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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-690

Filed 05 July 2023

Cumberland County, Nos. 19 CRS 3012, 19 CRS 54261-62, 19 CRS 51622

STATE OF NORTH CAROLINA

v.

MARKUS ODON MCCORMICK

Appeal by defendant from judgments entered 2 July 2021 by Judge Thomas H. Lock in Cumberland County Superior Court. Heard in the Court of Appeals 24 May 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General A. Mercedes Restucha-Klem, for the State.

Joseph P. Lattimore for defendant.

ARROWOOD, Judge.

Markus Odon McCormick (“defendant”) appeals from judgments convicting him of two counts of human trafficking, five counts of promoting prostitution, and possession with intent to sell or deliver cocaine. For the following reasons, we find no error.

I. Background

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On 18 January 2019, the Fayetteville Police Department conducted a traffic stop of an unregistered vehicle containing “Lisa,”¹ Jason Godwin² (“Godwin”), and Godwin’s father. Lisa appeared “[d]irty, disheveled, [and] anxious[.]” and indicated that she needed help and was addicted to drugs. Officer Kelton Glorfield (“Officer Glorfield”) transported Lisa to the Cross Creek Substation and initiated the paperwork for her to begin a rehabilitation program and receive treatment for her addictions.

Officer Glorfield began to suspect Lisa was a victim of human trafficking when she indicated that she didn’t pay for drugs, and her story differed from the story told by Godwin to Sergeant Cochran. Officer Glorfield contacted Sergeant Everett Hockenberry (“Sergeant Hockenberry”) of the Human Trafficking Unit after Officer Glorfield transported Lisa to the “Roxy Center” and provided her with information on the Law Enforcement Assistance (“LEAD”) program, “a program specifically designed to help divert victims of trafficking who are involved in prostitution” to help “get them out of the life[.]” Lisa’s case was assigned to Detective Sasha Graham (“Detective Graham”).

Detective Graham interviewed Lisa the next day. During Lisa’s interview, she recounted how she became involved with prostitution and her relationships with

¹ A pseudonym is used to protect the identity of the victim.

² Jason Godwin was charged as a co-defendant in this matter but passed away prior to trial. Godwin’s police interview was offered by defendant during trial.

Godwin, defendant, and Maranda Justice (“Ms. Justice”).³ Lisa stated she became “stranded” in September 2018, after being brought to Fayetteville by “Mr. Torres[,]” an individual who provided her with drugs in exchange for sexual services. From there, Lisa was introduced to several individuals she had sex with in exchange for drugs, including Godwin, who subsequently introduced her to defendant.

Detective Graham was able to corroborate Lisa’s story using “Spotlight,” a law enforcement database to aid with human trafficking investigations and help locate individuals posted to the internet to solicit sexual services. After using the information provided by Lisa, including the fact that her “cover name” was “Zoey[,]” and she was taken to various hotels for prostitution, Detective Graham located an ad of Lisa and another woman named “Layla” posted to Skip the Games on 20 December 2018, advertising for “services . . . they were willing to provide.” The ad contained a description of the women, their availability and location, information for “in and out calls[,]” “social activities[,]” whether they were “groomed down below[,]” and a phone number to contact.

Next, Detective Graham contacted the administrators of Skip the Games to receive the account information of the individual who posted the ad and executed a search warrant to Google to identify who the email address belonged to. From there, Detective Graham visited the hotels Lisa described and located a receipt in the names

³ Maranda Justice was also charged as a co-defendant in relation to her promotion of Lisa for prostitution.

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of Godwin and Ms. Justice for 20 December 2018 for the Roadside Inn. At that point, Detective Graham issued arrest warrants to defendant, Ms. Justice, and Godwin.

On 4 February 2019, defendant and Ms. Justice were located in their vehicle at a Buffalo Wild Wings parking lot and arrested. While approaching the vehicle, Officer Glorfield observed defendant motion quickly “to the right of the car . . . as if he was throwing something [away].” Based on Officer Glorfield’s observations, defendant appeared to be “[t]hrowing something over to [Ms. Justice’s] side of the vehicle” in “a quick reaction to get rid of something.” In addition, “Ms. Justice had plastic bags containing [heroin, cocaine, and marijuana] on her lap.”

