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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-116

Filed 5 November 2024

Montgomery County, No. 19 CRS 51170

STATE OF NORTH CAROLINA

v.

JELANI JOEL JEFFERSON

Appeal by Defendant from judgment entered 25 April 2023 by Judge Kevin M. Bridges in Montgomery County Superior Court. Heard in the Court of Appeals 11 September 2024.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Kathryne E. Hathcock and Special Deputy Attorney General Christopher W. Brooks, for the State.

Mary McCullers Reece for defendant.

WOOD, Judge.

Jelani Joel Jefferson (“Defendant”) appeals from a jury’s verdict finding him guilty of second-degree murder. The jury convicted Defendant based on two theories of malice: hatred, ill will, or spite and depraved heart. On appeal, Defendant challenges the trial court’s admission of certain evidence, which showed Defendant

committed prior bad acts of domestic violence, and he challenges the trial court's instructions to the jury about that evidence. For the following reasons, we hold Defendant received a trial free from error.

I. Factual and Procedural Background

On 1 June 2019, Officer Kemp Kimrey of the Mebane Police Department, responded to a domestic assault call at the home of Kendra Woods and Defendant. Upon arrival, Officer Kimrey spoke with Ms. Woods, the individual who had placed the call. Ms. Woods stated that she and her boyfriend, Defendant, had been in an argument about splitting up. When she asked Defendant to leave, Defendant turned around, swung at her with an unknown object, and struck her in the face. Defendant left their home after the altercation. Officer Kimrey observed a welt on her forehead that was swelling. Ms. Woods and Officer Kimrey searched for the object with which she had been struck but found nothing. Subsequently, Officer Kimrey obtained a warrant to arrest Defendant for misdemeanor assault on a female.

At approximately 1:00 p.m. on 2 June 2019, Officer Blythe Terwilliger-Watson of the Mebane Police Department, responded to a separate domestic assault call at the home of Ms. Woods and Defendant. Upon arrival, Officer Terwilliger-Watson spoke with Ms. Woods and Defendant together, then separately. Defendant and Ms. Woods gave similar stories to Officer Terwilliger-Watson: Defendant eventually came home after the altercation the night before; Defendant believed that "everything was okay between them" and they ordered pizza; they began arguing about the incident

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the night prior; Defendant “lost his cool” and threw a metal toilet paper holder at Ms. Woods; and Ms. Woods sustained a small cut on her left thigh from the thrown object. Officer Terwilliger-Watson arrested Defendant for the new assault and for the active warrant for assault on a female issued by Officer Kimrey. Defendant was transported to the jail, where the magistrate informed him of the charges and told him that he was not permitted to have any contact with Ms. Woods until the resolution of his charges.

Following Defendant’s arrest and release from jail, on 10 June 2019 Montgomery County 911 received a call for assistance from Ms. Woods around 7:30 a.m. According to the dispatcher, Tiffany Kaufman, Ms. Woods was “back and forth about what was happening,” stating that “somebody had put her out of the car,” but later stating that she was still in the car.

Dispatcher Kaufman obtained Ms. Woods general location during the call, which disconnected after approximately 30 seconds. Dispatcher Kaufman attempted several times to call Ms. Woods back but was unsuccessful. She then dispatched law enforcement officers to the area of the tracked location to search for the vehicle; however, the location was not exact because the vehicle was moving.

Dispatcher Kaufman continued her attempts to reach Ms. Woods. She finally reached her a few minutes later at 7:40 a.m. During the second call, Ms. Woods stated that “she wanted out of the car,” “he was about to let her out,” and that “he had hit her again and almost hit a car while he was hitting her.” Additionally, Ms. Woods

informed Dispatcher Kaufman that they were in a gray Toyota 4-Runner and provided the license tag number. The second call disconnected, and Dispatcher Kaufman immediately called back.

