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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-171

Filed 17 December 2024

Columbus County, Nos. 18 CRS 493–94

STATE OF NORTH CAROLINA

v.

COREY TASHOMBAE HINES

Appeal by defendant from judgment entered 22 September 2022 by Judge Tiffany Peguise-Powers in Superior Court, Columbus County. Heard in the Court of Appeals 22 October 2024.

Attorney General Joshua Stein, by Assistant Attorney General Benjamin Szany, for the State.

Tin Fulton Walker & Owen, PLLC, by Matthew G. Pruden, for defendant.

ARROWOOD, Judge.

Corey Tashombae Hines (“defendant”) appeals from the trial court’s judgment entered 22 September 2022. For the following reasons, we find defendant received a fair trial free from prejudicial error.

I. Background

Defendant's trial began 30 August 2022 and lasted for 12 days ending on 15 September 2022. At trial, the evidence tended to show the following.

On 11 December 2017, Elliot Dew ("Dew") arrived at the Happy Mart in Whitesville, NC, parked his car near the gas pumps, and got into the passenger seat of Deron Blanks' ("Blanks") car. After Dew got into Blanks' car, they began talking when Blanks noticed a blue Ford pulling up. Blanks testified that defendant fired several shots from the rear of the Ford, and then departed before Blanks could get out of the car. He then noticed that Dew had been shot. Brandon Hardy ("Hardy") was an employee at the Happy Mart, working an afternoon to evening shift. Hardy heard something, then looked at the surveillance footage, where he saw Blanks exit his vehicle and stumble. He called 911 and found Dew bleeding badly. Dew had suffered two gunshot wounds to the head, which ultimately proved fatal.

Deputy Jonathan Butler ("Deputy Butler") of the Columbus County Sheriff's Office was on duty the night of the shooting and responded to the Happy Mart. Deputy Butler conducted a search of the scene, after which he concluded the shooter was not present. Defendant and Taquay Newkirk ("Newkirk") were apprehended on 21 December 2017 in a mobile home in rural Bladen County. Police seized defendant's and Newkirk's cell phones.

On 26 November 2017, two weeks prior to the Happy Mart shooting, Chantell Fulton ("Fulton") was in a car with Eugene Shipman ("Shipman"), Newkirk, and defendant at the Saw Mill Apartments in Whiteville. Shipman was driving, Fulton

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was in the front seat, and defendant and Newkirk were in the back. Fulton exited the car to check on her sister when she noticed a BMW “truck” approaching. Defendant and Newkirk also left the car. Fulton testified that the BMW belonged to Blanks, who lived in the neighborhood. The BMW came to a stop, a window came down, and Fulton heard gunshots, although she did not see them. As the BMW was pulling up, Shipman was looking down at his phone. He then heard “a lot” of shots, although he, like Fulton, did not see them, and kept his head down while the shooting was occurring. Blanks testified that as he was entering Saw Mills that night, he noticed the Chrysler that Shipman was driving. He testified that he then noticed sudden movement, defendant jumped out of the vehicle, gunshot fire “rained out” into his car, and Blanks returned fire, fearing for his life.

Special Agent Hunter Whitt (“Special Agent Whitt”) of the North Carolina State Bureau of Investigation was assigned as the lead investigator of the case. He obtained a warrant to extract data on a seized cell phone belonging to defendant, an extraction which found two messages potentially relevant to the investigation. One message from defendant read, “I’m at my brother’s reception RN, babe, the candlelight thing,” and was sent 11 December 2017, the same day as the Happy Mart shooting. The other message from defendant read, “I’m on Kolumbus (*sic*) street,” sent on the same day. Amanda McClure, who knew both defendant and Newkirk, lived on Columbus Street in Whiteville, a couple of blocks from the Happy Mart. She testified that defendant and Newkirk were at her house from 11:00 a.m. on

11 December until 12:00 p.m. on 12 December. She further testified that they never left her house, although she left the house at some point during the night to go to the Happy Mart. McClure also testified that when she returned from the Happy Mart, she told defendant and Newkirk that Blanks was at the Happy Mart, but also told them to stay at the house and not to go to the store “[b]ecause [Blanks] is the type of person that love to start trouble and lie.”

