoken up"

¶ 29 Finally, Defendant argues that "[t]he trial court's failure to strike K.T.'s assertion about allegations of others was likewise unfairly prejudicial and plainly erroneous." When asked on direct examination, "Why are you mad at the Defendant," K.T. responded, "Because he's done this to so many people. I'm not the only one to speak up." Defendant did not object and did not move to strike the testimony and, therefore, our review is limited to plain error. *See Garcell*, 363 N.C. at 35, 678 S.E.2d

at 634.

¶ 30 Assuming *arguendo* that the trial court erred in not instructing the jury to disregard K.T.'s statement, Defendant fails to demonstrate prejudice necessary for plain error. *Holden*, 346 N.C. at 435, 488 S.E.2d at 531. The State's evidence demonstrated that K.T.'s testimony was consistent with her reports to Ms. Ayres. K.T.'s testimony that Defendant threatened to harm her family members if she told them about the abuse was consistent with her Mother's testimony regarding Defendant's abusive personality. K.T.'s testimony about the locations and times that she was abused was consistent with Detective Kimball's testimony regarding Defendant's periods of incarceration. We are not convinced that absent this alleged error, the jury would have reached a different verdict. *See State v. Walker*, 316 N.C. 33, 39, 340 S.E.2d 80, 83 (1986).

IV. Credibility Vouching

¶ 31 Defendant's final argument is that the trial court erred in allowing expert testimony to vouch for K.T.'s credibility.

¶ 32 Defendant acknowledges he did not object to the testimony he now challenges on appeal. As a result, our review is limited to plain error.

> The plain error standard of review applies on appeal to unpreserved instructional or evidentiary error. The Supreme Court of North Carolina applied plain error review to a trial court's failure to strike, on its own motion, improper testimony from an expert witness vouching for

> the credibility of an alleged sexually abused child.

State v. Betts, 267 N.C. App. 272, 277, 833 S.E.2d 41, 45 (2019), *review on additional issues allowed in part*, 373 N.C. 571, 837 S.E.2d 887 (2020), *and aff'd as modified*, 2021-NCSC-68 (citations and quotations omitted).

A. Adona Struve

¶ 33 Defendant challenges multiple portions of Ms. Struve's testimony.

¶ 34 First, Defendant contends that Ms. Struve's testimony on re-cross examination "was not responsive to the question asked, and was an explicit vouching for K.T.'s credibility[:]"

> Q (By Ms. Mills) Ms. Struve, you didn't review any of [K.T.]'s medical records from her prior doctors, pediatricians; correct?
> A No, I did not.
> Q So you didn't confirm any of the information that [K.T.] or her grandmother told you?
> A No, I believe it to be true.

Read in context, Ms. Struve testified that she believed K.T.'s medical history to be true, not that she believed in the veracity of K.T.'s disclosure of sexual abuse. Ms. Struve's statement did not vouch for K.T.'s credibility. Moreover, Ms. Struve's responses were prompted by Defendant's attorney and "[s]tatements elicited by a defendant on cross-examination are, even if error, invited error by which a defendant cannot be prejudiced as a matter of law." *Gobal*, 186 N.C. App. at 319, 651 S.E.2d at 287.

¶ 35 Defendant also contends that the prosecutor's use of the word "disclose" in her questions to K.T. "suggested to the jury that a disclosure was a reporting of something that had in fact occurred," "suggest[ed] that this was in fact a confirmed case of sexual abuse," and "improperly suggested that 'the defendant' was the confirmed abuser." Defendant challenges the following exchanges:

> Q In a case where a child discloses years after the abuse occurred, would you expect to uncover physical findings?
> A No.
> MS. MILLS: Objection.
> THE COURT: Overruled.
> Q (By Ms. Usher) You said no?
> A No.
> Q In a case where a child does not disclose full vaginal penetration, meaning a penis or an object did not fully enter the vagina, would you necessarily expect to uncover physical findings?
> A Not necessarily.
> MS. MILLS: Objection.
> THE COURT: Overruled.

. . . .

> Q (By Ms. Usher) Ms. Struve, during your medical exam of [K.T.] you stated that she spoke to you generally about the fact that she was sexually abused.
> A Yes.

. . . .

> Q Did she tell you during that conversation that she had not disclosed this abuse because the Defendant had threatened --
> MS. MILLS: Objection.
> THE COURT: Overruled. Go ahead.

> Q (By Ms. Usher) The Defendant -- or excuse me, that the abuser had threatened to kill her family if she told anyone?
> A Yes.
> Q Did she tell you that her family means the world to her so she did not tell anyone?
> A Yes.
> Q And did she tell you that the abuser had tried to contact her through Facebook after he had left her mother but she did not reply to him?
> A Yes.

The North Carolina Supreme Court has held that "[a]n expert witness's use of the word 'disclose,' standing alone, does not constitute impermissible vouching as to the credibility of a victim of child sex abuse, regardless of how frequently used, and indicates nothing more than that a particular statement was made." *State v. Betts*, 2021-NCSC-68, ¶ 20. Thus, there was no error in the use of the term "disclose." Additionally, Defendant's counsel used the same language when questioning witnesses and Ms. Struve. Thus, Defendant cannot demonstrate that the prosecutor's use of the term "disclose" constituted error.

B. Alaka Ayres

¶ 36 Defendant argues that in the following responses, Ms. Ayres's "phraseology suggested to the jury that the child describes something they have, in fact, experienced." First, Ms. Ayres testified that the technique she uses to interview children is called "RADAR[,]" which stands for "Recognizing Abuse Disclosures and Responding." Second, she explained a forensic interview as a "structured

conversation designed to elicit as much detail as a child is able to provide about an event that they've experienced. The forensic interview is meant to be a neutral fact gathering conversation."

¶ 37 Defendant did not object to the testimony he now challenges on appeal and thus, we review for plain error. *See Garcell*, 363 N.C. at 35, 678 S.E.2d at 634. We hold that it was not error for Ms. Ayres to testify as to the meaning of the acronym for the interview technique, which includes the word "Disclosures." Nor was it error for Ms. Ayres to describe in neutral terms how a forensic interview is done. Ms. Ayres's statements were not tantamount to an opinion on K.T.'s credibility.[2] Thus, we find no plain error.

V. Conclusion

¶ 38 We hold that there is sufficient evidence to support the finding as an aggravating factor that Defendant took advantage of a position of trust or confidence and the trial court properly instructed the jury on this factor. We also hold that the trial court did not commit plain error in allowing evidence of Defendant's "bad acts" and that Ms. Struve and Ms. Ayres did not vouch for K.T.'s credibility.

NO ERROR AND NO PLAIN ERROR.

Judges COLLINS and WOOD concur.

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[2] Defendant also challenges Ms. Ayres's use of the term "disclose." As discussed above, we hold that a witness's use of this term is not error, let alone plain error. *Betts*, ¶ 20.

Report per Rule 30(e).