The call was answered at 7:41 a.m., and Dispatcher Kaufman heard Ms. Woods screaming “let me out,” but the call was again disconnected. Shortly thereafter, Montgomery County 911 received numerous calls about a car wreck and authorities were dispatched to the scene. Dispatcher Kaufman continued to call Ms. Woods, not knowing if the reported wreck was related to her calls. An unknown individual answered the phone and informed Dispatcher Kaufman that “there was a bad wreck” and “if [she] was family [she] should get out there.”

Eddie Lashley, a paramedic with Montgomery County EMS, arrived first at the scene and observed a Toyota 4-Runner sitting upright, directly underneath a bridge and observed that the vehicle’s roof was crushed. Lashley also observed a male, later identified as Defendant, moving inside of the vehicle. As additional rescue support arrived, they determined that the crushed roof needed to be cut off to rescue the individuals inside the vehicle. Defendant was extricated from the vehicle and transported to the hospital. Afterwards, rescuers discovered another individual inside the vehicle. Ms. Woods was found “in a fetal position” parallel to the door on the passenger side of the vehicle. She was covered in blood and the right rear section of her head appeared flattened. Ms. Woods was pronounced dead at the scene.

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On 4 November 2019, Defendant was indicted for first-degree murder of Ms. Woods. On 22 November 2022, the State filed several notices of intent: to introduce certain Rule 404(b) evidence; to call an expert witness in collision reconstruction; and to introduce statements made by Defendant. On 17 April 2023, the matter came on for a jury trial, and the trial court held a pretrial hearing as to the admissibility of the State's proffered evidence.

In relevant part, the State moved to admit the testimony of Officer Kimrey and Officer Terwilliger-Watson pursuant to North Carolina Rule of Evidence 404(b). The State sought to elicit testimony concerning the events that had occurred on 1 and 2 June 2019, specifically Defendant's domestic assaults on Ms. Woods. After hearing the evidence on *voir dire*, the trial court found the following under Rule 404: the evidence was relevant; there was sufficient evidence that Defendant had engaged in these acts; the State offered the evidence for a proper purpose, to show motive, opportunity, intent, absence of mistake, or accident; the evidence was not sufficiently similar to the trial offense, but, the events that occurred established a chain of domestic abuse; and based on the dates at issue, the evidence is not too remote in time, establishing "temporal proximity."

The trial court then proceeded to a Rule 403 analysis, determined the probative value substantially outweighed any prejudicial effect, and evidence of the 1 and 2 June 2019 events was admissible under Rule 404(b). The trial court set forth its oral findings by written order.

At trial, following the close of both Officer Kimrey and Officer Terwilliger-Watson's testimonies the trial court provided an instruction to the jury limiting the purpose for which the jury could consider the evidence.

Additionally, at trial, the State called two witnesses to testify about their findings and conclusions after investigating the cause of the wreck. Sergeant Joshua Talley of the North Carolina State Highway Patrol performed the initial investigation, as he was on the scene the day of the wreck and took photos of the area. Highway Patrol Sergeant Jarrett Bauguess, an expert in collision reconstruction, conducted a more in-depth analysis and reconstructed the crash that occurred on 10 June 2019. Sergeant Bauguess and his team took aerial photographs of the scene, took associated measurements, reviewed the tire paths, and examined the vehicle itself.

Sergeants Talley and Bauguess testified the investigation of the crash revealed: Defendant's vehicle was traveling north on the highway; the vehicle traveled left off the roadway and into the grassy median that separated the highway, traveling 79.5 miles per hour; the median ends in a drop, with a different highway below, and train tracks that run parallel to that highway; Defendant's vehicle went off the edge of the median, towards the highway below; that while the vehicle was airborne, it clipped a railcar below; and the vehicle rolled a few times, hit the ground roof-first, and overturned again, coming to rest on the shoulder of the highway below.