Several photos were extracted from defendant’s phone. One of them showed defendant seated on Blanks’ BMW at the Saw Mill Apartments. Four of the photos were Facebook photos of Blanks himself, with dates beginning the day of the Happy Mart shooting.

During the investigation, Special Agent Whitt familiarized himself with the Saw Mill shooting after receiving information from local law enforcement; he testified that one shooting could lead to another, and he generally wanted to see if any events related to a shooting he was investigating. Special Agent Whitt also began to look for a motive in the Happy Mart shooting. As part of his motive investigation, Special Agent Whitt visited a YouTube page which had a linked Google Plus social media profile. Pursuant to a warrant, Special Agent Whitt discovered that the page had a recovery email address of Hines.Corey2@yahoo.com. A common theme on the YouTube page was Juwan Young, defendant’s brother, who had been murdered at the Happy Mart in November 2016; songs on the YouTube channel referenced this death. Special Agent Whitt testified that he believed that “payback” for Juwan Young’s

death was a potential motive in the Happy Mart shooting. He did not find a motive for targeting Dew.

The day after the Happy Mart shooting, Special Agent Whitt interviewed Blanks in the hospital. Blanks testified that he did not tell the full truth during this interview, for fearing of being labelled a “snitch.” He told Special Agent Whitt during the interview that he did not know who shot him, but that it might have been defendant. Special Agent Whitt interviewed Blanks again on 12 January 2018, where Blanks said that he knew who shot him. During an interview on 15 August 2018, Blanks stated that he did not know who was driving the SUV during the shooting, but that he was certain that defendant was shooting.

During the trial, Blanks testified that defendant had shot at him four times before, all in Whiteville. He testified that each instance involved Hines shooting at him from a moving car. Also during the trial, Blanks testified that there was agreement between himself and the state for truthful testimony, and that in exchange Blanks would have several charges dismissed. Prior to the trial, Blanks had pleaded guilty to possession of firearm by a felon and multiple charges of soliciting to sell or deliver cocaine. At the time of trial, Blanks was being held at Columbus County Detention Center on multiple other drug-trafficking charges.

At trial, the State called Kelby Glass (“Glass”), a forensic firearms examiner. During his testimony, Glass described the method he used to determine whether two different shell casing were fired from the same gun, even if there is no gun. Different

parts of the gun interact with the cartridge cases and leave marks; due to the gun's manufacturing process, the marks that the gun leaves on the casing is unique to that particular gun. When asked about his examination of the shell casings in the instant case, Glass described the general process for comparison, which includes segregation by caliber, microscopic comparison, and compilation of matching casings. He then testified that he generated a report of his findings from the Happy Mart shooting. Glass ultimately testified that there were cartridge cases from both the Happy Mart and the Saw Mill shootings that were fired from the same gun.

The State, through Detective Amy Corder, admitted over defense counsel's objection a plea transcript by Newkirk arising from the Saw Mill shooting. Newkirk had been charged with discharging a weapon into an occupied dwelling, discharging a weapon into an occupied vehicle, and possession of a firearm by a felon, all stemming from the Saw Mill shooting; he pleaded guilty to all three charges and received a 62 to 87 months sentence. Newkirk was not charged in the Happy Mart shooting.

During the jury charge, over defense counsel's objection, the trial court gave an instruction on defendant's potential flight. The instruction read: "The state contends that the defendant fled. Evidence of flight may be considered by you, together with all other facts and circumstances in this case, in determining whether the combined circumstances amount to an admission or a show of a consciousness of guilt." Defense counsel argued that the instruction was improper because it was not

a “clear-cut” situation of flight, given the lack of clarity as to who committed the Happy Mart shooting.

The jury found defendant guilty of first-degree murder and discharging a weapon into an occupied property. The court sentenced him to life in prison without the possibility of parole on the murder charge and arrested judgement on the remaining charge. Defendant gave notice of appeal on 29 September 2022.

