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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-765

No. COA22-87

Filed 15 November 2022

Wake County, No. 19CRS203722

STATE OF NORTH CAROLINA

v.

DARIUS J. HARRIS-ALLEN, Defendant.

Appeal by Defendant from judgment entered 12 August 2021 by Judge Paul C. Ridgeway in Wake County Superior Court. Heard in the Court of Appeals 6 September 2022.

Attorney General Joshua H. Stein, by Assistant Attorney General Marissa K. Jensen, for the State.

Mark Hayes for Defendant-Appellant.

INMAN, Judge.

¶ 1

Darius J. Harris-Allen (“Defendant”) appeals from a judgment entered upon a jury verdict finding him guilty of first-degree murder and contends the trial court erred in denying his motion to suppress his confession to police in a recorded interview because: (1) he was unlawfully detained without probable cause in violation of the Fourth Amendment to the Constitution of the United States; and (2) even if the

detention was constitutional, the interrogation became involuntary and unlawful before he made incriminating statements. Because there was other overwhelming evidence of Defendant’s guilt, we hold any error in the detention or interrogation was harmless beyond a reasonable doubt.

I. FACTUAL & PROCEDURAL BACKGROUND

¶ 2 The record below discloses the following:

¶ 3 In the early morning hours of 24 February 2019, at a parking lot near a Cook Out in Raleigh, two armed men approached three parked vehicles and fired their guns into one of the vehicles, killing the driver.

¶ 4 Earlier that morning, around 1:00 a.m., a group of friends including Darrell Green, Monterious Williams, Rebecca Braswell, and Joseph Hicks traveled from Franklin County to go to a nightclub in Raleigh called “StarBar.” While there, they encountered two sisters, Shamira and D’Antoinette Johnson, who knew Defendant; Shamira was Defendant’s girlfriend. Shamira told Darrell Defendant was going to pick her up from StarBar.

¶ 5 The group left the nightclub and eventually gathered at the Cook Out on Capital Boulevard. Darrell drove his white Maxima, Rebecca drove Monterious in her white Buick SUV, and Joseph drove his red Jeep. They parked their cars in a row in the neighboring Popeyes’ parking lot—Rebecca’s car on the left, Darrell’s car in the middle, and Joseph’s car on the right. Monterious and Rebecca walked to the Cook

Out window while Darrell and Joseph stayed in their respective cars. When Monterious saw Shamira and D'Antoinette's vehicle pull into the Cook Out parking lot, he yelled to Darrell to point out the vehicle. As he yelled, he saw and heard two individuals firing guns into Darrell's white Maxima.

¶ 6 At the same time, while Joseph sat in his parked Jeep to the right of Darrell's vehicle, Joseph looked in his left mirror and saw an individual with a hooded sweatshirt "tied tight with dreads" walking hunched over and then upright. In his other mirror he saw the individual near the back of his vehicle, so he reversed his vehicle, backing out of the space, and tried to hit him. Defendant, the other armed individual, then came around the side of Joseph's Jeep. He had a pistol in his hands, made eye contact with Joseph, and then shot into the passenger side of the white Maxima. Joseph was familiar with Defendant, having grown up with him in Louisburg, and knew Defendant by the name "MurdaRed." After he heard the second shot, Joseph sped out of the parking lot. He joined Monterious, who had driven Darrell in his white Maxima, at the hospital, where he observed bullet holes in both sides of Darrell's vehicle. Darrell was pronounced dead at the hospital at 5:45 a.m. His cause of death was multiple gunshot wounds to his neck, right chest, abdomen, and armpit area.

¶ 7 Law enforcement responded to the scene at approximately 4:15 a.m. and located shell casings across five parking spaces where the shooting occurred, on both

sides of the space where Darrell's vehicle had been parked. A total of fifteen shell casings were recovered from the scene, five nine-millimeter casings in the two parking spaces to the East, and ten "Super X" casings from a .22 caliber in the other three spaces.

¶ 8 At about 6:30 p.m. that same day, without a warrant, police transported Defendant to the Franklinton Police Station where Detective Harmon interviewed him. Defendant signed a *Miranda* waiver at the beginning of his interview. After a substantial break in the interrogation, Defendant eventually admitted that he had shot into Darrell's vehicle that morning.

¶ 9 Defendant filed a pre-trial motion to suppress his statements to police in the recorded interview from 24 February 2019, arguing he was unconstitutionally detained and interrogated without probable cause in violation of the Fourth and Fifth Amendments to the United States Constitution. At the motion to suppress hearing, Detective Harmon testified he had "no information about how [Defendant] was taken into custody" and did not know whether Defendant "came voluntarily or whether he was essentially detained." Another detective involved in locating and transporting Defendant could not recall how and by whom Defendant was detained, just that he thought he was present either when Defendant was arrested or when he was transported to the station. After the State presented evidence and counsel made arguments, the trial court denied Defendant's motion to suppress.

¶ 10 Defendant’s case came on for trial on 9 August 2021. The critical issue was the identity of the shooter. Joseph and Monterious testified consistent with the above recitation of facts. Surveillance footage from the Cook Out corroborated their accounts. The video recording of Defendant’s confession was admitted into evidence. The State also introduced Facebook messages between Defendant’s account, under the name “Jose MurdaRed Da Don,” and D’Antoinette on the night of the murder. In the messages, Defendant asked D’Antoinette where she was, and she told Defendant she was at Cook Out. Defendant acknowledged that he saw D’Antoinette on a social media video at StarBar earlier that night, indicated that he was “[o]n Capital,” the road on which the Cook Out was located, and further clarified, “where [Monterious] and [Darrell] go.” Defendant did not testify or present evidence.

