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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-315

Filed 07 February 2023

Mecklenburg County, Nos. 17 CRS 15693, 17 CRS 15695

STATE OF NORTH CAROLINA

v.

DIONTRAY ADAMS

Appeal by defendant from judgments entered 11 August 2021 by Judge Louis A. Trosch, Jr., in Mecklenburg County Superior Court. Heard in the Court of Appeals 10 January 2023.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Sonya Calloway-Durham, for the State.

Law Office of Sandra Payne Hagood, by Sandra Payne Hagood, for defendant-appellant.

ARROWOOD, Judge.

Diontray Adams (“defendant”) appeals and petitions this court to review judgments entered upon his conviction for first-degree murder. Defendant contends the trial court plainly erred by allowing certain testimony and by entering a civil judgment for attorney’s fees without providing defendant notice and an opportunity

to be heard. Defendant, recognizing his oral notice of appeal was insufficient to convey jurisdiction to this Court for the civil judgment, has also filed a petition for a *writ of certiorari* (“PWC”). For the following reasons, in our discretion, we deny defendant’s petition and affirm the trial court’s judgment.

I. Background

On the evening of 20 May 2017, Marlo Medina-Chevez (“Mr. Medina-Chevez”) left his residence, in his Nissan Pathfinder, to earn extra money driving for Uber. When his wife could not reach him that night and he had still not returned the next morning, she filed a missing person’s report. The Charlotte-Mecklenburg Police Department (“CMPD”) missing person’s unit, concerned for Mr. Medina-Chevez’s immediate safety, briefed the homicide unit that they were investigating his disappearance. Detective James Helms (“Detective Helms”), a homicide detective at that time, began investigating.

As part of the investigation, detectives pulled Mr. Medina-Chevez’s financial records and obtained information on his last Uber customer. Detective Helms discovered the last passenger to ride with Mr. Medina-Chevez was James Aaron Stevens (“Mr. Stevens”). From his financial records, Detective Helms learned Mr. Medina-Chevez’s credit card had been used at the “White Marlin Inn[,]” a hotel in Maryland, and obtained images of the person who used the credit card to check in. Detective Helms compared the images to photographs he found of Mr. Stevens and defendant through investigation and determined the person checking into the hotel

using the card, although they provided a different name, was defendant. Thereafter, Detective Joseph Dollar (“Detective Dollar”), obtained a warrant for defendant for using Mr. Medina-Chevez’s credit card.

Detective Helms and Detective Dollar, upon learning from his financial records that Mr. Medina-Chevez’s credit card had been used at various locations in Maryland, decided to drive to Maryland. On the way, detectives were notified Mr. Medina-Chevez’s vehicle had been located by the Maryland Transport Authority (“MTA”), and its four occupants, including defendant and Mr. Stevens, were taken into custody.

In Maryland, detectives interviewed the occupants of the vehicle. During this initial interview, Mr. Stevens told detectives that on 20 May 2017, he never left the hotel room he lived in with defendant. Mr. Stevens told detectives he went to bed and when he awoke the next morning, defendant had a vehicle that he claimed to have gotten from a friend. While in Maryland, detectives also processed Mr. Medina-Chevez’s vehicle with crime scene technician, Angela Flanders (“Ms. Flanders”).

Mr. Medina-Chevez’s vehicle smelled strongly of “cleaning products[,]” and there was a white towel laying across the backseat with red stains on it. “[T]he seats were very damp” with “light red stains.” Once Ms. Flanders removed the seat cover, she discovered the foam cushion underneath had a “very large red stain.” Additionally, the floor of the vehicle was damp, appeared to have been cleaned, and had “some red stains that were underneath the molding of the carpet.”

Inside the vehicle, detectives located a backpack, stained with what appeared

to be blood. The backpack contained rope, duct tape, zip ties, and a knife, among other things. Detectives also located a realistic looking BB gun with “red stains” on it. Ms. Flanders collected several items inside the vehicle which she suspected to be stained with blood and lifted latent fingerprints from several areas of the vehicle. Based on the search of the vehicle, Detective Dollar was concerned Mr. Medina-Chevez “was either deceased or gravely injured[.]”