II. Discussion

Defendant raises seven issues on appeal: whether the trial court committed reversible error by admitting evidence of the Saw Mill shooting; whether the court committed reversible error by admitting video of the Saw Mill shooting when those videos were not properly authenticated; whether the court committed reversible error by admitting Taquay Newkirk’s plea transcript; whether the court committed plain error by allowing Deron Blanks to testify about shootings prior to Saw Mill; whether the court committed plain error by allowing Kelby Glass to testify that shell casings were fired from the same gun; whether the court committed reversible error by allowing Special Agent Whitt to testify concerning motive; and finally whether the court committed reversible error by instructing the jury on flight. We address each argument in turn.

A. Evidence of the Saw Mill Shooting and Pre-Saw Mill Shootings

In two related arguments, defendant argues that the court committed reversible error by admitting evidence of the Saw Mill shooting and committed plain

error by admitting evidence of four shootings prior to the Saw Mill shooting. We disagree.

“When the trial court has made findings of fact and conclusions of law to support its 404(b) ruling . . . we look to whether the evidence supports the findings and whether the findings support the conclusions.” *State v. Beckelheimer*, 366 N.C. 127, 130 (2012). The legal conclusions are reviewed de novo. *Id.*

1. Saw Mill Shooting

Generally speaking, character evidence is not admissible to prove that someone acted in conformity with a character trait. N.C.G.S. § 8C-1, Rule 404(a). However, evidence of other crimes, wrongs, or acts are admissible for other purposes, “such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake, entrapment or accident.” *Id.*, Rule 404(b). This list should not be construed as conclusive, as 404(b) is a “rule of inclusion.” *Beckelheimer*, 336 N.C. at 130 (quoting *State v. Coffey*, 326 N.C. 268, 278 (1990)). However, “[t]he rule of inclusion is constrained by the requirements of similarity and temporal proximity.” *State v. Al-Bayyinah*, 356 N.C. 150, 154 (2002) (citations omitted).

In the case *sub judice*, defendant argues that evidence of the Saw Mill shooting in its entirety violates Rule 404(b), as there is nothing about the Saw Mill shooting that justifies the invocation of one of 404(b)’s exceptions. We disagree. The Saw Mill shooting evidence was admissible under at least two of Rule 404(b)’s exceptions, motive and identity.

At trial, the State provided evidence and testimony that defendant's motive in the shooting at Happy Mart was vengeance for what he believed to be his brother's murder at the hands of Blanks. By introducing evidence that Blanks and defendant had engaged in a gun battle shortly before the Happy Mart shooting, the State strengthened their theory of the motive. Additionally, because the shell casings found at the scene of the Happy Mart shooting matched the shell casings found at the scene of Saw Mill shooting the evidence was relevant to establish defendant's identity as the shooter; given the contested nature of defendant's presence at the Happy Mart, and his uncontested presence at Saw Mill. Thus, this testimony was properly before the jury.

2. Pre-Saw Mill Shooting Evidence

In a related argument, defendant contends that the admission of testimony of four shootings, allegedly committed by defendant against Blanks prior to the Saw Mill shooting, was in error. Defense counsel did not state specific grounds upon which they objected to the admission of this testimony, so we review for plain error. *See* N.C. R. App. P. 10(a)(1).

“For error to constitute plain error, a defendant must demonstrate that a fundamental error occurred at trial.” *State v. Lawrence*, 365 N.C. 506, 518 (2012) (citing *State v. Odom*, 307 N.C. 655, 660 (1983)). “To show that an error was fundamental, 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.” *Lawrence*, 365 N.C. at 518 (cleaned up). This standard is to be applied cautiously. *Id.*

In *Beckelheimer*, our Supreme Court, while requiring similarity and temporal proximity, clarified that the similarities need not rise to the level of “unique and bizarre;” it is enough for there to be “unusual facts” that indicate the same person committed the crimes. *Beckelheimer*, 366 N.C. at 131 (citations and quotations omitted). In the pre-Saw Mill shootings, we find temporal proximity, as all shootings occurred over the course of 16 to 18 months before the Happy Mart shooting. This is not the case of isolated shootings over the course of several years. Secondly, we find several unusual facts: defendant fired at Blanks from a vehicle; all the shootings occurred in Whiteville; and Blanks was in a vehicle for most of the shootings. These shootings, along with the Saw Mill shooting, which was also from a car, indicate at the very least a common plan in defendant’s actions towards Blanks.

