

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-265

Filed 06 June 2023

Pitt County, No. 19 CRS 57455

STATE OF NORTH CAROLINA

v.

TRAVON JHAMAL WIGGINS, Defendant.

Appeal by Defendant from judgment entered 30 March 2021 by Judge Marvin K. Blount III in Pitt County Superior Court. Heard in the Court of Appeals 21 September 2022.

Attorney General Joshua H. Stein, by Assistant Attorney General Rachel A. Brunswig, for the State.

Leslie C. Rawls, for Defendant-Appellant.

CARPENTER, Judge.

Travon Jhamal Wiggins (“Defendant”) appeals from judgment entered after a jury found him guilty of one count of first-degree burglary and one count of robbery with a dangerous weapon. Defendant argues the trial court erred in admitting the State’s Exhibits 1–5. After careful review, we discern no error.

I. Factual & Procedural Background

STATE V. WIGGINS

Opinion of the Court

The evidence at trial tended to show the following: On 8 October 2019, Melvin Wesson, Marquez Coston, Jamari Cherry, and Defendant left their high school in Bertie County and drove together towards a shopping mall in Greenville, North Carolina. After shopping, Wesson, the driver, began to drive back towards Bertie County when he asked Coston where his cousin lived. In response, Coston asked Wesson why he wanted to know, and Wesson stated that he wanted to know Coston's cousin's address so they could rob him. When Coston initially refused to tell Wesson his cousin's address, Wesson pulled out a black handgun and demanded that Coston tell him where his cousin lived. Coston relented and gave Wesson the address.

Upon arriving at the cousin's house, the four men donned bandanas to cover their faces and briefly knocked on the door before Wesson instructed Cherry to kick the door open. Coston returned to the car while Wesson, Cherry, and Defendant entered the home. Lauri Hassell was home with her two children when the men stormed in. At gunpoint, Wesson took Hassell to her daughter's bedroom to join the children while he, Cherry, and Defendant robbed the home.

Once Hassell heard the men leave, she called 911. Hassell advised officers that three hundred dollars in cash, several pairs of Air Jordan and Nike sneakers, clothing, a Versace belt, a pocketbook, a bracelet, and a Fitbit watch were missing from the residence. Soon after, Coston told his parents of the robbery, and his parents took him to the Greenville Police Department to report the robbery and the individuals involved. "About a week or two" after the break-in, Hassell recognized

STATE V. WIGGINS

Opinion of the Court

some of her stolen items, including pairs of shoes and the Versace belt, being worn by individuals in multiple photos shared on social media. Hassell forwarded the photographs to the assigned investigator, Detective Coggins of the Greenville Police Department.

At trial, on 29 March 2021, the State moved to admit State's Exhibits 1–3 into evidence during Hassell's direct examination. State's Exhibit 1 was a photograph of Defendant wearing a Versace belt, which Hassell recognized as one of the stolen items. The following exchange occurred at trial:

STATE: [In Exhibit 1] is there something in that photograph that, I guess, you recognize?

HASSELL: Yes, the Versace belt.

Hassell testified that State's Exhibit 2 was a photograph where two individuals were each wearing a pair of Air Jordans that were stolen from her home. She later learned that Wesson and Cherry were the two individuals depicted in the photograph. The following exchange occurred:

STATE: I'm going to show you [the] photograph I marked as [Exhibit 2]. Do you recognize that photograph?

HASSELL: Yes.

STATE: And was that photograph sent to the police officer as well, [Detective Coggins]?

HASSELL: Yes.

STATE: And what in that photograph catches your attention?

HASSELL: Two of the guys have the two pair of shoes on that had went stolen (sic). The white and blue Pearl 11s. And another pair, white and blue Jordans.

STATE: And those were shoes that were taken from your residence?

STATE V. WIGGINS

Opinion of the Court

HASSELL: Yes

STATE: And do you know the people in that photograph?

HASSELL: With white and blue Jordans, I came to discover that, that was [Wesson]. And the other guy, [Cherry], is wearing the other white and blue shoes that got stolen.

Hassell testified State's Exhibit 3 depicted an individual wearing a pair of white, red, and black Nike Air Forces, which resembled a pair of shoes taken from her home.

