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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-649

No. COA21-577

Filed 20 September 2022

Robeson County, Nos. 16 CRS 53666–67

STATE OF NORTH CAROLINA

v.

ZABIANE LAQURIS WILLIAMS

Appeal by defendant from judgments entered 1 October 2020 by Judge James Gregory Bell in Robeson County Superior Court. Heard in the Court of Appeals 8 June 2022.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Amy Kunstling Irene, for the State.

Jarvis John Edgerton, IV, for defendant.

DIETZ, Judge.

¶ 1 Defendant Zabiane Williams appeals his convictions for murder, rape, arson, and burglary. Williams argues that the trial court erred by excluding some of his evidence of the involvement of other perpetrators in the charged crimes. Williams contends that exclusion of this evidence deprived him of his constitutional right to present a defense.

¶ 2 As explained below, any error in the exclusion of this evidence was harmless beyond a reasonable doubt. The State pursued its case against Williams under the theory of acting in concert. Williams testified at trial that he participated in a plan to break into the victim's home; that he was present and directly involved in the break-in; that he raped the victim inside the home; and that he was present when another perpetrator killed the victim with a hammer and set her body on fire. The State's other evidence, including DNA recovered from blood and semen at the crime scene, corroborated this testimony from Williams himself.

¶ 3 In light of this overwhelming evidence of guilt under an acting in concert theory, any error in the exclusion of the challenged evidence was harmless beyond a reasonable doubt. We therefore find no prejudicial error in the trial court's judgments.

Facts and Procedural History

¶ 4 In August 2015, police responded to a 911 call reporting a possible break-in and fire at the home of Patricia Hill. The responding officers discovered what appeared to be blood on the back door around the door's broken glass. In the bedroom of the house, officers found a badly burned body, later determined to be Hill's. It appeared that the bed had been set on fire.

¶ 5 Officers collected samples of what appeared to be blood from the hallway, the back door, and the bedroom. Hill's son later discovered that his mother's pocketbook, gun, and one of her jewelry boxes were missing from the house.

¶ 6 During the investigation, officers collected DNA samples from several individuals who were at a house party next door to Hill's home on the night of the break-in, including Kayon Davis and James Scott. Law enforcement later interviewed Davis. Davis explained that, the morning after the party, she woke up and found a .38 caliber revolver in her possession, which she later sold. Police obtained a warrant to seize Davis's boots after noticing what appeared to be blood on them.

¶ 7 The DNA samples collected from Hill's home and body did not match any of the samples that police collected from Davis or other individuals at the party next door. Later in the investigation, the crime lab matched the unidentified DNA profile from Hill's home to Defendant Zabiane Williams.

¶ 8 Officers then interviewed Williams. Williams told them that, at the time, he was living with his grandmother near Hill's home. The officers told Williams that they were investigating Hill's death and that they had found evidence tying Williams to the crime. Williams initially asserted that someone must have planted his blood or DNA at the scene and denied any involvement. But shortly after, Williams changed his story. He explained that it had been weighing on him and that he knew the officers were there because he "killed that lady." Williams then told the officers that he went to Hill's home with a hammer because he knew an old lady lived there and that he intended to break in and steal items from the home. Williams told the officers that he entered the back door by breaking the glass with the hammer, and then, when he

heard an old woman screaming, he ran to the back bedroom and struck the woman with the hammer. After striking her, Williams explained, he raped her. Williams then hit Hill several more times with the hammer until she appeared dead and used a lighter to set the mattress and bedsheets on fire.

¶ 9 Officers recorded this statement in writing and showed it to Williams who, after making some minor changes, signed the statement. In that initial statement, Williams asserted several times that he was alone, and that he committed the crimes by himself.

¶ 10 In June 2017, the State charged Williams with first degree murder, first degree rape, first degree arson, first degree burglary, and felony larceny. The case went to trial in February 2020.

¶ 11 At trial, a medical examiner testified that Hill had burns over 70% of her body and that she had blunt force head injuries with 4 areas of impact, consistent with the use of a hammer. Hill's cause of death was multiple blunt force head injuries. The medical examiner took a vaginal swab from Hill, which indicated the presence of semen. The State presented Williams's signed confession along with the results of DNA testing which showed that Williams could not be excluded as a contributor to the DNA profile obtained from the rape kit collected from Hill and that Williams's DNA profile matched the profile obtained from blood in Hill's home.

¶ 12 One of the officers involved in the investigation testified about law

enforcement's interview with and investigation of Kayon Davis in relation to Hill's murder, as detailed above.

¶ 13 Williams testified in his defense at trial. He explained that he, together with Kayon Davis and James Scott, went to Hill's home on the night of her murder as part of a plan to steal money from Hill. Williams further testified that Scott instructed him to use a hammer to break into Hill's home. Williams testified that after breaking into the home both he and Scott raped Hill, but that Scott was the one who killed Hill with the hammer and set her body on fire. Williams testified that he wanted to report the crime to the authorities but was afraid to do so because Scott had threatened him and his grandmother.

