

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-531

Filed 19 February 2025

Guilford County, No. 20CRS078860

STATE OF NORTH CAROLINA

v.

ANTHONY VAN LONG, Defendant.

Appeal by Defendant from judgment entered 10 May 2023 by Judge Lora C. Cabbage in Guilford County Superior Court. Heard in the Court of Appeals 28 January 2025.

Attorney General Jeff Jackson, by Assistant Attorney General Caden William Hayes, for the State.

Marilyn G. Ozer for Defendant.

GRIFFIN, Judge.

Defendant Anthony Van Long appeals after a jury verdict found him guilty of first-degree murder. Defendant argues the trial court erred by failing to instruct the jury on the defense of others and by improperly allowing a juror to sit through his trial. We agree with Defendant's first argument and remand this matter for a new trial.

I. Factual and Procedural History

This case arises from the stabbing of Decedent Jonathan Jeffries on 21 July 2020. Evidence presented at trial tended to show the following:

Decedent and Tyneisa Crowder were in a volatile and abusive relationship for the two years preceding his death. On 20 July 2020, Defendant picked up Crowder from her apartment at the Summit Apartments in Greensboro. She requested him to do so after a fight with Decedent. They went on errands around the city while Decedent sent her threatening text messages demanding she return to her apartment where he was waiting to talk to her. When she returned, Decedent followed her up two flights of stairs and violently assaulted her. Defendant witnessed this. At some point following the initial assault, Defendant retrieved a knife from his car and stabbed Decedent numerous times. He died as a result of the stabbing.

A Guilford County grand jury indicted Defendant for first-degree murder on 5 October 2020. Defendant's matter came on for trial on 24 April 2023 in Guilford County Superior Court. Defendant requested a jury instruction on the defense of others following the close of evidence. Finding insufficient evidence to support the instruction, the trial court denied the request. During their approximately four-day deliberations, the jury sent a note stating that it did not believe it would be able to reach a unanimous decision. The trial court gave an *Allen* charge to the jury and on 10 May 2023 the jury returned a verdict finding Defendant guilty of first-degree murder. Defendant timely appeals.

II. Analysis

Defendant contends the trial court erred by failing to give jury instructions on the legal defense of defending another. Defendant also argues the trial court erred by allowing a juror to remain on the jury despite the juror having stated a bias against Decedent during voir dire. Because we agree with Defendant's first argument, we do not address the second issue.

1. Defense of Others

Defendant contends the trial court erred by denying his request to instruct the jury on the lawful use of force to defend others. Specifically, Defendant argues there was competent evidence supporting an instruction on the defense of others and had that instruction been given, there is a reasonable possibility the jury would not have returned a guilty verdict. We agree.

We review an alleged error concerning a trial court's decision on jury instructions de novo. *State v. Williams*, 283 N.C. App. 538, 542, 873 S.E.2d 433, 436 (2022). "The jury charge is one of the most critical parts of a criminal trial[.]" *State v. Vaughn*, 293 N.C. App. 770, 774, 901 S.E.2d 260, 264 (2024) (citations and internal marks omitted), and trial courts are "required to instruct the jury on all substantial features of a case[.]" including defenses supported by competent evidence, *State v. Stephens*, 275 N.C. App. 890, 893, 853 S.E.2d 488, 492 (2020) (citations and internal marks omitted). *See also State v. Lee*, 370 N.C. 671, 674, 811 S.E.2d 563, 566 (2018) ("Where competent evidence of self-defense is presented at trial, the defendant is

STATE V. LONG

Opinion of the Court

entitled to an instruction on this defense, as it is a substantial and essential feature of the case.” (cleaned up)).

A defendant is entitled to “the substance of a requested jury instruction if [the instruction] is correct in itself and supported by the evidence.” *Williams*, 283 N.C. App. at 542, 873 S.E.2d at 436–37 (quoting *State v. Locklear*, 363 N.C. 438, 464, 681 S.E.2d 293, 312 (2009) (cleaned up)). In determining whether there was sufficient, competent evidence presented at trial to support a requested jury instruction, “the facts must be interpreted in the light most favorable to [the] defendant,” *State v. Montague*, 298 N.C. 752, 755, 259 S.E.2d 899, 902 (1979) (citation omitted), and there must be “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion,” *Stephens*, 275 N.C. App. at 894, 853 S.E.2d at 492 (citations and internal marks omitted). “Where there is evidence that [the] defendant acted in [defense of another], the court must charge on this aspect even though there is contradictory evidence by the State or discrepancies in [the] defendant’s evidence.” *State v. Dooley*, 285 N.C. 158, 163, 203 S.E.2d 815, 818 (1974) (citations omitted).

In addition to showing the trial court erred by failing to provide a requested jury instruction, a defendant must also show the error resulted in prejudice against them—meaning there is a “reasonable possibility that, had the trial court given the [required instruction], a different result would have been reached at trial.” *State v. Benner*, 380 N.C. 621, 628–29, 869 S.E.2d 199, 204–05 (2022) (quoting *Lee*, 370 N.C. at 672, 811 S.E.2d at 564) (citing N.C. Gen. Stat. §§ 15A-1442(4)(d), 1443(a) (2021)).

STATE V. LONG

Opinion of the Court

Section 14-51.3 of the North Carolina General Statutes codifies the right to use force in defense of another:

(a) A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that the conduct is necessary to defend . . . another against the other’s imminent use of lawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat in any place he or she has the lawful right to be if . . . the following applies:

(1) He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to . . . another.