Based on the reconstruction, Sergeant Bauguess testified that the accelerator pedal was one hundred percent throttled, with no breaking until .2 seconds before the crash. Further, the vehicle traveled 375 feet, from the time it left the roadway until it reached the edge of the embankment increasing in speed to 86 miles per hour, then traveled an additional 65 feet while airborne before striking the railcar at 47.2 miles per hour. Both sergeants explained that the median is made up of rough terrain, which funneled toward the center, but sloped slightly upward towards the edge of the embankment. Due to the terrain, someone would have to maintain and keep control of the steering wheel for the car to make it to the bridge abutment.

Defendant moved to dismiss based on insufficiency of the evidence, which the trial court denied. On 25 April 2023, the jury found Defendant guilty of second-degree murder based on the two theories of hatred, ill will, or spite and “depraved heart.”¹ At sentencing, the trial court found four mitigating factors, that Defendant has been honorably discharged from the United States armed services, that he supported his family, that he had a support system in the community, and that he had a positive employment history or was gainfully employed. The trial court found no aggravating factors. The trial court sentenced Defendant in the presumptive range, to a minimum

¹ “North Carolina recognizes at least three malice theories: (1) express hatred, ill-will or spite; (2) commission of inherently dangerous acts in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief; or (3) a condition of mind which prompts a person to take the life of another intentionally without just cause, excuse, or justification.” *State v. Lail*, 251 N.C. App. 463, 469, 795 S.E.2d 401, 407 (2016) (cleaned up). “The second type of malice is commonly referred to as ‘depraved-heart’ malice.” *Id.* (cleaned up).

of 192 and a maximum of 243 months of imprisonment. Defendant gave notice of appeal in open court.

II. Analysis

A. Unpreserved Plain Error

Defendant argues the trial court plainly erred when it admitted the Rule 404(b) evidence of “other acts” from the events which had occurred on 1 and 2 June 2019. Additionally, Defendant argues the trial court erred in its limiting instruction to the jury after the presentation of this evidence; specifically, when it labeled the events as “act[s] of domestic violence.” Defendant concedes that he did not renew his objection to the Rule 404(b) evidence after it was presented at trial. Defendant further concedes that he did not object to the trial court’s limiting instruction after it was provided. Thus, without objections to the evidence and jury instruction, we review Defendant’s arguments on appeal for plain error.

“Plain error exists for the rare cases where the harshness of this preservation rule vastly outweighs its benefits.” *State v. Reber*, 386 N.C. 153, 158, 900 S.E.2d 781, 786 (2024). The well-established test to determine whether plain error occurred consists of three factors. First, “a defendant must demonstrate that a fundamental error occurred at trial.” *State v. Lawrence*, 365 N.C. 506, 518, 723 S.E.2d 326, 334 (2012) (citation omitted). Second, “a defendant must establish prejudice—that, after examination of the entire record, the error “had a probable impact on the jury’s finding that the defendant was guilty.” *Id.* (citations omitted). Under the second

prong, “[t]he question is not whether the challenged evidence made it more likely that the jury would reach the *same* result. Instead, the analysis is whether, without that evidence, the jury probably would have reached a *different* result.” *Reber*, 386 N.C. at 160, 900 S.E.2d at 788. Lastly, a defendant must show that the error “seriously affect[s] the fairness, integrity or public reputation of judicial proceedings[.]” *Lawrence*, 365 N.C. at 518, 723 S.E.2d at 334 (citations omitted). “[T]he plain error rule . . . is always to be applied cautiously and only in the exceptional case.” *State v. Odom*, 307 N.C. 655, 660, 300 S.E.2d 375, 378 (1983) (citations omitted).