The following exchange occurred:

STATE: State's Exhibit—I have marked [Exhibit 3], you took that photograph as well. Do you recognize that photograph?

HASSELL: Yes.

STATE: And is that one that you sent to Detective Coggins?

HASSELL: Yes.

STATE: Is there anything in that photograph that caught your attention to cause you to send it to the police?

HASSELL: Yes, the Air Forces that's white, red, and black.

STATE: Okay. Someone is wearing a pair of shoes?

HASSELL: Yes.

STATE: Were those Air Force red and black shoes taken from your residence?

HASSELL: Yes.

Defendant objected to the admission of Exhibit 1, Exhibit 2, and Exhibit 3, arguing the photos were more prejudicial than probative and lacked sufficient foundation.

The following exchange occurred:

STATE: Your Honor, at this time I would move to introduce State's Exhibits 1, 2, and 3 into evidence.

THE COURT: Okay.

DEFENSE COUNSEL: Objection.

THE COURT: Where did you get the photographs from, ma'am?

STATE V. WIGGINS

Opinion of the Court

HASSELL: Instagram or Facebook, one of them.

THE COURT: All right.

DEFENSE COUNSEL: Your Honor, thank you. I would object for multiple reasons. First being foundation. Second being more prejudicial than probative.

THE COURT: All right. And, ma'am, let me ask you a question. When did you see those photographs?

HASSELL: About a week or two after they had broke[n] into the house.

THE COURT: And are those fair and accurate—

HASSELL: Yes.

THE COURT: —representations of the photos that you were shown?

HASSELL: Yes.

THE COURT: All right. Overruled. 1 through 3 are admitted.

During Coston's direct examination, the prosecutor moved to admit the State's Exhibit 4 and Exhibit 5. Coston identified Exhibit 4 as a photograph of Wesson holding a gun that "look[ed] similar" to the handgun used on the night of the robbery. The following exchange occurred:

STATE: Now, [Coston], I'm going to show you this photograph I have marked with a red sticker as Number 4, State's Exhibit Number 4. If you would, look at that photograph for just a moment. And do you recognize the person in that photograph?

COSTON: Yes.

....

COSTON: Wesson.

STATE: Was he the person that was—one of the people with you on October 8th, 2019?

COSTON: Yes.

STATE: And does that photograph, does it show him holding something?

COSTON: Yes.

STATE: What does it show him holding?

COSTON: A gun.

STATE V. WIGGINS

Opinion of the Court

STATE: Does that picture fairly and accurately show [Wesson], what he looks like and the gun that he was holding up that night?

COSTON: Yes, it look[s] similar to it, yeah.

STATE: Okay. Move to introduce State's Exhibit Number 4 into evidence.

DEFENSE COUNSEL: Objection, Your Honor.

THE COURT: Basis?

DEFENSE COUNSEL: Your Honor, foundation; more prejudicial than probative; and it's not relevant.

THE COURT: All right. Overruled. 4 is received.

Coston identified Exhibit 5 as a photograph of Defendant and Cherry. Moreover, Coston testified Cherry's shoes in the photo appeared similar to those taken from Hassell's residence. Defendant objected to Exhibit 4 and Exhibit 5 on the same bases as his objections to Exhibits 1–3, as well as relevance. The following exchange occurred:

STATE: I'm going to show you now what I have—a photograph I have marked with a red sticker State's Exhibit Number 5. Would you look at that photograph?

COSTON: Yeah.

STATE: And do you recognize the people standing in that photograph?

COSTON: Yes.

STATE: Who are the people in that photograph?

COSTON: [Cherry] and [Defendant].

....

STATE: [Defendant] seated there?

COSTON: Yeah.

STATE. Does that photograph fairly and accurately show him, what they looked like on the date of the incident or close to—

COSTON: No, that's after because they have got the shoes on.

STATE: So they are wearing the shoes that were taken?

COSTON: No, not [Defendant], but [Cherry].

STATE V. WIGGINS

Opinion of the Court

STATE: Say that again.

COSTON: No, not [Defendant], but [Cherry].