On 10 February 2020, defendant was indicted by a Cumberland County Grand Jury with two counts of human trafficking against Lisa, multiple counts of promoting prostitution by receiving profits and solicitation regarding Lisa and Ms. Justice, possession with intent to sell or deliver heroin, possession with intent to manufacture, sell, or deliver marijuana, possession of marijuana, and attaining the status of habitual felon. The matters came on for trial on 21 June 2021 in Cumberland County Superior Court, Judge Lock presiding.

At trial, defendant was represented by counsel until choosing to proceed *pro se*. Lisa testified for the State and her pre-trial interviews with Detective Graham, Sergeant Hockenberry, and Detective Hutchens were admitted on cross-examination as Defense Exhibits 12, 13, and 14. During Lisa’s testimony, she recalled being introduced to defendant by Godwin around November 2018. She testified that,

initially, defendant provided her with drugs for free and described “all of these awesome [and] amazing things for [her] [to do] with [Ms. Justice].” Additionally, he promised to help her get a car and return to her family in Wilmington.

During this time with defendant, Lisa stated she “was high all of the time” and provided with drugs by defendant, including “[c]rack, heroin, [and] spice.” Lisa testified further that defendant “promise[d] [her] a supply of drugs if [she] stayed with him[.]” However, Lisa indicated that neither her nor Ms. Justice were “ever allowed to hold” or portion the drugs, as defendant controlled the amount they received and when they could receive it.

Shortly after meeting, defendant explained how Lisa could start “earn[ing] [her drugs]” by working for him the way Ms. Justice did. At that point, defendant began posting images of Lisa to Skip the Games where she was advertised for sexual services, despite being told that “[she] wouldn’t have to have sex with anyone[.]” Defendant arranged the “dates” to perform, set the prices, and relayed the sexual acts to provide. Lisa’s testimony further established “[she] never touched the money” or communicated with “the buyers.” As time passed, defendant became Lisa’s “pimp.” She also confirmed that defendant booked hotel rooms for her to engage in prostitution at the Roadside Inn, including on the dates of 16 and 17 January 2019.

Ms. Justice also testified for the State. Prior to meeting defendant, Ms. Justice was addicted to drugs but never “worked as a prostitute” or posted online to solicit sexual services. The first night they met, defendant gave her \$20 “to go get whatever

[drug] [she] wanted.” The next time she saw defendant, he was persistent in his attempts to get her “to go with him[,]” until she eventually relented. That same night, defendant stated, “he wanted [her] to post” advertisements to a website titled “Skip the Games” and work as “a call girl.”

Shortly thereafter, Ms. Justice engaged in nearly five or six “dates” per day where she provided sexual services in exchange for money due to the ads posted by defendant. Defendant supplied Ms. Justice with drugs, crafted the language for the ads, received the money, and paid for the hotel rooms. Furthermore, Ms. Justice testified that at one point defendant suggested a “fee arrangement” that included her giving him “20 on a quick visit, 40 on a half hour, [and] 60 on an hour” so “he could have other girls around.”

Ms. Justice also confirmed that her and Lisa engaged in a “two-girl special” at the Roadside Inn on 20 December 2018, and her “cover name” was “Layla.” Ms. Justice further recalled that on 27 January 2019, she was working as a prostitute at a hotel in Raleigh when defendant received the money. Ms. Justice also testified that defendant asked her to get a tattoo of his name, and “he would get [hers]” although he never did. Ms. Justice’s tattoo is on her top left shoulder and reads “Markus M.”

The testimonies of Ms. Whitley and Ms. Nash were also offered by the State for the purposes of showing identity and to illustrate defendant maintained “a plan, scheme, system, or design involving the crimes charged[.]” Ms. Whitley met defendant in 2014 or 2015, while he was in a relationship with her daughter. During

the relationship, Ms. Whitley's daughter "became more distant[,] "strung out on heroin" and "began to prostitute" herself.

