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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-395

Filed 20 August 2024

Nash County, No. 21 CRS 52515

STATE OF NORTH CAROLINA

v.

TIMOTHY QUAN HOLDER, Defendant.

Appeal by Defendant from judgment entered 5 August 2022 by Judge Quentin T. Sumner in Nash County Superior Court. Heard in the Court of Appeals 15 November 2023.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Thomas J. Campbell, for the State.

Danielle Blass for Defendant.

PER CURIAM.

Defendant Timothy Quan Holder appeals from the trial court's judgment entered after a jury convicted him of robbery with a dangerous weapon. Defendant argues the trial court erred in admitting the testimony of an expert witness because the State failed to lay the proper foundation for the reliability of an expert's testimony under North Carolina Rules of Evidence 702(a). We conclude the trial court did not

err.

I. Factual and Procedural Background

On 13 September 2021, two employees of a Dollar General store located in Rocky Mount, North Carolina were preparing to close when a man wearing a face mask entered the store. As the man shopped around, he asked the store manager if the store offered cash back before inquiring about DVDs that the store sold. The man shopped for approximately twenty minutes, bringing items to the register, including a two-liter bottle of soda. Both the manager and the second employee were at the registers near the store entrance.

After asking his initial questions and shopping, the man gestured for the manager's help with certain DVDs. The manager left the register to help the man. Once in the aisle, the man unveiled a knife and told the manager to go with him to the register and give him the money. The manager realized the man had taken a fleece hoodie from the store and put it on, pulling the hood over his head as they walked to the cash register. Once the manager and the man returned to the register, the second employee recognized the man had a knife. The second employee was instructed to turn around and lie down. After obtaining the money from both registers, the man left, and the manager called the police department to report the incident. The only customer who had brought a bottle of soda to the register was the unidentified man who had taken the money from the register.

While investigating the robbery, local law enforcement removed a fingerprint

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from the soda bottle for future examination. The officer assigned to the investigation was Rayndall Bass. Officer Bass examined the fingerprint against a database used to provide potential matches to identify the fingerprint's owner. Officer Bass discovered that the fingerprint matched with Defendant.

On 10 January 2022, Defendant was indicted for Robbery with a Dangerous Weapon. Defendant's case came on for trial on 3 August 2022 before the Honorable Quentin T. Sumner in Nash County Superior Court. During trial, the State tendered Officer Bass as an expert witness on fingerprint identification. The trial court certified Officer Bass as an expert over Defendant's objection.

At trial, Officer Bass testified that he had multiple years of experience identifying fingerprints and had taken multiple courses and trainings on the subject. He then explained the process of examining fingerprints from collection to identification. As part of his explanation, Officer Bass noted that once a print is collected, it is individually examined to determine its viability for comparison to other acceptable prints. Officer Bass further explained that the points of minutia and characteristics that one seeks during examination include details such as ridge bifurcation, arches, whirls, tented arches, and flat arches. It was noted by Officer Bass that once a print that has enough of these characteristics has been collected, which will differ from print to print, it can be used against a database of other valid prints to find potential matches. This process is done and then verified by another trained individual if a potential match is found, otherwise it is found to be

inconclusive. Officer Bass testified that the same process was used in this specific case. Furthermore, Officer Bass testified that not only were the two prints “the exact same match,” but of all the unique characteristics of the print found on the bottle and of the print found in the database of Defendant, there was no dissimilarity between the two prints.

On 5 August 2022, the jury returned a verdict finding Defendant guilty of robbery with a dangerous weapon. Defendant timely appealed.

II. Analysis

Defendant argues that the trial court erred in admitting Officer Bass’s testimony because the State failed to lay the proper foundation for the reliability of an expert’s testimony under North Carolina Rules of Evidence 702(a). Defendant contends the State failed to show that reliable principles and methods were used to compare the latent and database fingerprints, and more specifically, that Officer Bass failed to demonstrate how he reliably applied a methodology to the facts of this case. We hold the trial court did not err in admitting Officer Bass’s testimony.

On appeal, a trial court’s discretion surrounding the admissibility of evidence is given wide latitude and only reversed for an abuse of discretion. *State v. Anderson*, 322 N.C. 22, 28, 366 S.E.2d 459, 463 (1988) (citation omitted). “The test for abuse of discretion is whether a decision is manifestly unsupported by reason or so arbitrary that it could not have been the result of a reasoned decision.” *Surgeon v. TKO Shelby, LLC*, 385 N.C. 772, 776, 898 S.E.2d 732, 736 (2024) (citation and quotes omitted).

Rule 702(a) permits an expert witness to testify in the form of an opinion if: “(1) the testimony is based upon sufficient facts or data; (2) the testimony is the product of reliable principles and methods; and (3) the witness has applied the principles and methods reliably to the facts of the case.” N.C. R. Evid. 702(a)(1–3).