STATE: [Cherry] is wearing the shoes that were taken?

COSTON: Yeah.

STATE: But does it fairly and accurately show what he looked like, what they looked like?

COSTON: Yes.

STATE: Okay. Judge, I would move State's Exhibit Number 5 into evidence.

DEFENSE COUNSEL: Same objections, Your Honor.

THE COURT: Overruled. 5 is received.

Detective Coggins was one of the State's final witnesses. After he was sworn in, the State handed Detective Coggins the five photographs marked Exhibits 1–5 and asked him if those photographs were sent to him by Hassell after the robbery, to which he responded, "correct." Detective Coggins further testified:

STATE: And [do Exhibits 1–5] have pictures of the people that were involved in the case, as far as you knew?

DETECTIVE COGGINS: [They do].

STATE: Okay. Does it have a picture of [Defendant] in at least one or two of them?

DETECTIVE COGGINS: Yes.

STATE: And [Wesson] as well?

DETECTIVE COGGINS: Correct.

STATE: And you stated that a couple of the photos appear to be taken from the parking garage here in Greenville.

DETECTIVE COGGINS: That's correct.

STATE: Which exhibits are those?

DETECTIVE COGGINS: [Exhibit 2] and [Exhibit 3].

STATE: And how can you tell it was the parking garage?

DETECTIVE COGGINS: Well, first, I recognize the garage itself. And, second, I was able to locate these individuals on camera taking these photos.

STATE: So does the parking garage area have a camera in that area?

DETECTIVE COGGINS: There are very extensive cameras, yes.

STATE V. WIGGINS

Opinion of the Court

STATE: And you have access to that?

DETECTIVE COGGINS: Correct.

STATE: And it matches what you have there in your hand?

DETECTIVE COGGINS: It does.

Detective Coggins further testified that the surveillance footage of the individuals taking photos in the parking garage was dated 11 October 2019—three days after the robbery.

During the jury charge, the trial court gave the following instruction: “Photographs were introduced into evidence in this case for the purpose of illustrating and explaining the testimony of witnesses. The photographs may not be considered by you for any other purpose.” On 30 March 2021, the jury found Defendant guilty of first-degree burglary and robbery with a dangerous weapon. The trial court sentenced Defendant to two consecutive terms of imprisonment: a minimum of fifty-three, with a maximum of seventy-six months for first-degree burglary, and a minimum of fifty, with a maximum of seventy-two months for robbery with a dangerous weapon. Defendant gave oral notice of appeal after sentencing.

II. Issues

The issues on appeal are whether the trial court erred in admitting the State’s Exhibits 1–5 into evidence over Defendant’s objections for lack of proper foundation and misapplication of Rule 403, and over Defendant’s objection for relevance as to Exhibits 4–5.

III. Jurisdiction

This Court has jurisdiction to address Defendant’s appeal pursuant to N.C. Gen. Stat. §§ 7A-27(b)(1) and 15A-1444(a) (2021).

IV. Analysis

A. Admission of Photographs

In his first argument, Defendant asserts the trial court erred in admitting the State’s Exhibits 1–5 because the State did not sufficiently authenticate the photographs as required by N.C. Gen. Stat. § 8C-1, N.C. R. Evid. 901. We disagree.

“A trial court’s determination as to whether a document has been sufficiently authenticated is reviewed *de novo* on appeal as a question of law.” *State v. Crawley*, 217 N.C. App. 509, 515, 719 S.E.2d 632, 637 (2011); *see State v. Clemons*, 274 N.C. App. 401, 409, 852 S.E.2d 671, 676 (2020) (reviewing authentication of photographs in social-media posts *de novo*). “Under a *de novo* review, the court considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.” *State v. Williams*, 362 N.C. 628, 632–33, 669 S.E.2d 290, 294 (2008).