We note defendant’s concerns that the ruling at the 404(b) hearing concerning these shootings “did not make clear whether evidence of those four shootings should be admitted.” However, based upon our review of the transcript, it is apparent that the trial court did indeed find that evidence of the shootings was admissible. At the conclusion of the 404(b) hearing, the trial court ruled that “the Court does find that the evidence is being offered for a purpose other than propensity; there is sufficient similarity between the incidents.” The trial court went on to note that “the other alleged shootings were all close in temporal proximity as well, within just a couple of

months before the Saw Mill shootings,” indicating that these shootings reached the *Beckelheimer* threshold.

Even assuming, *arguendo*, that there were either procedural deficiencies or that the testimony should have been prohibited under 404(b), the fact that the jury heard this testimony does not rise to the level of plain error, as we do not believe they would have rendered a different verdict had it been prohibited. There was ample evidence on which the jury could have found defendant guilty beyond these four shootings.

B. Admission of Surveillance Videos

Defendant argues that the trial court committed reversible error by admitting improperly authenticated surveillance video of the Saw Mill shooting. We disagree.

“[T]he appropriate standard of review for authentication of evidence is *de novo*.” *State v. Clemons*, 274 N.C. App. 401, 409 (2020).

Under Rule 901, in order for something to be authenticated, there must be “evidence sufficient to support a finding that the matter in question is what its proponent claims.” N.C.G.S. § 8C-1, Rule 901(a). There are various ways that something can be authenticated, including when a witness with knowledge testifies “that a matter is what it is claimed to be,” and “[e]vidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.” *Id.*, Rule 901(b). Video a party seeks to offer may be offered for either illustrative purposes or substantive purposes. *State v. Cannon*, 92 N.C. App.

246, 254 (1988) (*rev'd on other grounds*, 326 N.C. 37 (1990)). A video tape may be authenticated for illustrative purposes through “testimony that the motion picture or videotape fairly and accurately illustrates the events filmed” *Id.*

Shipman testified that once he parked at Saw Mills, everyone but himself exited the vehicle. Immediately after the others exited, defendant’s car pulled up and the shooting began. As soon as defendant’s car pulled up, Shipman looked down at his phone, as he did not suspect anything was about to occur. Once the shots began, he kept his head down until they ended, then jumped out of the car. Shipman testified that the surveillance video that State sought to enter into evidence was a fair and accurate representation of what occurred that night.

Defendant first argues that Shipman’s failure to actually observe the shooting or the shooters prevents him from being able to authenticate the video. We disagree, as defendant’s argument stretches the *Cannon* rule too far. Although Shipman did not see every single event that occurred in the surveillance footage, what he testified to was corroborated by the video, and what he did not see, he heard. Shipman testified that he saw a BMW pull up, then heard shots fired, which is precisely what the video shows. We find this to be consistent with Rule 901, which requires that authentication occur through a witness “with knowledge.” *See* N.C.G.S. § 8C-1, Rule 901(b). Shipman had knowledge of the events that occurred in the video, through both his eyes and his ears. We find that this video was properly authenticated.

Defendant next argues that the State improperly authenticated one of the

videos. Shipman initially testified to having only seen one video. The State refreshed Shipman's memory and he then proceeded to testify to having seen two videos, but the State did not ask if *this* video fairly and accurately represented what occurred. Even if this second video was admitted through a procedural defect, it was not prejudicial, which we discuss below.