Ms. Whitley described multiple interactions with defendant including a time her daughter was detoxing at the Cape Fear Valley hospital, and defendant showed up "to retrieve her." Ms. Whitley "begged [defendant] not to take her" and "to please just . . . leave her alone" so she could receive treatment. Defendant "convinced [Ms. Whitley's daughter]" to go with him to his car "just to talk[.]" but they left the hospital. Because Ms. Whitley knew they were going to her home to get the car she allowed her daughter to use, she arrived first and removed the plates from the vehicle. When they arrived "[m]oments later[.]" her daughter began "yelling at [her]."

Ms. Whitley continued to beg defendant not to take her daughter, but he refused. Defendant asserted "he loved her" daughter and she was leaving with him voluntarily. During the interaction, defendant went to his car and "pulled out a gun" from the trunk, showed it to Ms. Whitley, and then placed it back in his trunk. Ms. Whitley continued to protest defendant's actions, stating the "heroin took her [daughter's] choice away" and "love" did not include "tak[ing] [her] daughter to a hotel . . . to have sex for money[.]" The next time Ms. Whitley saw her daughter, she was "bone skinny" and "sick[.]" but requesting Ms. Whitley's help. Ms. Whitley also testified that her daughter had a tattoo of defendant's name "at least [twelve] inches long and [three] or [four] inches high" across her shoulder blade.

Ms. Nash testified that until meeting defendant and Ms. Justice, she never used heroin or posted online to Skip the Games. Shortly thereafter, Ms. Nash began having sex in exchange for money on dates she performed in hotels and the money was given to defendant. Ms. Nash stated that defendant “worked the phone” and scheduled the dates.

The State also offered the testimonies of Detective Graham, Officer Chad Smith (“Officer Smith”), Sergeant Hockenberry, and Officer Glorfield. Detective Graham testified that based on her seventeen years in law enforcement and seven years of experience with human trafficking victims, there are key differences between victims of human trafficking and prostitutes. “Prostitution, . . . is usually done independently” and “[n]o one else is involved.” But victims of human trafficking generally “have no control over anything[,]” “are told what to do, when to do it, and how to do it.” They typically don’t receive the profits from their services, and if they do, it’s usually a small amount. It is also common for perpetrators of human trafficking to “[brand] the females or the persons working for them” with a tattoo.

During Detective Graham’s testimony, to illustrate the steps she took during the course of her investigation, the State offered several documents including: a copy of the Skip the Games’s advertisement (“State’s Ex. 10”); a Skip the Games’s printout listing the URL, dates, and times of a particular post (“State’s Ex. 11”); and a Skip the Games’s report identifying the email address used to post the ad (“State’s Ex.

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12”). The State also offered selected exhibits from the data extracted from defendant’s two cellphones.

At the close of all evidence, the State voluntarily dismissed: the habitual felon indictments; two counts of promoting prostitution by solicitation against Ms. Justice for actions at the Roadside Inn on 16 and 17 January 2019; each charge in 19 CRS 2989 and 19 CRS 3011; possession with the intent to sell or deliver heroin; and possession of marijuana. Defendant was found guilty of possession with intent to sell or deliver heroin, two counts of human trafficking against Lisa for offenses occurring between 19 September 2018 and 19 December 2018, and offenses occurring on 20 December 2018. Additionally, defendant was found guilty of promoting prostitution by soliciting and receiving profits against Lisa for 20 December 2018. For offenses against Ms. Justice, defendant was convicted of two counts of promoting prostitution by solicitation for the dates of 20 December 2018 and 27 January 2019, and promoting prostitution by receiving profits for 20 December 2018. Defendant was found not guilty of two counts of promoting prostitution by profiting against Ms. Justice for 16 and 17 January 2019.

Following the jury’s verdicts, defendant was sentenced to 96-176 months for the human trafficking convictions, 21-35 months for each conviction of promoting prostitution against Lisa, and 10-21 months imprisonment for possession with intent to sell or distribute cocaine. With respect to Ms. Justice, the trial court consolidated two convictions of promoting prostitution for offenses occurring on 20 December 2018

and sentenced defendant to 21-35 months imprisonment. Each sentence was ordered to run consecutively. The trial court also issued an order prohibiting defendant from having contact with Lisa and ordered defendant to pay her restitution. Defendant gave notice of appeal in open court.