¶ 11 The jury found Defendant guilty of first-degree murder on 12 August 2021, and the trial court sentenced Defendant to life in prison without the possibility of parole. Defendant provided oral notice of appeal.

II. ANALYSIS

¶ 12 Below and before this Court, Defendant contends his confession should be suppressed because it was obtained as a result of his unlawful detention without probable cause, which *Miranda* warnings could not cure, or, in the alternative, that the interrogation became involuntary and unlawful before Defendant made any incriminating statements. Defendant’s arguments appear to have substantial merit

based on the dearth of testimony about how and why Defendant came to be in police custody. However, we hold that even if the trial court erred in denying Defendant's motion to suppress because the detention and/or interrogation violated Defendant's constitutional rights, any error was harmless beyond a reasonable doubt because of other overwhelming evidence of Defendant's guilt.

¶ 13 “A violation of the defendant's rights under the Constitution of the United States is prejudicial unless the appellate court finds that it was harmless beyond a reasonable doubt. The burden is upon the State to demonstrate, beyond a reasonable doubt, that the error was harmless.” N.C. Gen. Stat. § 15A-1443(b) (2021); *see also State v. Autry*, 321 N.C. 392, 399-400, 364 S.E.2d 341, 346 (1988) (“Under current statutory and case law, error committed at trial which infringes upon defendant's constitutional rights is presumed to be prejudicial and entitles him to a new trial unless the error in question is harmless beyond a reasonable doubt.” (citations omitted)). “[T]he presence of overwhelming evidence of guilt may render error of constitutional dimension harmless beyond a reasonable doubt.” *Autry*, 321 N.C. at 400, 364 S.E.2d at 346.

¶ 14 Beyond Defendant's recorded confession to police, the State presented the following evidence of his guilt: (1) Facebook messages locating Defendant at the scene of the murder that morning; (2) Joseph's eyewitness testimony identifying Defendant

as one of the shooters; (3) surveillance footage of the murder; and (4) Monterious' eyewitness testimony describing the events that morning.

¶ 15 At trial, Joseph identified Defendant as the shooter who fired a gun into the passenger side of Darrell's vehicle. Joseph was familiar with Defendant because they grew up together in Louisburg, and he knew him by the nickname also associated with his Facebook account, "MurdaRed." Joseph testified that at the time of the shooting, he was parked next to the Darrell's vehicle near the Cook Out when he looked in one of his car mirrors and saw Defendant approach and then fire his pistol into Darrell's white Maxima multiple times. Just before the shooting, Defendant made eye contact with Joseph.

¶ 16 Defendant challenges Joseph's credibility as a witness because, immediately after the shooting, Joseph provided police with a false name—his brother's name—and did not identify either shooter. On direct and cross-examination at trial, Joseph unequivocally testified that, initially, he did not give police his real name or identify the shooter because he had an outstanding probation violation and was concerned about any involvement with law enforcement. He identified Defendant as the shooter after police took him into custody on his probation violation about one month later. This is a plausible explanation for Joseph's reluctance to disclose his name and identify the shooter in the first instance, and Joseph's testimony at trial was corroborated by other evidence. *Cf. State v. Pabon*, 380 N.C. 241, 2022-NCSC-16, ¶

68 (“In a simple ‘credibility contest,’ there is little or no physical or corroborating evidence of the incident in question, leaving the competing stories of the two internal participants and whom to believe as the only real question for the factfinder. In such an instance, any evidence of prior acts that tends to bolster or undermine the credibility of one of the primary participants may be particularly influential in the ultimate outcome.”).

¶ 17 To the extent Defendant challenges the “physical limitations” of Joseph’s observations early that morning, his testimony was corroborated by the surveillance footage, which shows two individuals approach the parked vehicles and one of the men shooting into the passenger side of Darrell’s vehicle as Joseph reversed his Jeep out of the parking lot, as well as Monterious’ testimony about what he saw from the Cook Out window.

¶ 18 There was other overwhelming evidence of Defendant’s guilt such that the State has met its burden of proving any constitutional error in obtaining Defendant’s confession was harmless beyond a reasonable doubt. *See State v. Gaddis*, 2022-NCSC-102, ¶¶ 22-25 (holding the State met its burden to prove the error was harmless beyond a reasonable doubt where the defendant impeached one of the witness’s testimony identifying the defendant as the driver in a DWI case); *State v. Rhodes*, 151 N.C. App. 208, 218, 565 S.E.2d 266, 272 (2002) (“[W]hile [the detective’s] warrantless search and seizure violated defendant’s constitutional protections, the

overwhelming evidence of defendant’s guilt rendered harmless beyond a reasonable doubt the trial court’s denial of defendant’s motion to suppress the marijuana.”).

III. CONCLUSION

¶ 19 For the reasons outlined above, we hold Defendant’s conviction was free from prejudicial error.

NO PREJUDICIAL ERROR.

Judges DILLON and MURPHY concur.

Report per Rule 30(e).