B. Rule 404(b)

Under Rule 404(b), “[e]vidence of other crimes or acts is inadmissible for the purpose of showing the character of the accused or for showing his propensity to act in conformity with a prior act.” *State v. Bowman*, 188 N.C. App. 635, 639, 656 S.E.2d 638, 643 (2008) (citations omitted). However, it is admissible to prove “motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake, entrapment or accident.” N.C. Gen. Stat. 8C-1, Rule 404(b). Moreover, it is a “rule of *inclusion* of relevant evidence of . . . acts by a defendant, subject to but *one exception* requiring its exclusion if its *only* probative value is to show that the defendant has the propensity or disposition to commit an offense of the nature of the crime charged.” *State v. Jones*, 176 N.C. App. 678, 686, 627 S.E.2d 265, 270 (2006) (citation omitted). Generally, Rule 404(b) is “constrained by the requirements of similarity and temporal proximity.” *State v. Al-Bayyinah*, 356 N.C. 150, 154, 567 S.E.2d 120, 123 (2002)

(citations omitted). Stated differently, “[t]he ultimate test for determining whether [evidence of other offenses] is admissible is whether the incidents are sufficiently similar and not so remote in time as to be more probative than prejudicial under the balancing test of N.C.G.S. 8C–1, Rule 403.” *Bowman*, 188 N.C. App. at 640, 656 S.E.2d at 644 (citation omitted).

Here, the trial court admitted the Rule 404(b) testimony about Defendant’s domestic assaults on Ms. Woods, which had occurred on 1 and 2 June 2019 on the basis that it showed “motive, opportunity, intent, absence of mistake, or accident.” Further, the trial court found that although the assaults *were not* sufficiently similar to Defendant’s trial offense, first-degree murder, the events “established a chain of domestic abuse” by Defendant toward Ms. Woods. Finally, the trial court determined “temporal proximity” was established because, based on the dates at issue, the evidence was not too remote in time.

In reaching its conclusion, the trial court relied on *State v. Golden*, wherein this Court stated, “evidence is admissible under Rule 404(b) when the other bad acts are part of the chain of circumstances leading up to the event at issue or when necessary, in order to provide a complete picture for the jury.” *State v. Golden*, 224 N.C. App. 136, 142, 735 S.E.2d 425, 430 (2012) (citations omitted). When evidence of other bad acts is used to show a “chain of circumstances,” the 404(b) similarity requirement is “not pertinent to the purpose for which the incidents were admitted.” *Id.* at 144, 735 S.E.2d at 431 (citation omitted). Defendant argues that the trial

court's findings were erroneous and prejudicial, because absent the challenged evidence, it is unlikely the jury would have found Defendant guilty based solely on the wreck that occurred on 10 June 2019. Defendant further argues that the evidence skewed the jury's verdict, because the jury could have inferred malice based on the domestic violence acts, rather than determining that Defendant intentionally caused the crash. We disagree.

This Court has held, “evidence of frequent quarrels, separations, reconciliations, and ill-treatment is admissible as bearing on intent, malice, motive, premeditation, and deliberation.” *State v. Latham*, 157 N.C. App. 480, 484, 579 S.E.2d 443, 447 (2003) (citations omitted). Such acts are admissible because “evidence of [a] defendant's prior assault on the victim tends to establish malice, an element of first-degree murder, and thus is relevant to an issue other than defendant's character.” *State v. Simpson*, 327 N.C. 178, 185, 393 S.E.2d 771, 775 (1990) (citation omitted); *see, e.g., State v. Murillo*, 349 N.C. 573, 591, 509 S.E.2d 752, 762 (1998) (“The evidence was admitted to show the escalating nature of [the defendants] attacks and to rebut his claim that the killing was accidental. Testimony about a defendant-husband's arguments with, violence toward, and threats to his wife are properly admitted in his subsequent trial for her murder.”).

In *State v. Daniels*, this Court contemplated whether a trial court erred when it admitted 404(b) evidence of alleged prior acts of domestic violence committed by the defendant against the victim. *State v. Daniels*, 189 N.C. App. 705, 712, 659 S.E.2d

22, 26 (2008). The Court in *Daniels* held the trial court’s admission of defendant’s acts of domestic violence was proper, when it reasoned that the evidence showed “motive, intent or purpose, opportunity, and plan” and “demonstrated a chain of events tending to show that [the defendant] became increasingly angry with [the victim].” *Id.* at 713, 659 S.E.2d at 27.