CMPD also searched the InTown Suites room defendant and Mr. Stevens had resided at prior to leaving for Maryland. CMPD located zip ties and rubber gloves inside the hotel room. Furthermore, CMPD obtained the financial records for Mr. Stevens, and confirmed he was the one that paid for the Uber trip with Mr. Medina-Chevez.

As part of their investigation, CMPD asked supervisory special agent Michael Sutton (“Agent Sutton”) with the FBI Cellular Analysis Survey Team (“CAST”) to assist with their continued search for Mr. Medina-Chevez. Specifically, they requested Agent Sutton determine, from Mr. Stevens’ cell phone location, “a good area to search . . . to try to locate [Mr. Medina-Chevez].” Based off Agent Sutton’s findings, several officers and a K-9 went to look for Mr. Medina-Chevez on 25 May 2017 off Mount Gallant Road near Rock Hill, South Carolina.

On that day, at that location, law enforcement located the body of Mr. Medina-Chevez in a field, lying face down, with his hands and feet duct-taped together. Mr. Medina-Chevez’s body was in “various stages of decomposition,” and there were

“various stages of insect activity” on his body with significant “insect activity in [his] open orifices.”

After finding Mr. Medina-Chevez deceased, Detective Dollar and Detective Helms returned to Maryland to re-interview defendant and Mr. Stevens. Although they were unable to get a confession during this interview, they did re-interview Mr. Stevens on 26 July 2017 at his request.

The matter came on for trial in the Mecklenburg County Superior Court on 26 July 2021, Judge Trosch presiding. During the trial, Mr. Stevens testified for the State.

Mr. Stevens testified that he was in a relationship with defendant, and in May 2017, they lived at the InTown Suites in Charlotte together. He testified they wanted to steal a vehicle to facilitate their move to Maryland. Mr. Stevens testified that it was his idea to use Uber to steal a vehicle, and he and defendant decided they would request a ride to their old apartment complex because “there [weren’t] any cameras around and it’s pretty dark.” They planned to use duct tape to “restrain the driver” and take the vehicle. Defendant and Mr. Stevens packed in a backpack “some zip ties, some rope, a yellow razor, and a BB gun[,]” which they planned to use “as a prop to scare [the Uber driver][.]” Some of these items they had stolen that night in anticipation of using them in the robbery.

Mr. Stevens and defendant planned to rob the Uber driver of their vehicle, return to their hotel to pack their belongings, then drive to Maryland. Because they

needed enough room for their belongings, they were specifically looking for an Uber driver with an SUV. Mr. Stevens used his Uber account and requested 24 Uber rides that night looking for an appropriate vehicle. Ultimately, only two Uber rides were completed. The first Uber driver appeared to be carrying a firearm, so Mr. Stevens testified he and defendant decided not to attempt a robbery because “[t]he risk was too high” and they did not think it was “a smart move.”

However, their second completed trip was with Mr. Medina-Chevez, who was driving his Nissan Pathfinder. After they Googled the vehicle to ensure it was the right size, they got into Mr. Medina-Chevez’s vehicle with their backpack and began their ride with defendant sitting behind the driver’s seat and Mr. Stevens in the back passenger seat. When Mr. Medina-Chevez arrived at the drop off location, defendant had him drive to a location that was “dark” and had “good cover” with “no cameras or anything[.]” Mr. Stevens testified that Mr. Medina-Chevez became suspicious and as Mr. Stevens was about to exit the vehicle, defendant pulled the BB gun and instructed Mr. Medina-Chevez to “[p]ut [his] hands up.”

Mr. Stevens testified that Mr. Medina-Chevez began begging defendant not to hurt him while defendant held the BB gun to Mr. Medina-Chevez’s head. When Mr. Medina-Chevez realized the BB gun was a “prop” a struggle ensued. Mr. Medina-Chevez saw a CMPD police vehicle drive by, and he attempted to get law enforcement’s attention by calling out an open window for help. Mr. Stevens testified defendant then instructed him to roll up the vehicle windows so the police would not

hear Mr. Medina-Chevez's cries, and he complied.