North Carolina General Statute Section 8-97 provides:

Any party may introduce a photograph, video tape, motion picture, X-ray or other photographic representation as substantive evidence upon laying a proper foundation and meeting other applicable evidentiary requirements. *This section does not prohibit a party from introducing a photograph or other pictorial representation solely for the purpose of illustrating the testimony of a witness.*

N.C. Gen. Stat. § 8-97 (2021) (emphasis added). A photograph is authenticated if there is “evidence sufficient to support a finding that the matter in question is what

its proponent claims.” N.C. Gen. Stat. § 8C-1, N.C. R. Evid. 901(a) (2021); *see State v. Lee*, 335 N.C. 244, 270, 439 S.E.2d 547, 560 (1994) (citing N.C. Gen. Stat. § 8C-1, N.C. R. Evid. 901(a) (1992)). “Ordinarily photographs are competent to be used by a witness to explain or illustrate anything it is competent for him to describe in words.” *State v. McSwain*, 277 N.C. App. 522, 529, 860 S.E.2d 36, 42 (2021) (citation omitted).

Illustrative evidence is not used substantively, but rather “illustrate[s] the testimony of a witness so as to make it more intelligible to the court and to the jury.” *State v. See*, 301 N.C. 388, 391, 271 S.E.2d 282, 284 (1980) (citation and quotation marks omitted). “Illustrative evidence is competent to enable the jury to understand the oral testimony and to realize more completely its cogency and force.” *Williams v. Bethany Volunteer Fire Dep’t.*, 307 N.C. 430, 434, 298 S.E.2d 352, 354 (1983).

“Photographs may be used for illustrative purposes, and upon laying a proper foundation and meeting applicable evidentiary requirements, may be used as substantive evidence.” *State v. Cabey*, 307 N.C. 496, 501, 299 S.E.2d 194, 197 (1983). “Photographs are admissible for illustrative purposes if they fairly and accurately illustrate the subject of a witness’s testimony.” *State v. Little*, 253 N.C. App. 159, 168, 799 S.E.2d 427, 433 (2017) (citing *State v. Alston*, 91 N.C. App. 707, 713, 373 S.E.2d 306, 311 (1988) (“The trial court admitted the photographs for illustrative purposes only The officer clearly indicated that the photographs accurately portrayed what he had observed. Thus, the photographs were properly authenticated for illustrative purposes.”)).

In this case, Exhibits 1–5 were used to illustrate the testimony of three witnesses: Hassell, Coston, and Detective Coggins. Exhibits 1–3 are photographs of some of Hassell’s stolen items, which Hassell observed after they were posted to social media, before she sent them directly to Detective Coggins. Hassell testified: Exhibit 1 was a picture of Defendant wearing a Versace belt; Exhibit 2 showed Wesson wearing “white and blue Pearl 11s” and Cherry wearing the other “white and blue Jordans”; and Exhibit 3 showed an individual wearing a missing pair of red, white, and black “Air Forces.” Hassell testified that Exhibits 1–3 were fair and accurate representations of the images depicting her stolen items, which she observed on social media and sent to Detective Coggins. Accordingly, Exhibits 1–3 were properly admitted as evidence illustrating Hassell’s testimony regarding items missing from her home. *See Little*, 253 N.C. App. at 168, 799 S.E.2d at 433.

Coston testified Exhibit 4 showed Wesson holding a black handgun similar to the one used on the night of the robbery. In response to the State’s question, “[d]oes [Exhibit 4] fairly and accurately show [Wesson], what he looks like and the gun that he was holding up that night?” Coston testified, “[y]es, it look[s] similar to it, yeah.” Accordingly, Exhibit 4 was properly admitted as evidence illustrating the gun Coston previously testified Wesson pointed at him on the day of the robbery. *See id.* at 168, 799 S.E.2d at 433.

Coston subsequently testified he recognized the two individuals depicted in Exhibit 5 as Defendant and Cherry. In response to the State’s question, “does

[Exhibit 5] fairly and accurately show [Defendant], what [Defendant and Cherry] looked like on the date of the incident or close to[.]” Coston interrupted, “[n]o,” expounding that Exhibit 5 must have been taken after the robbery because Cherry was pictured in Exhibit 5 wearing a pair of shoes taken during the robbery. The State continued, “[b]ut does [Exhibit 5] fairly and accurately show what he looked like, what they looked like?” to which Coston replied, “[y]es.” Therefore, Exhibit 5 was properly admitted as evidence illustrating Coston’s prior testimony regarding the “stuff” taken during the robbery, which included “shoes.” *See id.* at 168, 799 S.E.2d at 433.

