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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-350

Filed 19 November 2024

Johnston County, No. 21CR53692-500

STATE OF NORTH CAROLINA

v.

ANGELA KATHLEEN COATS, Defendant.

Appeal by defendant from judgment entered 17 August 2023 by Judge Keith O. Gregory in Johnston County Superior Court. Heard in the Court of Appeals 23 October 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Mary L. Maloney, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Nicholas C. Woomer-Deters, for the defendant-appellant.

DILLON, Chief Judge.

Defendant Angela Kathleen Coats appeals judgment entered upon jury verdicts convicting her of one count of felony possession of methamphetamine and one count of misdemeanor possession of drug paraphernalia.

I. Background

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The State's evidence at trial tended to show as follows: On 4 September 2021, a law enforcement officer encountered a woman who was standing outside the front passenger door of a parked car, a man who was sitting in the driver's seat of the car, and Defendant who was sitting in the front passenger seat. As the officer approached the vehicle, she "could smell the odor of marijuana emanating" from the car. She, therefore, detained the three individuals and conducted a search of the vehicle.

During the search, the officer found a green meth pipe with burnt residue inside of Defendant's purse. The officer also found methamphetamine in a clear glass container in the center console between the driver and passenger seat. Defendant presented no evidence at trial.

The jury convicted Defendant of felony possession of methamphetamine based on the meth found in the center console. The jury also convicted Defendant of misdemeanor possession of drug paraphernalia based on the pipe and residue found inside her purse. Defendant appealed.

II. Analysis

On appeal, Defendant makes two arguments, which we address in turn.

A. Curative Instruction

In addition to the pipe and the methamphetamine, the officer also discovered several drug and drug related items scattered and tucked throughout the car. Defendant, however, was only charged for the green methamphetamine pipe found in the purse and the glass container of methamphetamine in the center console.

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During her cross-examination, the officer mistakenly attributed to Defendant more of the items found and mistakenly stated Defendant was charged with possession of a digital scale, meth bong, marijuana bowl, and pipe found in the car, though Defendant, in fact, had not been charged for anything based upon those items.

Due to the officer's misstatement, Defendant moved for a mistrial, which the trial court denied. Instead, the trial court gave the jury the following curative instruction:

The defendant stands charged with possession of drug paraphernalia related **only to the glass smoking pipe found inside her purse**. The witness has erroneously stated that the defendant stands charged with possession of drug paraphernalia related to the presence of a multi-colored meth bong, a digital scale, and a marijuana smoking pipe located inside the vehicle. These statements by the witness should be disregarded by you and should not be used in determining whether the defendant is guilty of the offenses charged.

(Emphasis added).

Defendant claims the trial court offered an opinion that the purse, in fact, belonged to the Defendant, by saying the glass smoking pipe was “found inside **[her]** purse[,]” instead of allowing the jury to come to that conclusion by itself. The officer had testified that, during the search of the vehicle, Defendant had identified the purse (found on the floorboard of the passenger seat where Defendant had been sitting) as belonging to her and asked the officer to retrieve her cigarettes from the purse.

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Sections 15A-1222 and 1232 of our General Statutes “specifically prohibit a trial court judge from expressing an opinion during trial and when instructing the jury.” *State v. Austin*, 378 N.C. 272, 276 (2021); N.C. Gen. Stat. §§ 15A-1222, 1232 (2024). When reviewing alleged improper expressions of judicial opinion, North Carolina courts utilize a totality of the circumstances test to determine whether the trial court’s comments crossed into the realm of impermissible opinion. *State v. Larrimore*, 340 N.C. 119, 155 (1995). “When an alleged statutory violation by the trial court is properly preserved, either by timely objection or . . . by operation of rule or law, [appellate courts] review for prejudicial error pursuant to N.C.G.S § 15A-1443(a).” *Austin*, 378 N.C. at 276–77.

Judges may allude to evidence without such remarks necessarily amounting to the offering of an impermissible opinion. *See, e.g., State v. Hartman*, 344 N.C. 445 (1996); *State v. McEachern*, 283 N.C. 57 (1973).

In our examination of the totality of the circumstances in the present case, the trial court’s reference to the pipe “found inside [Defendant’s] purse” was not the covert offering of an opinion. The trial court made its statements only for the curative purpose of correcting the testimony of the officer about the officer’s misstatements about the other items found in the car. In any event, the State had offered overwhelming evidence that the purse belonged to Defendant, evidence which remained uncontroverted by Defendant.

B. Sufficiency of Evidence

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Defendant argues the trial court erred in denying Defendant's motion to dismiss on both counts because the State presented insufficient evidence that Defendant constructively possessed both the glass smoking pipe found in the purse and the glass container of methamphetamine found in the center console of the car. We review denials of motions to dismiss for insufficiency of the evidence *de novo*. *State v. Crockett*, 368 N.C. 717, 720 (2016).

As for the glass smoking pipe, the State offered sufficient evidence to overcome the motion to dismiss. The officer had testified she found the used meth pipe in Defendant's purse, the purse was located near the seat which Defendant had occupied, Defendant asked for specific contents in the purse, and Defendant confirmed the purse belonged to her.

The State also offered sufficient evidence for a jury to reasonably find that Defendant constructively possessed the glass container of methamphetamine found in the center console between Defendant's seat and the driver's seat. Defendant argues the methamphetamine could have belonged to anyone, especially the man sitting in the driver's seat.

However, constructive possession can be shown even when "the defendant has nonexclusive possession of the property where the drugs are located so long as there is other incriminating evidence connecting the defendant with the drugs." *State v. Lakey*, 183 N.C. App. 652, 656 (2007) (internal quotations omitted). The glass smoking pipe inside the purse has an obvious connection to the container of

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methamphetamine found next to Defendant's seat in the vehicle. Accordingly, this evidence was sufficient to allow the jury to make the determination whether Defendant constructively possessed the meth.

III. Conclusion

We conclude Defendant received a fair trial, free of reversible error.

NO ERROR.

Judges TYSON and HAMPSON concur.

Report per Rule 30(e).