Here, the challenged evidence showed that on 1 June 2019, Officer Kimrey responded to a domestic assault call during which Ms. Woods reported that Defendant had hit her with an unknown object after an argument had ensued, and he observed a swollen welt on her forehead. This incident occurred nine days prior to the wreck. Officer Terwilliger-Watson testified that on 2 June 2019 Defendant admittedly “lost his cool” and had hit her with a metal toilet paper holder. Further, Defendant was arrested and charged for both incidents of domestic assault eight days prior to the wreck. Like in *Daniels*, the assaults demonstrated a chain of events that showed Defendant’s violent behavior towards Ms. Woods, all of which occurred within close temporal proximity of the fatal wreck. The evidence intertwines with a showing of Defendant’s intent or motive that led to the fatal crash. We hold that the events which occurred on 1 and 2 June 2019 sufficiently establish a “chain of circumstances” leading up to the crash and the evidence provides “a complete picture for the jury.” *Golden*, 224 N.C. App. at 142, 735 S.E.2d at 430. Accordingly, the trial court did not err by admitting Defendant’s prior assaults into evidence under Rule 404(b).

We further note, even if we presume the evidence was inadmissible, Defendant

has failed to establish that this is an “exceptional case” where the plain error standard should be applied to award a new trial. *Odom*, 307 N.C. at 660, 300 S.E.2d at 378. Specifically, Defendant did not establish the second prong of prejudice, which requires a showing that “without that evidence, the jury probably would have reached a *different* result.” *Reber*, 386 N.C. at 160, 900 S.E.2d at 788. Without the challenged evidence, the jury was presented with evidence showing that Defendant intentionally drove off a highway, maintained control of the steering wheel, increased his speed without breaking, went airborne after the median ended, and eventually hit the railcar below before the car overturned multiple times and came to a rest. From this evidence, we cannot conclude that the jury probably would have reached a different result had the evidence of the domestic assaults been excluded.

Defendant’s remaining unpreserved argument asserts the trial court erred in its limiting instruction to the jury after the presentation of the 404(b) evidence. The trial court instructed the jury:

Evidence has been received tending to show that on or about June 2nd of 2019 *the defendant engaged in an act of domestic violence against Kendra Woods*. This evidence was received solely for the purposes of showing that the defendant had a motive for the commission of the crime charged in this case; that the defendant had the intent, which is a necessary element of the crime charged in this case; that the defendant had the opportunity to commit the crime; and that the -- and also to show the absence of mistake and the absence of accident for the crime charged in this case.

Members of the jury, if you believe this evidence, you may

consider it, but only for the limited purposes for which it was received.

Defendant argues that by labelling the events as “act[s] of domestic violence,” the trial court impermissibly suggested to the jury what facts to infer from the evidence. Specifically, because the assaults occurred days before the wreck and were labeled as acts of domestic violence, the jury would also view the wreck as an act of domestic violence.

We find no error in the instruction given by the trial court. As discussed *supra*, the trial court properly admitted the evidence of the assaults under Rule 404(b). As such, there was no error, plain or otherwise, in admitting the evidence and then instructing the jury on its scope. This Court has long held domestic violence incidents are admissible to show the defendant’s intent and motive.

The trial court properly limited the jury’s use of the evidence by specifically instructing the jury it could not consider the evidence for any other purpose, eliminating any potential prejudice to Defendant. The trial court’s description of the events preceding the fatal crash as “acts of domestic violence” was not erroneous. Defendant’s argument is overruled.

III. Conclusion

For the foregoing reasons, we hold the trial court did not plainly error when it admitted evidence of assaults by Defendant against Ms. Woods on 1 and 2 June 2019 under Rule 404(b). We further hold the trial court did not plainly error in its limiting

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instruction to the jury. Accordingly, we conclude Defendant received a fair trial free from prejudicial error.

NO ERROR.

Judges DILLON and TYSON concur.

Report per Rule 30(e).