II. Discussion

On appeal, defendant argues the trial court erred by: (1) denying his motion to dismiss the human trafficking charges; (2) providing jury instructions on the theory of acting in concert; (3) admitting multiple documentary records; and (4) permitting lay witnesses to interpret the legal meaning of human trafficking. Lastly, defendant contends reversal is required due to cumulative error. We address each argument in turn.

A. Motion to Dismiss

We review “the trial court’s denial of a motion to dismiss *de novo*.” *State v. Smith*, 186 N.C. App. 57, 62, 650 S.E.2d 29, 33 (2007) (citation omitted). “In ruling on a motion to dismiss, the trial court need determine only whether there is substantial evidence of each essential element of the crime and that the defendant is the perpetrator.” *State v. Winkler*, 368 N.C. 572, 574, 780 S.E.2d 824, 826 (2015) (citations and internal quotation marks omitted). “Substantial evidence” is defined as “‘relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Smith*, 186 N.C. App. at 62, 650 S.E.2d at 33 (citation omitted).

“In making its determination, the trial court must consider all evidence admitted, whether competent or incompetent, in the light most favorable to the State, giving the State the benefit of every reasonable inference and resolving any contradictions in its favor.” *State v. Rose*, 339 N.C. 172, 192-93, 451 S.E.2d 211, 223 (1994) (citation omitted), *cert. denied*, 515 U.S. 1135, 132 L. Ed. 2d 818 (1995). In addition, “[t]he trial court is not required to determine that the evidence excludes every reasonable hypothesis of innocence before denying a defendant’s motion to dismiss.” *State v. Barfield*, 127 N.C. App. 399, 401, 489 S.E.2d 905, 907 (1997) (citations omitted).

“[I]t is for the jury to decide whether the facts, taken singly or in combination, satisfy them beyond a reasonable doubt that the defendant is actually guilty.” *State v. Poole*, 24 N.C. App. 381, 384, 210 S.E.2d 529, 530 (1975) (citation and internal quotation marks omitted). “Circumstantial evidence may withstand a motion to dismiss and support a conviction even when the evidence does not rule out every hypothesis of innocence.” *State v. Scott*, 356 N.C. 591, 596, 573 S.E.2d 866, 869 (2002) (citation and internal quotation marks omitted).

“A person commits the offense of human trafficking when” they “knowingly or in reckless disregard of the consequences of the action recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent that the other person be held in involuntary servitude or sexual servitude.” N.C. Gen. Stat. § 14-43.11(a) (2022). Our statutes define “sexual servitude” as:

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- a. Any sexual activity as defined in G.S. 14-190.13 for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years; or
- b. Any sexual activity as defined in G.S.14-190.13 that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained by a person under the age of 18 years.

N.C. Gen. Stat. § 14-43.10(a)(5)(a)-(b) (2022). “Coercion” includes providing someone with controlled substances. N.C. Gen. Stat. § 14-43.10(a)(1)(d) (2022).

Defendant contends the State’s case lacked substantial evidence he exhibited “forms of sustained control and manipulation” against Lisa with the intent “to induce her to engage in prostitution[.]” Defendant contends he simply “became acquainted” with Lisa after she sought “his help in getting out of her relationship with [Godwin].” We disagree.

Here, the State presented substantial evidence that defendant coerced Lisa by providing her with drugs in order for her to engage in prostitution and allow him to receive the profits. The State’s evidence tended to show that Lisa was “passed from one person” to another until eventually being introduced to defendant. While offering Lisa assurances to help her return to Wilmington, defendant supplied her with drugs while simultaneously preventing her from contacting her family in Wilmington. On one occasion, defendant contended the place they were staying had no cellphone

service, Wi-Fi, or data. When she awoke in the middle of the night, Lisa saw defendant had been texting her mom “the whole time” on her behalf “pretending to be [her] [and] trying to act like [she] was okay.” Notably, with respect to her engagement in prostitution, Lisa testified that only defendant communicated with “the buyers[,]” he arranged the schedule, set the prices, dictated the sexual services to provide, and received the money while Lisa’s “return for performing . . . sexual act[s,]” were drugs.

Thus, when viewed in the light most favorable to the State, substantial evidence indicated that defendant coerced Lisa into sexual servitude, and this evidence goes beyond “a suspicion or conjecture as to either the commission of the offense or the identity of the defendant as the perpetrator of it[.]” *State v. Powell*, 299 N.C. 95, 98, 261 S.E.2d 114, 117 (1980) (citations omitted). Accordingly, the trial court properly denied defendant’s motion to dismiss.