Defendant's third argument is that the surveillance videos were admitted for substantive evidence purposes, rather than illustrative purposes, and were improperly authenticated as substantive evidence. At no point during the charge conference did defense counsel raise the issue that the video had been or might be used for substantive evidence, nor was this argument made during trial. When defense counsel did reference the failure to testify to the recording process of camera, it was part of their general objection to the failure to authenticate, which the judge overruled. Further, as part of this exchange, the State specifically asked the court to admit the video for "illustrative purposes." Thus, even though defendant argues that the video constituted substantive evidence, the record does not support this contention.

Even assuming, *arguendo*, that the trial court committed error in admitting one or both of the videos, the error must be material and prejudicial to require reversal. *See State v. Mason*, 144 N.C. App. 20, 27 (2001) (citation omitted). For an error to be prejudicial, there must be a reasonable possibility the trial court would have produced a different result absent the error; if the erroneous admission did not

play a pivotal role in the outcome of the trial, the only error is harmless. *Id.* at 27–28 (citations omitted). We found the erroneous admission of photographs to be prejudicial when they could have led the jury to believe that a man in a video of a drug deal, which was the primary evidence of the crime, was the defendant, *State v. Murray*, 229 N.C. App. 285, 286–87, 292 (2013); our Supreme Court found that even properly authenticated photographs of murder victims were prejudicial where “defendant was linked to the crime through circumstantial evidence and through direct evidence upon which the witnesses’ own remarks cast considerable doubt.” *State v. Hennis*, 323 N.C. 279, 287 (1988). Our case law, therefore, indicates that prejudice arises when an erroneous admission provides substantial evidence of the crime charged, or when the evidence against the defendant is already circumstantial or fraught.

Even if the admission were erroneous, the introduction of the Saw Mill shooting video was not prejudicial for multiple reasons. One, the video was not a video of the crime actually charged, but a preceding shooting. Two, there is eyewitness testimony from Blanks that Hines ambushed them at Saw Mill. Three, there is already a significant amount of evidence, beyond what occurred at Saw Mill, that implicates defendant in the Happy Mart shooting: Blanks’ own testimony; testimony that ties defendant to the area near the Happy Mart the night of Dew’s murder; a possible motive that defendant had in shooting at Blanks; defendant’s knowledge that Blanks would be at the Happy Mart; pictures of Blanks that

defendant downloaded; and evidence that defendant had, on multiple occasions before the Saw Mill shooting, shot at Blanks from a car.

We are cognizant of the fact that the jury had more than one statement from Blank's regarding whether he knew who shot him and were aware that he had a plea deal that was contingent upon his truthful testimony at trial. However, it is apparent that the jury found his testimony to be credible at trial, and the exclusion of the video of the Saw Mill shooting would not have played such a "pivotal role" as would lead the jury to render a different verdict, considering all the evidence that corroborated Blanks's testimony.

C. Admission of Newkirk's Plea Transcript

Defendant argues that the trial court committed reversible error by admitting a plea transcript from Taquay Newkirk. We disagree.

The relevancy of evidence is reviewed de novo. *Hill v. Boone*, 2790 N.C. App. 335, 341 (2021).

Evidence that tends to make a fact material to the case more or less probable is generally admissible. N.C.G.S. § 8C-1, Rules 401, 402. However, specific types of evidence have more limited uses, such as plea transcripts. Defendant relies on cases in which our Supreme Court has held that the guilty plea of a codefendant is not permitted to be used as evidence against a defendant at trial, given that the "guilt of one is not dependent upon the guilt of another." *State v. Jackson*, 270 N.C. 773, 775 (1967). This rule was reiterated in *State v. Campbell*, 296 N.C. 394, 399 (1979) ("The

clear rule is that . . . a guilty plea . . . by one defendant is [not] competent as evidence of the guilt of a codefendant on the same charges.”) However, the *Campbell* is not a blanket prohibition of the use of pleas in the course trial, but rather a prohibition on their use to prove guilt. See *State v. Rothwell*, 308 N.C. 782, 785–87 (1983) (explaining that legitimate uses of a guilty plea include bolstering witness credibility, although this use must be established prior to the introduction of the plea).

