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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-528

Filed 07 February 2023

Mecklenburg County, Nos. 19CRS225438-40, 19CRS225442-43, 19CRS225449

STATE OF NORTH CAROLINA

v.

JORDAN BRYSON-ANTONIO DOUGLAS, Defendant.

Appeal by Defendant from judgments entered 14 January 2022 by Judge Lisa C. Bell in Mecklenburg County Superior Court. Heard in the Court of Appeals 30 November 2022.

*Attorney General Joshua H. Stein, by Special Deputy Attorney General Orlando L. Rodriguez, for the State.*

*Drew Nelson for the Defendant.*

DILLON, Judge.

Defendant Jordan Bryson-Antonio Douglas appeals from judgment entered upon a jury's verdict convicting him of first-degree sexual offense, first-degree kidnapping, assault with a deadly weapon, resisting a public officer, and two counts of attempted robbery with a dangerous weapon. On appeal, he challenges the

admission of statements he made while in custody. We conclude Defendant received a fair trial, free of reversible error.

### I. Background

The evidence at trial tended to show as follows: In the early morning hours of 5 July 2019, two women were walking in uptown Charlotte when they were approached by Defendant. After a brief conversation, the women began to walk away. Defendant followed them and repeatedly asked for their contact information.

As the women reached an overpass, Defendant grabbed one of the women and pointed a gun at her head. He fired a shot towards her. Defendant demanded whatever money they had and began to drag one of the women up an embankment to a construction site. He then engaged in sexual acts with her against her will.

At some point, the other woman was able to sneak up on Defendant and strike him in the head with a piece of metal. The two women were able to flee the scene and quickly encountered law enforcement officers. Defendant initially fled but was eventually apprehended.

Defendant was convicted of several felonies by a jury based on his assault of these women. Defendant appeals.

### II. Analysis

Defendant argues that the trial court erred by admitting into evidence certain statements he made while in custody, as follows. After receiving medical treatment shortly after his attack, Defendant was placed in an interview room at the local law

enforcement center. As Defendant sat in the room alone, he spoke to himself about what happened, saying, “she thought I was trying to hurt her” and “that is the only reason she said ‘yes.’” These statements were captured on video, admitted into the State’s evidence, and published to the jury during trial.

On appeal, Defendant argues that the admission of his statements violated his Fourth Amendment rights. However, Defendant failed to raise this argument during trial or in his pretrial motion to suppress.

Our appellate rules state that “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) (2022). Furthermore, the objecting party must “obtain [from the trial court] a ruling upon the party’s request, objection, or motion.” *Id.*

Here, Defendant filed a pretrial motion to suppress the statements made by Defendant during his custodial interrogation. The motion to suppress did not request suppression of Defendant’s incriminating statements made outside of the presence of law enforcement. Further, Defendant’s motion to suppress relies on Fifth Amendment grounds, as incorporated under the Fourteenth Amendment, while his argument on appeal is based on an alleged Fourth Amendment violation. Additionally, Defendant failed to object during trial on Fourth Amendment grounds.

“It is well settled that an error, even one of constitutional magnitude, that defendant does not bring to the trial court’s attention is waived and will not be considered on appeal.” *State v. Bursell*, 372 N.C. 196, 199, 827 S.E.2d 302, 305 (2019). This rule applies even when the defendant files a pretrial motion to suppress but relies on a theory other than what is argued on appeal. *See State v. Benson*, 323 N.C. 318, 321-22, 372 S.E.2d 517, 518-19 (1988) (wherein our Supreme Court held that defendant failed to properly preserve his unlawful arrest argument because his pretrial motion to suppress relied on alternative grounds).

Assuming the trial court otherwise erred by allowing Defendant’s statements into evidence, we conclude that Defendant has failed to show plain error, based on the overwhelming evidence of his guilt. *State v. Miller*, 371 N.C. 266, 269, 814 S.E.2d 81, 83 (2018) (holding that a defendant must demonstrate the error “had a probable impact on the jury’s finding that the defendant was guilty and seriously affected the fairness, integrity, or public reputation of judicial proceedings.”)

NO ERROR.

Judges MURPHY and HAMPSON concur.

Report per Rule 30(e).