Mr. Stevens testified defendant then pulled Mr. Medina-Chevez to the backseat and he got in the front seat and began to drive. While driving, Mr. Stevens testified that Mr. Medina-Chevez became quiet. Mr. Stevens testified that when he pulled the vehicle over, he saw defendant "had blood all over him," and when he asked defendant what happened, defendant said "[Mr. Medina-Chevez] was struggling too much" and "making too much noise[.]" so defendant "killed him." Mr. Stevens testified that defendant specifically stated he "cut [Mr. Medina-Chevez's] throat with a box cutter."

Thereafter, Mr. Stevens duct taped Mr. Medina-Chevez's hands and feet, and he and defendant moved his body to the backseat and began driving. While on the way to their hotel, they stopped to throw Mr. Medina-Chevez's phone into a drain and at a Walgreens "to get supplies to clean up the seats." During this time, Mr. Medina-Chevez's body was still in the back seat.

Mr. Stevens testified that defendant then decided they "had to get rid of the body" and suggested they head "towards South Carolina." They went to a lake but there were "ranger stations around," and they "didn't want to take the chance." Defendant and Mr. Stevens also tried to go to a rock quarry, but the ground was too hard for them to dig. Eventually, they found a "cut in the side of the road" with a "no trespassing sign" and after breaking the chain that was across the path, they drove down, and defendant "dumped the body" in the field. Mr. Stevens testified he and

defendant then drove back to Charlotte.

Thereafter, Mr. Stevens and defendant returned to their hotel room to pack and “get rid of the clothes that [they] were wearing[.]” After cleaning themselves up, they started driving towards Baltimore, Maryland, stopping a few times to get food, gas, and drinks. When they arrived in Maryland, they cleaned the seats again, and “dumped . . . th[eir] clothes, . . . the bloody paper towels[,] the gloves that had blood [on them, and] anything that could tie [them] to Mr. [Medina-]Chevez . . . at [defendant’s] grandmother’s house.”

Mr. Stevens testified that defendant then offered to take him on a trip to the beach in the stolen vehicle. Mr. Stevens and defendant drove to Ocean City, Maryland and used one of defendant’s “ex-co-worker[’]s ID card” and Mr. Medina-Chevez’s debit card, to reserve a room at the White Marlin Inn. After spending the night at the beach and using Mr. Medina-Chevez’s credit card to order themselves pizza, Mr. Stevens and defendant started to drive to Delaware to visit defendant’s family. While driving across the Bay Bridge, Mr. Stevens testified that defendant rolled down the window and told him to collect the belongings of Mr. Medina-Chevez they were not keeping, and the razor used to kill Mr. Medina-Chevez, and throw it “out the window and over the bridge.” Mr. Stevens complied.

Once in Delaware, Mr. Stevens and defendant visited family and used Mr. Medina-Chevez’s card throughout their stay to purchase alcohol and food. When driving defendant’s family back home, Mr. Stevens testified that a police officer began

following them as they crossed the Bay Bridge. The officer followed them into the parking lot of a gas station, and Mr. Stevens testified that he gathered all of the ID and credit cards they had that did not belong to them and “dropped them in the trashcan in front of the store.” Thereafter, the officer approached and detained all occupants of the vehicle, including defendant and Mr. Stevens.

Mr. Stevens testified that he did not tell Detective Dollar and Detective Helms the truth that night, nor was he honest in his second interview with them a few days later. Mr. Stevens acknowledged that while in jail, he and defendant “had time to talk and collaborate,” and to “try to [get their] stories to be more of the same[,]” which is why his story changed between his first two interviews. Mr. Stevens testified that while they were in jail in Maryland, defendant reassured him that detectives “had no evidence on [them],” because they “threw away the weapon that was used to kill [Mr. Medina-Chevez],” and “there was nothing [to] . . . link [them] to the body.”