Defendant argues Exhibits 1–5 were improperly admitted as substantive evidence without sufficient authentication; however, this argument overlooks the trial court’s use of the evidence and its corresponding limiting instructions to the jury: “Photographs were introduced into evidence in this case for the purpose of illustrating and explaining the testimony of witnesses. The photographs may not be considered by you for any other purpose.”

The cases cited by Defendant on this issue are inapposite as they pertain to authentication of substantive evidence. The precedential case most analogous to the instant case is *State v. Little*, 253 N.C. App. 159, 799 S.E.2d 427 (2017). On appeal in *Little*, the

defendant [did] not argue that the photographs did not illustrate the testimony of the witnesses, or otherwise failed to meet the standard for introduction of a photograph

STATE V. WIGGINS

Opinion of the Court

solely to illustrate the testimony of a witness. Nor [did] defendant argue that the limiting instruction given by the trial court was insufficient to cure the prejudice arising from the use of the photographs as illustrative evidence. Instead, defendant contend[ed] that the photographs should not have been admitted, on the grounds that the State failed properly authenticate the exhibits.

Id. at 169, 799 S.E.2d at 433. The Court went on to note the “[d]efendant [wa]s essentially asking that the standard for authentication of a photograph to be admitted as substantive evidence be applied in the present case, in which the photographs were introduced only to illustrate the witnesses’ testimony.” *Id.* at 169, 799 S.E.2d at 433–34.

Here, as in *Little*, “[t]he cases cited by [D]efendant are ones in which a party sought to introduce a photograph as substantive evidence, and [D]efendant has failed to cite any cases in which a court required a party to provide the type of authentication . . . to introduce a photograph as illustrative evidence.” *See id.* at 169, 799 S.E.2d at 434. The only meaningful difference between the instant case and *Little* is that the prosecution in *Little* expressly proffered the photos for illustrative purposes. *See id.* at 168, 799 S.E.2d at 433. Nonetheless, we are not aware of binding caselaw holding it is reversible error for photos to be admitted as illustrative evidence absent an explicit “illustrative” proffer or colloquy, where the trial court subsequently provides an appropriate limiting instruction.

In this case, Exhibits 1–5 were used to illustrate witness testimony describing the stolen items, the gun used for the robbery, and the testimony regarding

identification of the individuals who were culpable in the robbery. The evidence in this case was not admitted to support charges of possession of stolen goods, but rather to illustrate Hassell's description of her missing property, and Hassell's and Coston's testimonies identifying the individuals involved in the robbery. Hassell testified the men who broke into her home had "bandanas covering" their faces so that she "could just see the eyes"; therefore, she was unable to readily identify the perpetrators.

The State provided circumstantial evidence to link Defendant to the robbery, including: (1) Hassell's testimony of the stolen items from her home—several pairs of Air Jordan and Nike sneakers and the Versace belt; (2) Coston's testimony that the photos fairly and accurately reflected what the three other men and Wesson's gun looked like during and after the incident; and (3) Detective Coggins's testimony confirming Exhibits 2 and 3 were taken at a parking garage in Greenville shortly after the robbery.

Because Exhibits 1–5 were used as illustrative evidence, with an appropriate limiting instruction, and witness testimonies established Exhibits 1–5 fairly and accurately portrayed the subjects of their testimonies, our review reveals the trial court correctly concluded the photographs marked Exhibits 1–5 were properly admitted as illustrative evidence. *See Crawley*, 217 N.C. App. at 515, 719 S.E.2d at 637; *see also* N.C. Gen. Stat. §§ 8-97, 8C-1, N.C. R. Evid. 901.