B. Jury Instructions

Defendant argues the trial court erred by instructing the jury on the theory of acting in concert regarding his human trafficking and promotion of prostitution charges. Specifically, defendant contends his “principal liability was disputed” and “the evidence did not support [his] concerted action with [Ms. Justice.]” We disagree.

We review errors “challenging the trial court’s decisions regarding jury instructions” *de novo*. *State v. Osorio*, 196 N.C. App. 458, 466, 675 S.E.2d 144, 149

(2009) (citations omitted). “An instruction about a material matter must be based on sufficient evidence.” *Id.* (citation omitted).

Under the theory of acting in concert, the State must demonstrate that defendant acted “in harmony or in conjunction one with another pursuant to a common plan or purpose.” *State v. Joyner*, 297 N.C. App. 349, 356, 255 S.E.2d 390, 395 (1979) (citation omitted). “[T]wo or more persons, who joined together in a purpose to commit a crime, are responsible for the unlawful acts committed by the other person, so long as those acts are committed in furtherance of the crime’s common purpose.” *State v. Baldwin*, 276 N.C. App. 368, 373, 856 S.E.2d 897, 902 (citation omitted), *disc. review denied*, 379 N.C. 148, 863 S.E.2d 616 (Mem) (2021). Acting pursuant to a common plan or purpose may be illustrated by “ ‘circumstances accompanying the unlawful act and conduct of the defendant subsequent thereto.’ ” *In re J.D.*, 376 N.C. 148, 156, 852 S.E.2d 36, 43 (2020) (citation omitted).

In addition, it is not “necessary for a defendant to do any particular act constituting . . . part of [the] crime[.]” *Joyner*, 297 N.C. at 357, 255 S.E.2d at 395. It is also immaterial whether there is “an express agreement between the parties.” *State v. Giles*, 83 N.C. App. 487, 490, 350 S.E.2d 868, 870 (1986), *appeal dismissed and disc. review denied*, 319 N.C. 460, 356 S.E.2d 8 (Mem) (1987). “All that is necessary is an implied mutual understanding or agreement to do the crimes.” *Id.* (citation omitted).

1. Human Trafficking

Regarding defendant's convictions of human trafficking, he contends the evidence did not support the theory he acted together with Ms. Justice pursuant to a common purpose to engage Lisa in sexual servitude where the State's evidence of his "[p]rincipal [l]iability" was weakened on account of "[c]redibility-[r]elated" issues. We disagree. At trial, the State's evidence was bolstered by the direct testimonies of Lisa and Ms. Justice, and corroborated by Lisa's statements in her interview with Detective Graham, which defendant offered on cross-examination. In addition, Lisa indicated that when defendant initially attempted to engage her in prostitution by supplying her with free drugs:

[Defendant] would give me drugs. And like first it was just like for free, you know, which was kind of weird because not really many people would do that. And I guess it was for me to start liking him and trusting him. *And then that's when like [Ms. Justice] came into the picture.* And he would ask me to do like different things. And he wouldn't say anything about like sexual favors or anything like that, but that's what it was.

Furthermore, in her interview with Detective Graham, Lisa explains how she got involved with prostitution in part due to her relationship with Ms. Justice, including a time they kept her at defendant's relative's house for multiple days. Accordingly, we conclude this evidence was sufficient to support the trial court's instruction. Moreover, defendant fails to illustrate how the acting in concert jury instruction resulted in prejudicial error. It is well-settled that "litigants are not entitled to receive 'perfect' trials; instead, they are entitled to receive a 'fair trial, free of

prejudicial error.’” *State v. Malachi*, 371 N.C. 719, 733, 821 S.E.2d 407, 418 (2018) (citation omitted). Defendant cannot demonstrate “there was a reasonable possibility that the outcome of [his] trial would have been different had the trial court refrained from allowing the jury to convict defendant” based upon the theory of acting in concert. *Id.* at 740, 821 S.E.2d at 422. Accordingly, defendant’s argument is overruled.