¶ 14 Williams also testified that he initially told law enforcement that he acted alone because he was afraid of Scott. He explained that he later contacted prosecutors to explain that his initial confession was false and to provide a new statement to the police. In the new statement, Williams admitted that he raped Hill, but denied killing her, and reported that Davis and Scott were with him.

¶ 15 The State filed a motion in limine seeking to limit evidence concerning the involvement of Davis and Scott in the crimes. The State argued that the new statement from Williams did not change his culpability because he continued to admit his involvement in the break-in, the rape, and his presence when Hill was attacked and killed, meaning he would be guilty of all the charged offenses under the theory

of acting in concert.

¶ 16 The trial court granted the motion in limine in part and did not permit Williams to call Davis as a witness, ruling that Davis's testimony was cumulative and immaterial. The court permitted Williams to present evidence regarding Davis's statements to law enforcement during the investigation. The court also permitted Williams to question law enforcement officers about the investigation and interview of Davis. The trial court instructed the jury under the theory of acting in concert.

¶ 17 The jury convicted Williams of second degree murder, first degree rape, first degree arson, first degree burglary, and felony larceny. The trial court arrested judgment on the larceny conviction and sentenced Williams to consecutive prison terms of 276 to 344 months for second degree murder, 276 to 392 months for first degree rape, and 59 to 83 months in a consolidated judgment for arson and burglary. Williams appealed.

Analysis

¶ 18 Williams argues that the trial court erred under Rule 402 of the Rules of Evidence and violated his constitutional right to present a defense by barring him from presenting relevant evidence of third-party guilt. Williams contends that the trial court should have allowed him to present additional evidence of Kayon Davis's statements to law enforcement and allowed him to call Davis as a witness at trial. He argues that the excluded testimony would have shown that there were "other

perpetrators" involved in the crimes and would have corroborated his second statement to the police.

¶ 19 Even assuming the trial court erred in excluding the challenged evidence, we must reject these arguments because Williams was not prejudiced. Evidentiary errors in a criminal trial are harmless and not subject to reversal "unless there is a reasonable possibility that, had the error in question not been committed, a different result would have been reached at trial." *State v. Babich*, 252 N.C. App. 165, 172, 797 S.E.2d 359, 364 (2017).

¶ 20 Williams also frames the error as a constitutional one. "Errors affecting a constitutional right of a defendant are presumed to be prejudicial." *State v. Welch*, 316 N.C. 578, 583, 342 S.E.2d 789, 792 (1986). Thus, the ordinary rules applying to harmless error analysis do not apply to constitutional violations. Instead, with constitutional errors, the State bears the burden to show "that the error was harmless beyond a reasonable doubt." *Id.*; N.C. Gen. Stat. § 15A-1443(b).

¶ 21 Even under the heightened standard for constitutional claims, the State has shown that any error, in this case, was harmless beyond a reasonable doubt. The State pursued its case against Williams under a theory of acting in concert and the trial court instructed the jury on that doctrine. "The doctrine of acting in concert provides that when two or more persons act together in pursuance of a common plan or purpose, each is guilty of any crime committed by any other in pursuance of the

common plan or purpose." *State v. Melvin*, 364 N.C. 589, 592, 707 S.E.2d 629, 631–32 (2010). So, for example, "acting in concert allows a defendant acting with another person for a common purpose of committing some crime to be held guilty of a murder committed in the pursuit of that common plan even though the defendant did not personally commit the murder." *Id.*

¶ 22 In both his second statement to law enforcement and his own trial testimony, Williams acknowledged that he participated in a plan to break into Hill's home to take money or other items of value and that, as a result, he was present for the commission of all the crimes charged in this case. Williams testified that he actively participated in the break-in, including using a hammer to break into Hill's home. He also testified at trial that he raped Hill and watched as Scott hit Hill with a hammer and set her on fire. The State's other evidence corroborated this testimony, including DNA from blood and semen at the crime scene that tied Williams to these crimes. Moreover, other evidence introduced at trial covered much of the ground Williams sought to cover through the excluded evidence, including the involvement of Davis and Scott in the crimes.

¶ 23 In light of this undisputed and overwhelming evidence of guilt, the State met its burden to show that any error in the exclusion of the challenged evidence at trial was harmless beyond a reasonable doubt. We therefore find no prejudicial error in the trial court's judgments.

Conclusion

¶ 24 For the reasons discussed above, we find no prejudicial error in the trial court's judgments.

NO PREJUDICIAL ERROR.

Judges MURPHY and WOOD concur.

Report per Rule 30(e).