B. Relevance

Next, Defendant contends the trial court erred in admitting Exhibits 4 and 5 because they are not relevant. Specifically, Defendant argues Exhibit 4 is not relevant because it does not show Defendant; rather, it only shows Wesson, holding a black handgun. Defendant further argues Exhibit 5 is not relevant because “Exhibit 5 is a photograph of three people, including [Defendant] [but only t]he other two people are wearing [stolen] shoes[.]”¹

“Whether evidence is relevant is a question of law . . . [and] we review the trial court’s admission of the evidence *de novo*.” *State v. Kirby*, 206 N.C. App. 446, 456, 697 S.E.2d 496, 503 (2010).

“Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” N.C. Gen. Stat. § 8C-1, N.C. R. Evid. 401 (2021); *see Jarrett v. Jarrett*, 249 N.C. App. 269, 279, 790 S.E.2d 883, 889 (2016) (“[I]n order to be relevant, the evidence must have a logical tendency to prove any fact that is of consequence in the case being litigated.”). “All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by the Constitution of North Carolina, by Act of Congress, by Act of the General

¹ Exhibit 5 depicts two individuals, not three, as Defendant mistakenly asserts. Coston testified the two individuals in Exhibit 5 are Defendant and Cherry, and Cherry is wearing a pair of stolen shoes.

Assembly or by these rules. Evidence which is not relevant is not admissible.” N.C. Gen. Stat. § 8C-1, N.C. R. Evid. 402 (2021).

Our State’s Supreme Court has “interpreted Rule 401 broadly and h[as] explained on a number of occasions that in a criminal case every circumstance calculated to throw any light upon the supposed crime is admissible and permissible.” *State v. Collins*, 335 N.C. 729, 735, 440 S.E.2d 559, 562 (1994). Because the relevancy of illustrative evidence lies in assisting the jury in understanding oral testimony, such evidence should be excluded when there is no testimony for the evidence to illustrate. *Bethany Volunteer Fire Dep’t.*, 307 N.C. at 434, 298 S.E.2d at 354. Admission of irrelevant evidence is harmless “unless [the] defendant shows that he was so prejudiced by the erroneous admission that a different result would have ensued if the evidence had been excluded.” *State v. Moctezuma*, 141 N.C. App. 90, 93–94, 539 S.E.2d 52, 55 (2000).

Here, Exhibit 4 illustrates the gun that could have been used by Wesson during the robbery, and Coston testified the gun in Exhibit 4 was “similar” to Wesson’s weapon used during the robbery. Additionally, Coston testified Exhibit 5 fairly and accurately depicts one pair of stolen shoes. Because the black handgun in Exhibit 4 had some tendency, however slight, to illustrate Coston’s testimony regarding Wesson’s gun, which looked “similar” to the gun used in the crime, at or around the time of the crime, the trial court did not err in overruling Defendant’s relevancy objections as to Exhibit 4. *See Collins*, 335 N.C. at 735, 440 S.E.2d at 562. Likewise,

the trial court did not err in overruling Defendant's relevancy objection as to Exhibit 5, because the image had some tendency to illustrate witness testimonies of Hassell's stolen property, as clarified by Coston's testimony. *See Jarrett*, 249 N.C. App. at 279, 790 S.E.2d at 889.

C. Rule 403

Finally, Defendant argues the trial court erred in admitting Exhibits 1–5 because he was prejudiced by the suggestion of an “association with other defendants and possession of stolen items, although the charges were more than mere possession.”

“Whether to exclude evidence under Rule 403 is a matter within the sound discretion of the trial court . . . and the court's ruling may be reversed on appeal only upon a showing that it could not have been the result of a reasoned decision[.]” *State v. Fortney*, 201 N.C. App. 662, 666, 687 S.E.2d 518, 522 (2010) (citations omitted).

Relevant evidence “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” N.C. Gen. Stat. § 8C-1, N.C. R. Evid. 403 (2021). “Unfair prejudice, as used in Rule 403, means an undue tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.” *State v. DeLeonardo*, 315 N.C. 762, 772, 340 S.E.2d 350, 357 (1986) (citation and internal quotations omitted). “Rule 403 calls for a balancing of the proffered evidence's

probative value against its prejudicial effect.” *State v. Mercer*, 317 N.C. 87, 93, 343 S.E.2d 885, 889 (1986). While any probative evidence offered against a defendant involves some prejudicial effect, that does not mean the evidence rises to the level of *unfair* prejudice. *See State v. Weathers*, 339 N.C. 441, 449, 451 S.E.2d 266, 270 (1994).