Mr. Stevens further testified that defendant told him that if he were to tell the truth about what happened to Mr. Medina-Chevez, defendant “would kill [him] as well.” Despite defendant’s threat, two months after the murder, on 26 July 2017, Mr. Stevens requested another interview and told detectives the truth about what happened. Although he initially spoke to law enforcement without a plea deal, in November 2017 Mr. Stevens was offered a deal where he would plead guilty to second-degree murder and robbery with a dangerous weapon and serve “25 to 32 years” in exchange for his testimony against defendant. Mr. Stevens testified that his plea

agreement, and his agreement to be sentenced in the future, both required his truthful testimony at defendant's trial.

In addition to Mr. Stevens' testimony, the State also presented evidence from defendant's cell phone activity and DNA evidence. Detective Christopher DeCarlo ("Detective DeCarlo") with the CMPD "digital forensics and cyber crimes unit[,]” testified that an examination of defendant's cell phone contents revealed a “partial picture of a North Carolina driver's license” belonging to Mr. Medina-Chevez in the photo gallery. The photograph was taken 21 May 2017 at 10:37 p.m. and the location the picture was taken showed as Ocean City. Furthermore, Agent Sutton, testifying as an expert in cell cite analysis, stated that defendant's cell phone location “was consistent with the direction of travel of the Uber ride” provided by Mr. Medina-Chevez, and consistent with the travel described in Mr. Stevens' testimony. Defendant's cell phone location included an “approximately 16-minute time range” where his device showed near Rock Hill, South Carolina, where Mr. Medina-Chevez's body was eventually located.

Additionally, the State presented fingerprint and DNA evidence linking defendant to the crime. Three fingerprints lifted from the doors of Mr. Medina-Chevez's vehicle matched those of defendant. Defendant's DNA was also found on the “trigger and the trigger guard of the BB gun” recovered from Mr. Medina-Chevez's vehicle and on disposable gloves recovered from the trash at the InTown Suites. Mr. Medina-Chevez's DNA was also located on items found in the vehicle and matched

the DNA profile from the bloodstains on the floor of the vehicle.

Dr. James Lozano (“Dr. Lozano”), the forensic pathologist with the Mecklenburg County Medical Examiner’s Office who performed the autopsy on Mr. Medina-Chevez, also testified as to his findings. Dr. Lozano testified that the body was in a “state of severe decomposition[,]” but he observed “two potential sharp-force injuries” to the left side of Mr. Medina-Chevez’s neck. Mr. Medina-Chevez’s wrists had been “bound behind his back with duct tape and his legs were . . . bound and crossed at the ankles with duct tape.” His pants were also “down from where they would normally be positioned[,]” so investigating detectives requested Dr. Lozano also perform a sexual assault kit.

Without objection, Dr. Lozano testified that there was “abundant insect activity” in the neck wounds making it difficult to determine the exact nature of the injuries. Dr. Lozano testified as to the life cycle of insects and how the state of such insect activity can help form his opinion about the length of decomposition. Several photographs of the autopsy were introduced and published to the jury without objection, including a photograph which showed that Mr. Medina-Chevez’s “eyes [were] absent due to decomposition and insect activity[.]”

Lastly, Dr. Lozano testified, without objection, that Mr. Medina-Chevez did experience pain before his death, and that he could have lived between five and thirty minutes after receiving his injuries. However, Dr. Lozano testified that he could not say with certainty how many times Mr. Medina-Chevez was stabbed, the

directionality of the wounds, how long Mr. Medina-Chevez lived after sustaining his injuries, the exact cause of death, or the order of injuries, due to the insect activity and decomposition.

At the close of the State's evidence, and at the close of all evidence, defense counsel made a motion to dismiss the case, arguing the State did not present sufficient evidence that defendant was the perpetrator of the crimes. Both motions were denied.

On 11 August 2021, the jury found defendant guilty of first-degree murder and robbery with a dangerous weapon. Judgment on the robbery was arrested, and defendant was sentenced to life without the possibility of parole for the murder conviction. Defendant gave notice of appeal in open court. On 29 November 2021, defendant was ordered to pay \$22,737.90 in attorney's fees, and \$10,240.00 in support and expert fees and expenses.

