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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-704

Filed 04 April 2023

Ashe County, Nos. 21 CRS 50540-44

STATE OF NORTH CAROLINA

v.

MARIO EDUARDO CARRASCO, Defendant.

Appeal by Defendant from judgments entered 11 March 2022 by Judge Michael D. Duncan in Ashe County Superior Court. Heard in the Court of Appeals 8 February 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General Jason P. Caccamo, for the State.

Dysart Willis, by Drew Nelson, for Defendant.

GRIFFIN, Judge.

Defendant Mario Eduardo Carrasco appeals from a judgment entered after a jury found him guilty of four counts of first-degree rape of a child and one count of sexual offense against a child by an adult. Defendant contends the trial court erred and abused its discretion in denying his motion to reopen the evidence. We disagree and hold the trial court did not commit error.

I. Factual and Procedural Background

Between 1 January 2015 and 30 June 2015, Anna¹—who was in third grade at the time—lived with her great-grandmother, grandmother, cousin, aunt, and Defendant, who is her uncle. During this time, Anna’s cousin had a severe asthma attack and was hospitalized in Charlotte. Anna’s aunt stayed with her cousin at the hospital for a week. Anna remained at home with Defendant and her grandmother. Anna’s great-grandmother—Defendant’s mother—was in Honduras at the time. Defendant raped Anna on four separate occasions throughout the week. Anna disclosed the rapes to her grandmother when Anna was in fourth grade but did not report the matter to police until her eighth-grade year upon the insistence of her guidance counselor.

On 12 July 2021, Defendant was indicted on four counts of first-degree rape of a child and one count of sexual offense with a child by an adult. Defendant’s case came on for trial by jury on 7 March 2022 before the Honorable Michael Duncan in Ashe County Superior Court. Defendant testified, denying all allegations against him. The defense called two other witnesses including Defendant’s mother—Anna’s great-grandmother—before resting. The next morning, Defendant made a motion to reopen the evidence. Specifically, Defendant moved to introduce his mother’s passport. After hearing arguments from both Defendant and the State, the trial court

¹ We use a pseudonym for ease of reading and to protect the identity of the juvenile. See N.C. R. App. P. 42(b).

denied Defendant's request. On 11 March 2022, Defendant was convicted on all counts.

Defendant gave notice of appeal in open court.

II. Standard of Review

This Court reviews discretionary matters to determine only whether there was a clear abuse of discretion. *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985). A trial court has abused its discretion when its ruling "is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision." *State v. Hennis*, 323 N.C. 279, 285, 372 S.E.2d 523, 527 (1988).

III. Analysis

Defendant argues the trial court abused its discretion in denying Defendant's motion to reopen the evidence after resting his case. Specifically, Defendant contends the trial court's denial of his motion to introduce his mother's passport was unreasonable. We disagree.

The trial court "may permit any party to introduce additional evidence at any time prior to verdict." N.C. Gen. Stat. § 15A-1226(b) (2021). This remains true even after a party has rested its case. *State v. Jackson*, 306 N.C. 642, 653, 295 S.E.2d 383, 389 (1982). However, "there is no Constitutional right to have a case reopened." *State v. Perkins*, 57 N.C. App. 516, 520, 291 S.E.2d 865, 868 (1982). Therefore, "the decision to reopen a case and hear further evidence is within the trial court's discretion." *State v. Shelton*, 53 N.C. App. 632, 647, 281 S.E.2d 684, 694 (1981), *appeal dismissed*, 305

N.C. 306, 290 S.E.2d 707 (1982). Hence, the trial court's decision, as to whether or not it will reopen and allow additional evidence, will stand as long as it is supported by rational basis. *State v. Mutakbbic*, 317 N.C. 264, 274, 345 S.E.2d 154, 159 (1986).

Here, at the conclusion of the trial, Defendant rested his case. The court, after hearing motions and concluding the charge conference, recessed. The following morning, before closing arguments, Defendant requested the court reopen the evidence and allow him to introduce his mother's passport:

[] DEFENDANT: About the timing, my mother was right here in town when the alleged offenses occurred. My mother was not in Honduras, and I was never alone with [Anna.] And we have the passport, you know when you go to another country, they stamp your passport saying when you came in and when you came out. My mother was not in Honduras at that time, Your Honor.

Although Defendant had the passport, there was an issue surrounding whether the passport itself could be authenticated or could have been authenticated previously during trial given his mother's age and memory problems along with the need for a translator. Further, the State argued the passport was never disclosed under reciprocal discovery, there was no foundation laid for the admission of the passport, and Defendant had testified on his own behalf and could have testified to the matters.

The Court in denying the motion stated:

Both sides have rested. We have a jury that is out and waiting for closing arguments. You don't have anyone here—even if you asked the [c]ourt to reopen the evidence to allow you to put some evidence on, you don't have an interpreter here. At this point in time, the [c]ourt is going

to deny any motion to reopen the evidence to allow any further mention. Again, I can't determine right now whether it would have been or would not have been admissible until I hear exactly the arguments and what purposes you're trying to introduce them and how you're trying to lay that foundation to get it in. And for all those reasons, the [c]ourt at this point in time is going to deny the motion to reopen the evidence to present any further evidence.

The court's decision to deny Defendant's motion was supported by rational basis and the result of reasoned decision as, among other issues, Defendant was unable to authenticate or lay the proper foundation for the passport.

The decision to reopen and allow additional evidence is within the trial court's discretion, and because the trial court's decision was supported by reason, the trial court did not abuse its discretion. Therefore, the trial court did not err in denying Defendant's motion to reopen the evidence.

IV. Conclusion

We hold the trial court did not err in denying Defendant's motion to reopen the evidence.

NO ERROR.

Judges WOOD and FLOOD concur.

Report per Rule 30(e).