Here, Exhibits 1–5 are photographs illustrating witness testimonies regarding: (1) certain stolen items, and (2) the identities of the individuals involved in the robbery. As set forth in Section IV(A) above, Exhibits 1–5 were used as illustrative evidence to assist the jury in understanding the oral testimonies of Hassell, Detective Coggins, and Coston. *See Bethany Volunteer Fire Dep’t.*, 307 N.C. at 434, 298 S.E.2d at 354. Defendant maintains the State presented “only two bits of evidence that tended to suggest [Defendant] was involved in the offenses[.]” arguing that without the exhibits, the jury would be able to rely only on Coston’s testimony. Contrary to Defendant’s assertion, the State presented substantial additional evidence, including Hassell’s and Detective Coggins’s testimonies, and the recording of Coston’s confession on 15 October 2019—less than one week after the robbery.

We agree with Defendant that Exhibits 1–5 had some prejudicial effect, as most, if not all, evidence presented by the State in a criminal prosecution does, but his argument that the admission of this illustrative evidence constituted unfair prejudice is unavailing. *See Weathers*, 339 N.C. at 449, 451 S.E.2d at 270. Coston testified Defendant lived across the street, they have known each other their whole lives, and Defendant and Wesson are friends.

STATE V. WIGGINS

Opinion of the Court

Coston further testified Cherry is his cousin who lives down the road, and the two had likewise known each other for Coston's entire life. Given the degree of neighborly and familial connections, there is no *unfair* prejudice in illustrative evidence tending to show some degree of association among alleged perpetrators. Furthermore, although Defendant was not charged with possession of stolen property, illustrative evidence tending to show possession of identifiable, recently stolen items, is highly probative of the alleged crimes Defendant was facing at trial. *See id.* at 449, 451 S.E.2d at 270.

Defendant is pictured in Exhibit 1 wearing a distinctive Versace belt, which Hassell recognized from the photograph. Exhibit 5 contains a photograph of Defendant and Cherry, with Cherry wearing a pair of stolen shoes. Presuming, without deciding, the trial court erred in admitting Exhibits 2 and 3, neither of which depicts Defendant, we cannot say the trial court abused its discretion in admitting these images illustrating Hassell's stolen items which were publicly posted on social media. *See Fortney*, 201 N.C. App. at 666, 687 S.E.2d at 522. Exhibit 4 is arguably more prejudicial than the other four exhibits, because Defendant is not pictured, and no stolen property is depicted; however, we cannot say the trial court's decision to admit Exhibit 4 to illustrate a weapon held by Wesson, which Coston testified "look[ed] similar" to the one used during the robbery, was manifestly unsupported by reason. *See id.* at 666, 687 S.E.2d at 522. Accordingly, the trial court did not abuse its discretion in concluding the probative value of Exhibits 1–5 was not substantially

outweighed by the danger of unfair prejudice. *See Mercer*, 317 N.C. at 93–94, 343 S.E.2d at 889; *see also* N.C. Gen. Stat. § 8C-1, N.C. R. Evid. 403.

Because Defendant failed to demonstrate the trial court’s admission of Exhibits 1–5 could not have been the result of a reasoned decision, the trial court did not abuse its discretion in admitting Exhibits 1–5 for illustrative purposes. *See Fortney*, 201 N.C. App. at 666, 687 S.E.2d at 522.

V. Conclusion

We hold the trial court did not err in admitting Exhibits 1–5 as illustrative evidence because it restricted the jury’s use of the photographs by providing an appropriate limiting instruction. Moreover, the witnesses testified the exhibits fairly and accurately illustrated the subjects of their testimonies. Next, we conclude Exhibits 4–5 were relevant under Rule 401. Finally, the trial court did not abuse its discretion in admitting Exhibits 1–5 because their probative value was not substantially outweighed by the danger of unfair prejudice to Defendant. In sum, Defendant received a fair trial, free from prejudicial error.

NO ERROR.

Judges TYSON and WOOD concur.

Report per Rule 30(e).