II. Discussion

On appeal, defendant argues the trial court plainly erred by (1) allowing Dr. Lozano to testify that Mr. Medina-Chevez did experience pain, how long it might have taken Mr. Medina-Chevez to die, and "detailing the process of maggot infestation and decomposition[;]" and (2) by "allowing the prosecutor to bolster Mr. Stevens' testimony on direct by repeatedly asking him if his plea agreement required him to testify truthfully." Defendant argues these alleged errors were prejudicial, entitling him to a new trial.

Lastly, defendant contends the trial court erred by entering a civil judgment for attorney's fees without providing him notice or an opportunity to be heard. Understanding his oral notice of appeal was insufficient to convey jurisdiction to this Court under North Carolina Rules of Appellate Procedure 3(a), defendant has also filed a PWC. In our discretion, we deny defendant's PWC and affirm the trial court's judgments.

A. Dr. Lozano and Mr. Stevens' Testimony

"In order to preserve an issue for appellate review, a party must have presented to the trial court a timely request, objection, or motion, stating the specific grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the context." N.C.R. App. P. 10(a)(1) (2023). However, "[i]n criminal cases, an issue that was not preserved by objection . . . nevertheless may be made the basis of an issue presented on appeal when the judicial action questioned is specifically and distinctly contended to amount to plain error." N.C.R. App. P. 10(a)(4). Because defendant did not preserve any errors related to the testimony in question, this Court's review is limited to whether the trial court's actions constituted plain error.

Our Supreme Court has stated:

For error to constitute plain error, a defendant must demonstrate that a fundamental error occurred at trial. To show that an error was fundamental, a defendant must establish prejudice—that, after examination of the entire record, the error had a probable impact on the jury's

finding that the defendant was guilty. Moreover, because plain error is to be applied cautiously and only in the exceptional case, the error will often be one that seriously affect[s] the fairness, integrity[,] or public reputation of judicial proceedings[.]

State v. Lawrence, 365 N.C. 506, 518, 723 S.E.2d 326, 334 (2012) (alteration in original) (citations and quotation marks omitted).

“Plain error includes error that is a fundamental error, something so basic, so prejudicial, so lacking in its elements that justice cannot have been done; or grave error that amounts to a denial of a fundamental right of the accused; or error that has resulted in a miscarriage of justice or in the denial to appellant of a fair trial.”

State v. Gregory, 342 N.C. 580, 586, 467 S.E.2d 28, 32 (1996) (citation omitted).

1. Dr. Lozano’s Testimony

Defendant first argues the trial court plainly erred by allowing Dr. Lozano to testify that Mr. Medina-Chevez did experience pain, how long it might have taken Mr. Medina-Chevez to die, and “detailing the process of maggot infestation and decomposition.” Furthermore, defendant argues that the admission of this evidence was “irrelevant” in light of his stipulations as to the victim’s identity and “unfairly prejudicial.” We disagree.

Our Supreme Court “has held that expert testimony concerning the pain and suffering of the victims in a first-degree murder case is relevant and admissible to assist the jury in ascertaining whether the defendant was acting with premeditation and deliberation.” *State v. Vick*, 341 N.C. 569, 582, 461 S.E.2d 655, 662 (1995)

(citations omitted). For example, in *State v. Bearthes*, our Supreme Court disagreed with the defendant's contention the trial court erred in allowing the medical examiner to opine about how long it would have taken the victim to die from her injuries. *State v. Bearthes*, 329 N.C. 149, 162, 405 S.E.2d 170, 176-77 (1991). In *Bearthes*, our Supreme Court acknowledged that the "nature of the wounds to a victim [was] a circumstance" that should be considered when determining whether the defendant "acted with premeditation and deliberation[.]" *Id.* (citations omitted). Thus, the *Bearthes* court concluded the medical examiner's opinions were relevant. *Id.* at 162-63, 405 S.E.2d at 177.