A. Reliable principles and methods

Defendant contends Officer Bass’s testimony was not the product of reliable principles and methods because “he did not testify as to what abstract methodology of visual comparison of latent prints is generally used to form an opinion.”

In determining reliability of expert testimony, trial courts have the *Daubert* factors available to guide their assessment. *State v. Abrams*, 248 N.C. App. 639, 643, 789 S.E.2d 863, 865–66 (2016). The *Daubert* Court articulated five factors that can have a bearing on reliability:

(1) “whether a theory or technique . . . can be (and has been) tested”; (2) “whether the theory or technique has been subjected to peer review and publication”; (3) the theory or technique’s “known or potential rate of error”; (4) “the existence and maintenance of standards controlling the technique’s operation”; and (5) whether the theory or technique has achieved “general acceptance” in its field.

Abrams, 248 N.C. App. at 643, 789 S.E.2d at 865–66 (quoting *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 593–94 (1993)).

Trial courts are to consider these factors as part of a “flexible” inquiry and may consider other factors that “help assess reliability given ‘the nature of the issue, the expert’s particular expertise, and the subject of his testimony.’” *Id.* at 643, 789 S.E.2d

at 866 (quoting *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 150 (1999)).

In the instant case, Officer Bass’s testimony established that he analyzed the fingerprints recovered from the scene in accordance with the procedures of fingerprint comparison based on his law enforcement training. *See id.* at 644–45, 789 S.E.2d at 866–67 (holding that the expert’s testimony was the “product of reliable principles and methods” because she provided a “detailed explanation of the systematic procedure . . . a procedure adopted by the NC Lab specifically to analyze and identify marijuana”).

Here, Officer Bass described in detail the process of fingerprint analysis from collection to identification. Officer Bass began his testimony by explaining the process, generally. When asked about this process, Officer Bass testified:

Q. And when you examine fingerprints, generally what are you examining them for? What are you looking for?

A. The main thing you're looking for is, in a nutshell, quality. You want to look for ridge detail; if there is sufficient amount of ridges that have bifurcation You also have what’s called islands . . . and different characteristics of a fingerprint You have arches, whirls, tented arches, flat arches.

He went on to explain that when latent prints are collected from a scene, each card is “visually examined for quality and sufficient points of minutia to determine if it is a viable print to be entered into the AFIS system, which is the automatic fingerprint information system.” Of importance, Officer Bass stated that after reviewing all five latent prints collected from the scene *in this case*, only one of them

had “enough points of minutia and characteristics” to be entered into the AFIS system.

Officer Bass explained that AFIS is a government database that stores the fingerprints associated with those who have been charged for a criminal offense. “When a person is fingerprinted for a criminal offense, their fingerprints are kept on file in the State and Federal system,” and the fingerprint is given a state identification (SID) number. Once a latent fingerprint is entered into the system, AFIS generates possible matches. He went on to explain that “it’s up to the individual examiner to pull up each one side-by-side . . . and look for the exact points of minutia and make a comparison.” If there is a match, the examiner prints out the paperwork without a name or identification number and passes it along to another examiner of “equal or more experience” to come up with their own results. Immediately following this explanation, Officer Bass stated, “the same [procedures were exercised] *for this [case]* as well.” (Emphasis added).

In addition, after determining which finger the print belongs to, the system gives the examiner a SID number associated with the individual. After running the SID number through the database, the examiner locates and prints out the individual’s ten-print card. The examiner then does another analysis and compares the latent print against the individual’s known print to “make sure it is a one-to-one comparison.” Officer Bass specified that “*in this instance*, both of them were the exact same match.” (Emphasis added).

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Here, Officer Bass’s testimony sufficiently showed that he used reliable principles and methods. *See* N.C. R. Evid. 702(a)(2). Our Supreme Court has long recognized and continuously held that fingerprint analysis is an established and reliable method of identification. *See State v. Combs*, 200 N.C. 671, 158 S.E. 252, 254 (1931) (“The evidence of fingerprint identification has, for a long time, been recognized by the courts of the country as admissible in evidence . . . to establish the identity of a party where the comparison of a developed fingerprint with that of the party alleged to have made it is shown.”).

This Court has previously held that an expert sufficiently “testified that she uses the same examination technique as is commonly used in the field of latent print identification.” *See State v. McPhaul*, 256 N.C. App. 303, 314–15, 808 S.E.2d 294, 304 (2017). In *McPhaul*, the expert testified that she examines the latent print, identifies its pattern type, determines if the print contains “sufficient identifiable minutia points,” and then she compares the latent print against the individual’s known impressions. *Id.* The expert can make an identification when “there’s enough sufficient characteristics and sequence of the similarities” between the two prints. *Id.*; *see also State v. Koiyan*, 270 N.C. App. 792, 797, 841 S.E.2d 351, 354 (2020) (holding the expert’s testimony that he “examines fingerprints by looking for three levels of detail” and then “takes the latent fingerprints, puts it beside an inked fingerprint, magnifies the prints, and examines the likeness or dissimilarities” showed that he uses reliable principles and methods).