At oral argument, defendant counsel contended that the rule from the line of cases including *Jackson* and *Campbell* currently covers this issue which defendant has appealed, and that a ruling against him on this issue would represent a *narrowing* of the rule, rather than a ruling in his favor representing an expansion of this rule. We disagree with this characterization, as it conflicts with the plain language of the cases cited. In *Jackson*, the defendants were charged together in a robbery. *Jackson*, 270 N.C. at 774. In *Campbell*, the defendant and the individual who pled guilty were both charged in the same rape and kidnapping. *Campbell*, 296 N.C. at 398. In each case, the challenged plea was a result of the crime charged against the appellant, not a collateral crime.

While the cases defendant cites are inapposite to the facts *sub judice*, we do find that the trial court erred in admitting the transcript by violating Rule 402. The plea transcript of an individual who was not charged in the case at trial, but rather charged in separate shooting, and who was not even called as a witness, is irrelevant.

However, even where there is error, a defendant must show prejudice. *Supra*

Section II.B. Here, defendant was not on trial for the Saw Mill shooting, but rather the Happy Mart shooting. Even if we assume that the jury used Newkirk's guilty plea to infer that defendant was also responsible for the Saw Mill shooting (which we note was not how the State presented the plea, nor did they argue for its use in that way), the jury was still tasked with determining defendant's guilt regarding the Happy Mart shooting as an independent crime. Therefore, although the admission of the transcript was error, it was not prejudicial.

D. Expert Testimony on Shell Casings

Defendant argues that the court committed reversible error by allowing expert testimony concerning shell casings found at Saw Mill and the Happy Mart, where the expert did not properly explain how he applied his reliable methods to the facts of the case.

Defense counsel did not object on appropriate grounds, so we review for plain error. *See supra* Section II(A)(ii).

In order for an expert witness to testify at trial, their testimony must follow three qualifications: "(1) The testimony is based upon sufficient facts or data. (2) The testimony is the product of reliable principles and methods. (3) The witness has applied the principles and methods reliably to the facts of the case." N.C.G.S. §8C-1, Rule 702(a). We have held previously that a trial court abused its discretion in admitting testimony when an expert witness, after explaining her methodology for matching fingerprints, failed to explain how she arrived at the conclusions in the case

for which she was testifying, “implicitly ask[ing] the jury to accept her expert opinion the prints matched.” *State v. McPhaul*, 256 N.C. App. 303, 305 (2017); *see also State v. Koiyan*, 270 N.C. App. 792 (2020).

At trial, the State called Kelby Glass to testify concerning the shell casings found at the scenes of the Saw Mill and Happy Mart shootings. Glass described how guns leave unique marks on shell casings as a result of numerous factors, and that through comparison of these marks, he was able to determine whether they were fired from the same gun. Glass was then presented with a series of the State’s exhibits, which he identified as fired cartridge cases that he had tested. After presenting these exhibits to Glass, the State asked if he could “describe for the jury how [he] took all *this* evidence, *these* shell casings, and compared them[.]” (emphasis added). Glass then described the process he used for analyzing this type of evidence, which includes organization by caliber, comparing the items by item-number order, and annotating items for which he finds sufficient agreement. Following Glass’ description of the process, the State asked him about reports he generated as a result of these findings; these reports included his opinion that two different sets of shell casings were fired from the same gun.

Defendant takes issue with Glass’s conclusions, arguing that he “provided no testimony as to whether he reached those conclusions by applying accepted principles and methods reliably to the facts of *this case*.” (emphasis in original). Defendant cites *McPhaul*, where we determined that the expert was implicitly asking the jury to

accept her opinion. *McPhaul*, 256 N.C. App. at 305. However, that is simply not the case here. The State asked Glass what he did with “this evidence, these shell casings,” and he responded with the method he uses for comparing a series of casings. In *McPhaul*, we took issue with the fact that “Wood provided no [appropriate] detail in testifying how she arrived at her actual conclusions” in the case for which she was a witness. *Id.* at 316. Glass did testify as to how he arrived at his conclusions by describing his comparing method after asked how he took all the evidence from the case. Thus, we find the court did not abuse its discretion in admitting this evidence.