2. Promoting Prostitution

With respect to defendant’s convictions of promoting prostitution by solicitation and receiving profits, he argues due to the “evidence in the case show[ing] that [Ms. Justice] participated in a two-girl special with [Lisa], and also had sex for money at the motel on [27 January 2019], [defendant]’s liability, on the promotion allegations, [cannot] be predicated on [Ms. Justice]’s internet solicitation for that activity.” Defendant rests his contention on the classes of individuals N.C. Gen. Stat. § 14-205.3(a)(1) is applicable to.

Per our General Statutes:

(a) Any person who willfully performs any of the following acts commits promoting prostitution:

(1) Advances prostitution as defined in G.S. 14-203.

(2) Profits from prostitution by doing any of the following:

a. Compelling a person to become a prostitute.

b. Receiving a portion of the earnings from a

prostitute for arranging or offering to arrange a situation in which the person may practice prostitution.

N.C. Gen. Stat. § 14-205.3(a)(1), (a)(2)(a)-(b) (2022). “Advanc[ing] prostitution” is defined as “[s]oliciting for a prostitute by performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:”

1. Soliciting another for the purpose of prostitution.
2. Arranging or offering to arrange meeting of persons for the purpose of prostitution.
3. Directing another to a place knowing the direction is for the purpose of prostitution.
4. Using the Internet, including any social media Web site, to solicit another for the purpose of prostitution.

N.C. Gen. Stat. § 14-203(1)(a)(1)-(4) (2022). Defendant argues this key distinction provided by our General Assembly precludes a conviction on the theory of acting in concert, as his criminal culpability cannot be based upon Ms. Justice’s activities. We disagree.

Regarding the promotion of prostitution charges against Lisa, the evidence tended to show that even though Ms. Justice stated, admittedly, “[she] might have posted some of [the ads,]” defendant was in possession of the cellphones containing the images of Lisa and Ms. Justice posted to Skip the Games, he “worked the phone[.]” and they both testified that defendant posted the ads. During Ms. Justice’s testimony, the State questioned, “How was it that [Lisa] began posting?” and “Who

explained to her what posting was?” And Ms. Justice responded, “I know [I] was already posting” but “[defendant] and me, I guess.”

Even assuming *arguendo*, that the trial court’s instruction was error, “the State presented ‘exceedingly strong evidence of defendant’s guilt on the basis of a theory that has sufficient support’ from the evidence presented” and this evidence is not “ ‘in dispute nor subject to serious credibility-related questions[.]’ ” *State v. Pierre*, 269 N.C. App. 90, 95, 837 S.E.2d 151, 155 (2019) (citation omitted), *disc. review denied*, 376 N.C. 528, 851 S.E.2d 618 (Mem) (2020). Here, the State’s evidence included direct testimony of multiple individuals. Defendant’s arguments are overruled.

C. State’s Exhibits

Defendant contends the trial court’s admission of several documentary exhibits were impermissibly admitted as hearsay records of business entities. Specifically, defendant argues the printout of the Skip the Games’s ad posted on 20 December 2018, the documents indicating the email address that posted the ad along with the dates and locations, the printout of the Skip the Games’s ad posted on 27 January 2019, and messages Detective Graham received from Facebook were admitted without proper authentication. We disagree.

We review the admission of evidence over a hearsay objection *de novo*. *State v. Johnson*, 209 N.C. App. 682, 692, 706 S.E.2d 790, 797 (2011) (citation omitted). Hearsay is defined as “a statement, other than one made by the declarant while

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testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” N.C. Gen. Stat. § 8C-1, Rule 801(c) (2022). “[O]ut-of-court statements offered for purposes other than to prove the truth of the matter asserted are not considered hearsay.” *State v. Call*, 349 N.C. 382, 409, 508 S.E.2d 496, 513 (2011).

Here, the State’s Exhibits were properly admitted for a non-hearsay purpose and to illustrate the steps Detective Graham took during the course of her investigation. The State’s evidence included direct testimony by Lisa and Ms. Justice that defendant used the online website Skip the Games to solicit others for sexual services and had established a pattern of doing so. Furthermore, Ms. Justice verified the email addresses utilized by defendant to post the ads, including the cellphone number and email address listed on the Skip the Games’s printouts. What’s more, defendant’s cellphone contained the images of Lisa posted to the website on 20 December 2018.