Like the experts in *McPhaul* and *Koian*, Officer Bass employed a widely accepted technique and performed the same analysis we previously held to be reliable. Officer Bass explained the characteristics experts look for when examining fingerprints, examined a latent print, found sufficient points of minutia, and compared it against Defendant's known impression. Thus, the State properly established that reliable methods were used to compare the latent and database fingerprints. *See* N.C. R. Evid. 702(a)(2).

B. Application of the principles and methods reliably to the facts of this case

We next consider whether Officer Bass applied the principles and methods reliably to the facts of this case. *See* N.C. R. Evid. 702(a)(3). Here, Officer Bass described the process used for fingerprint analysis while simultaneously describing that it was the process used for the facts of the case. The trial court's decision on admissibility is reviewed for abuse of discretion. There is instruction on what constitutes insufficient testimony, and that is not the case here.

Under 702(a)(3), testimony has been found insufficient where the expert witness did not testify as to *how* she applied the principles and methods reliably to the facts of the case. *See McPhaul*, 256 N.C. App. at 316, 808 S.E.2d at 305 (holding that the witness "previously testified that during an examination, she compares the pattern type and minutia points of the latent print and known impressions until she is satisfied that there are 'sufficient characteristics and sequences of similarities' to

conclude that the prints match” but the expert “provided no such detail in testifying how she arrived at her actual conclusions *in this case*”). In *McPhaul*, the expert witness, when asked to demonstrate the comparison between two prints, merely distinguished the two prints as the latent print and the defendant’s fingerprint without any supportive analysis. *Id.* at 315–16, 808 S.E.2d at 304–05. When the prosecution asked the expert what her conclusion was based on, the expert solely stated, “my training and experience.” *Id.* at 315, 808 S.E.2d at 304. She also confirmed that in reaching her conclusion, she used the process she “explained earlier.” *Id.* Unlike the expert in *McPhaul*, Officer Bass did not give sparse answers or conclusory responses. Rather, he described the reliable procedures and methods used in fingerprint analysis while simultaneously pointing out the specific methods that he used in this case.

Following the holding in *McPhaul*, this Court has recognized that failing to provide detail as to *how* conclusions are reached, and failing to explain “what—if any—characteristics” from the latent fingerprints match with the defendant’s fingerprints is insufficient under 702(a)(3). *See Koiyan*, 270 N.C. App. at 798, 841 S.E.2d at 355 (holding the expert’s testimony was insufficient because he “merely stated” that the fingerprints matched without further explanation for his conclusions); *see also State v. Graham*, 287 N.C. App. 477, 495, 882 S.E.2d 719, 731 (2023) (holding the expert did not establish that he reliably applied his procedure to the facts in the case because his testimony demonstrated “he compared the two sets

of prints, found the prints to be consistent, identified no dissimilarities, and his supervisor reached the same result”). Unlike the experts in *Koian* and *Graham*, Officer Bass did not merely state that the latent print pulled from the soda bottle and Defendant’s fingerprint matched. Instead, Officer Bass explained the process for fingerprint analysis while simultaneously noting what techniques were used in this case to reach his conclusion that the prints matched. Notably, the experts in *McPhaul*, *Koian*, and *Graham* offered a general explanation for fingerprint analysis, but did not simultaneously note that it was the specific technique used in the case at issue. *McPhaul*, 256 N.C. App. at 314–15, 808 S.E.2d at 304; *Koian*, 270 N.C. App. at 797, 841 S.E.2d at 354; *Graham*, 287 N.C. App. at 490–93, 882 S.E.2d at 729–30. Rather, the experts later confirmed that the prints matched without making the connection of what techniques were used to reach their conclusion. *McPhaul*, 256 N.C. App. at 315–16, 808 S.E.2d at 304–05; *Koian*, 270 N.C. App. at 797–98, 841 S.E.2d at 354–55; *Graham*, 287 N.C. App. at 494–95, 882 S.E.2d at 730–31. Thus, the experts were “implicitly ask[ing] the jury to accept [their] expert opinion that the prints matched” without showing the court how they got there. *McPhaul*, 256 N.C. App. at 316, 808 S.E.2d at 305.

Here, Officer Bass specified *how* he reached his conclusions in this specific case, and sufficiently testified as to what characteristics of the latent print matched with Defendant’s print.

III. Conclusion

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We hold that the trial court did not err in admitting the testimony of the expert witness because the State properly laid the foundation for the reliability of his testimony under North Carolina Rules of Evidence 702(a).

NO ERROR.

Panel consists of Judges MURPHY, GRIFFIN, and STADING.

Report per Rule 30(e).