However, even if the evidence should not have been admitted, the standard that must be met is plain error as set forth above. Once again, defendant cannot reach this high bar for showing error. We note the ample evidence the jury had at its disposal to find the defendant guilty, even if, *arguendo*, there were not shell casings tying defendant to the scene of the Saw Mill shooting, such as Blanks’s testimony that defendant was both the Saw Mill and the Happy Mart shooter, and evidence placing defendant in the area around Happy Mart the night of the shooting.

E. Testimony on Intent

Defendant argues that the court committed reversible error by allowing testimony from Special Agent Whitt concerning defendant’s motive. We disagree.

“The standard of review for assessing evidentiary rulings is abuse of discretion.” *State v. Combs*, 182 N.C. App. 365, 375 (2007) (citation omitted). “A trial court may be reversed for an abuse of discretion only upon a showing that its ruling

was so arbitrary that it could not have been the result of a reasoned decision.” *State v. Wilson*, 313 N.C. 516, 538 (1985) (citation omitted).

When a lay witness testifies, “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.G.S. § 8C-1, Rule 701. “Testimony elicited to assist the jury in understanding a law enforcement officer’s investigative process is admissible under Rule 701.” *State v. Daughtridge*, 248 N.C. App. 707, 716 (2016) (cleaned up).

Special Agent Whitt’s testimony is permitted under Rule 701 for three reasons. First, the testimony was helpful to the jury, as it allowed them to understand why Special Agent Whitt’s investigation proceeded in the way that it did, thus falling under *Daughtridge*’s purview. Second, Special Agent Whitt’s opinion on the motive was rationally based on his perception of the YouTube videos posted online by defendant, which indicated to him that defendant’s motive was revenge. Third, the testimony did not improperly invade the province of the jury, as Special Agent Whitt used language such as “potential” motive. He properly balanced the need to explain his investigative process with a respect for the decision-making of the jury. Thus, we find no error in admitting Special Agent Whitt’s testimony.

F. Instruction on Flight

Defendant argues that the trial court committed reversible error in giving an

instruction on flight where the evidence did support it. We disagree.

We review appeals challenging jury instructions de novo. *State v. Osorio*, 196 N.C. App. 458, 466 (2009).

North Carolina courts have held “that a trial court may not instruct a jury on defendant's flight unless ‘there is some evidence in the record reasonably supporting the theory that defendant fled after commission of the crime charged.’” *State v. Levan*, 326 N.C. 155, 164–65 (1990) (quoting *State v. Irick*, 291 N.C. 480, 494 (1977)). “[T]he relevant inquiry concerns whether there is evidence the defendant left the scene of the murder and took steps to avoid apprehension.” *Id.* at 165. Concealing a body, wiping fingerprints off a gun and throwing it away, and then throwing the victim’s clothes off a major highway will support a flight instruction. *Id.* However, far less dramatic evidence will also support a flight instruction: a defendant left a crime scene of a theft with furniture scattered about the backyard, and police, having found her car, failed to locate the defendant for a month. *State v. Ethridge*, 168 N.C. App. 359, 361, 363 (2005).

At trial, the court gave the following instruction:

The U.S. Marshals picked up Corey Hines and Taquay Newkirk together in a remote location in Bladen County on December the 21st of 2017.

The state contends that the defendant fled. Evidence of flight may be considered by you, together with all other facts and circumstances in this case, in determining whether the combined circumstances amount to an admission or a show of a consciousness of guilt.

There was no evidence presented that defendant was present at the Happy Mart after the shooting took place. Further, defendant was not located until 10 days after the Happy Mart shooting in area described as “secluded” and “relatively rural.” Under the standard set by *Ethridge*, this is enough evidence to support an instruction on flight, which is ultimately for the jury to decide. Thus, we find that the trial court did not err in giving a flight instruction.

III. Conclusion

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

NO ERROR.

Judges ZACHARY and GORE concur.

Report per Rule 30(e).