Even assuming *arguendo*, that some of the selected exhibits were offered in error, they were harmless, and defendant cannot show that if the trial court had excluded the documents, “there is reasonable possibility that the jury would have refrained from convicting [him.]” *State v. Steen*, 376 N.C. 469, 488, 852 S.E.2d 14, 27 (2020). “Evidentiary errors are harmless unless a defendant proves that absent the error a different result would have been reached at trial.” *State v. Ferguson*, 145 N.C. App. 302, 307, 549 S.E.2d 889, 893 (citation omitted), *disc. review denied*, 354 N.C. 223, 554 S.E.2d 650 (Mem) (2001). Accordingly, defendant’s argument is overruled.

D. Officer Testimony

Defendant contends the trial court plainly erred by permitting Detective Graham and Sergeant Hockenberry to “ ‘usurp the province of the court and jury’ ” by impermissibly interpreting the legal meaning of human trafficking. We disagree.

“In 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) (2023).

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).

Our General Statutes provide:

If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of his testimony or the determination of a fact in issue.

N.C. Gen. Stat. § 8C-1, Rule 701 (2022). “Testimony in the form of an opinion or inference is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.” N.C. Gen. Stat. § 8C-1, Rule 704 (2022).

“Rule 704 does allow admission of lay opinion evidence on ultimate issues, but to qualify for admission the opinion must be helpful to the jury.” *State v. Elkins*, 210 N.C. App. 110, 124, 707 S.E.2d 744, 754 (2011) (citation and internal quotation marks omitted). Additionally, “while opinion testimony may embrace an ultimate issue, the opinion may not be phrased using a legal term of art carrying a specific legal meaning not readily apparent to the witness.” *State v. Najewicz*, 112 N.C. App. 280, 293, 436 S.E.2d 132, 140 (1993) (citation and emphasis omitted), *disc. review denied*, 335 N.C. 563, 441 S.E.2d 130 (Mem) (1994).

Here, Sergeant Hockenberry testified based on his experiences with victims of human trafficking:

So a victim of human trafficking, that I have experienced in my cases – most of which were sex trafficking so I’m basing our discussion on that. When I was able to figure out that they were a victim they didn’t have control of their situation. They were being controlled by another person, male or female. And at the center of the issue was either – they were brought to it either by force, but on most cases it was fraud, coercion, or manipulation, blackmail to where we are either going to tell your loved ones or others that you are involved in this now or they were providing them the means to stay addicted to the substance that they were. And using that as the trade for you will do this work.

Similarly, Detective Graham indicated that based on her experiences:

I’ve seen people addicted to drugs that were able to afford their drugs by working. Some of them still worked, believe it or not. I’ve seen people, just like I explained, street-level prostitution, they do it at their own pace. I mean, there’s – they don’t have to do anything to get those drugs except for what they want to do. When it comes to a victim of human

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trafficking that's addicted to narcotics, they have to do things they don't want to do, to get those drugs.

As indicated above, Sergeant Hockenberry and Detective Graham's testimonies were prefaced upon their observations and perspectives as individuals involved with years of experience in human trafficking investigations and helpful for illustrating Lisa's interactions with defendant. In addition, there was a "foundation showing the opinion called for was rationally based upon the perception and observations of the witness[.]" *Najewicz*, 112 N.C. App. at 293, 436 S.E.2d at 140. Furthermore, defendant does not establish there was an error, and "without this error, the jury would probably have reached a different verdict." *Id.* at 294, 436 S.E.2d at 141 (citations omitted). Accordingly, defendant's arguments are overruled.

E. Cumulative Error

Lastly, defendant argues the "cumulative effect of the errors" requires this Court to grant defendant a new trial. As we have found no errors, defendant's contention is without merit. *State v. Beane*, 146 N.C. App. 220, 234, 552 S.E.2d 193, 202 (2001), *appeal dismissed*, 355 N.C. 350, 563 S.E.2d 562 (Mem) (2002).

III. Conclusion

For the foregoing reasons, we conclude defendant received a fair trial free from prejudicial error.

NO ERROR.

Judges WOOD and GORE concur.

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Report per Rule 30(e).