Furthermore, our Supreme Court has held that graphic evidence of decomposition, even when the defendant has stipulated to the identity of the victim, is admissible to demonstrate the condition of a victim and the injuries a victim sustained. *See State v. Wynne*, 329 N.C. 507, 517, 406 S.E.2d 812, 816-17 (1991) (citations omitted) ("Even where a body is in advanced stages of decomposition and the cause of death and identity of the victim are uncontroverted, photographs may be exhibited showing the condition of the body and its location when found."). Such evidence demonstrates "the circumstances of [the victim's] death" and is relevant in a first-degree murder trial. *See State v. Bates*, 343 N.C. 564, 595, 473 S.E.2d 269, 286 (1996).

Here, all the testimony defendant contends constituted plain error was relevant and admissible in the context of his first-degree murder trial,

notwithstanding defendant's stipulations. Accordingly, we hold that the trial court did not plainly err in allowing Dr. Lozano's testimony.

2. Mr. Stevens' Testimony

Defendant next contends the trial court plainly erred by "allowing the prosecutor to bolster Mr. Steven's testimony on direct by repeatedly asking him if his plea agreement required him to testify truthfully." We find this argument likewise without merit.

"The question of whether a witness is telling the truth is a question of credibility and is a matter for the jury alone." *State v. Solomon*, 340 N.C. 212, 221, 456 S.E.2d 778, 784, *cert. denied*, 516 U.S. 996, 133 L. Ed. 2d 438 (1995) (citations omitted). "Therefore, under our prior case law it is improper for . . . counsel to ask a witness . . . whether he has in fact spoken the truth during his testimony." *State v. Chapman*, 359 N.C. 328, 364, 611 S.E.2d 794, 821 (2005). However, counsel does not improperly vouch for the credibility of a witness by merely providing the jury a reason to trust their witnesses. *See State v. Bunning*, 338 N.C. 483, 489, 450 S.E.2d 462, 464 (1994).

In *State v. Bunning*, our Supreme Court addressed this difference. *Id.* In *Bunning*, the defendant argued the prosecutor "improperly vouched" for the "credibility of the State's witnesses" when he told the jury, without objection, that the detective who testified did not "make up some statement" for the eyewitness and the "fine detective" would not "put his reputation and his career on the line" to convict

the defendant. *Id.* at 488-89, 450 S.E.2d at 464. Our Supreme Court rejected the defendant's argument that this was improper bolstering, finding the prosecutor's statements "were more in the nature of giving reason why the jury should believe the State's evidence[.]" *Id.* at 489, 450 S.E.2d at 464.

Adopting this reasoning, we find that the prosecutor's questions were not improper vouching for Mr. Stevens' credibility, nor do they amount to plain error. The State did not inquire as to whether defendant testified truthfully, but asked whether Mr. Stevens' plea agreement, and his agreement to be sentenced in the future, both "require[d] him to testify truthfully[.]" Although these questions may have elicited testimony that provided the jury a reason they should believe the witness, they were distinguishable from directly inquiring whether the witness provided truthful testimony. Accordingly, the trial court did not plainly err, and defendant's argument is without merit.

B. Civil Judgment

Defendant's last argument on appeal is that the trial court erred by entering a civil judgment for attorney's fees against him without providing notice or an opportunity to be heard. Understanding his oral notice of appeal was insufficient to convey jurisdiction to this Court for review of the trial court's civil judgment, defendant has also filed a PWC.

"A petition for the writ must show merit or that error was probably committed below. *Certiorari* is a *discretionary writ*, to be issued only for good and sufficient

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cause shown.” *State v. Grundler*, 251 N.C. 177, 189, 111 S.E.2d 1, 9 (1959) (emphasis added) (citations omitted), *cert. denied*, 362 U.S. 917, 4 L. Ed. 2d 738 (1960). In the exercise of our discretion, we deny defendant’s PWC.

III. Conclusion

For the foregoing reasons, we affirm the trial court’s judgment and deny defendant’s PWC.

DENIED IN PART AND AFFIRMED IN PART.

Judges WOOD and GORE concur.

Report per Rule 30(e).