N.C. Gen. Stat. § 14-51.3(a) (2023). If a person uses force against another pursuant to this statute, they are immune from criminal liability for their use of force. N.C. Gen. Stat. § 14-51.3(b). Section 14-51.3(a) does not apply, however, if the individual claiming the defense “[i]nitially provokes the use of force[.]” N.C. Gen. Stat. § 14-51.4(2) (2023). Moreover, the force used by the individual claiming the defense must be reasonably proportional to the force being used against that individual. *See State v. Phillips*, 386 N.C. 513, 526, 905 S.E.2d 23, 32–33 (2024) (“The common law prohibition against excessive force is a proportionality requirement under which a defendant must demonstrate their reasonable belief that the degree of force used was necessary to prevent the threatened harm. This common law principle is now codified in the general self-defense statute[.]” (citation omitted)).

This Court consistently vacates convictions and remands cases for new trials when a trial court fails to instruct the jury on the defense of others despite there being

STATE V. LONG

Opinion of the Court

competent evidence that, when taken in the light most favorable to a defendant, the defendant acted in defense of another.

For example, in *State v. Gomola*, we vacated a defendant's conviction for involuntary manslaughter where the defendant was entitled to an instruction on the defense of others because there was sufficient evidence, taken in the light most favorable to the defendant, that his actions were in defense of a friend who had been assaulted. 257 N.C. App. 816, 821, 810 S.E.2d 797, 801 (2018). There, the defendant and a group of his friends were at a waterfront bar in Morehead City when a fight broke out—ultimately resulting in the death of a patron. *Id.* at 817, 810 S.E.2d at 798–99. Security footage showed the decedent shoving one of the defendant's friends and then the defendant going towards the decedent off-camera. *Id.* at 817, 810 S.E.2d at 799. There was conflicting testimony about the events following the initial shove; some testimony reflected the defendant shoved the decedent over the bar's railing into the water where the decedent drowned, while other testimony reflected the defendant shoved the decedent once but either another patron pushed the decedent over the railing or the decedent fell over of his own accord. *Id.* At trial, the defendant requested, but was denied, an instruction on the defense of others as the involuntary manslaughter charge was based on his participation in an affray. *Id.* at 818, 810 S.E.2d at 799.

We held the trial court's denial was reversible error because some of the evidence, taken in the light most favorable to the defendant, showed the defendant

STATE V. LONG

Opinion of the Court

only used force against the decedent after the decedent shoved the defendant's friend, and therefore used force in defense of his friend. *Id.* at 821, 810 S.E.2d at 801. Moreover, had the jury been given an instruction on the defense of others, they could have "determined that [the d]efendant's involvement in the affray . . . was lawful because [the d]efendant merely used the force necessary to protect his friend from an ongoing assault." *Id.* (citation omitted).

In *State v. Williams*, we held the trial court erred by denying the defendant's request for an instruction on the defense of others after the defendant was convicted of first-degree murder. 283 N.C. App. 538, 545–46, 873 S.E.2d 433, 439 (2022). There, the defendant and his girlfriend went on a double date with his cousin (the decedent) and his cousin's girlfriend. *Id.* at 539, 873 S.E.2d at 435. The decedent, who had a history of violence towards his girlfriend which the defendant was aware of, made numerous threats to his girlfriend while the group drove home from a bar and began hitting his girlfriend with a beer bottle and his fists. *Id.* at 539–40, 873 S.E.2d at 435. The group pulled the car over where the decedent continued his attack in the front seat of the vehicle. *Id.* at 540, 873 S.E.2d at 435. The defendant's girlfriend attempted to intervene but was pushed away by the decedent; after which the defendant shot the decedent in the chest twice from the opposite side of the vehicle. *Id.*

This evidence, taken in the light most favorable to the defendant, was sufficient to support giving a jury instruction on the defense of others. *Id.* at 544, 873

STATE V. LONG

Opinion of the Court

S.E.2d at 438. Specifically, we held “in light of this evidence, there is a reasonable possibility that, had the jury been instructed on defense of others . . . the jury would have determined . . . that [the d]efendant acted in defense of [the decedent’s girlfriend] when he used force against [the decedent].” *Id.*

Here, the record contains competent evidence that, when taken in the light most favorable to Defendant, supports instructing the jury on the defense of others. Specifically, testimony reflected the following series of events on the night of Decedent’s stabbing:

Crowder and Decedent were in a volatile relationship for two years, during which he abused her regularly. Following an altercation between the two on the night of 20 July 2020, Crowder left Summit Apartments with Defendant to get away from Decedent. The two drove to various places around Greensboro before returning to the Summit Apartments in the early morning of 21 July. Decedent was waiting for Crowder in his car when the two arrived back.

Despite Crowder having recently had a C-section, Decedent followed Crowder up two flights of stairs yelling “I’m going to knock – I’m going to knock you the fuck out, and none of these guys are going to do shit.” Decedent also yelled “You are going to listen to me. You are going to get in my – my effing car.” She did not get into his car, so he began physically attacking her. He first hit her and then pushed her down both flights of stairs. This caused her to cut her toe and to hit her head on the concrete landing at the bottom of the stairs. Defendant was present and saw this. Defendant

STATE V. LONG

Opinion of the Court

also watched as Decedent threw Crowder onto a car and hit her “everywhere.” All of this violence was because, as Crowder put it, Decedent thought she “said the wrong thing.”

The attack was apparently vicious enough that another individual besides Defendant also felt it necessary to arm themselves with a knife and attempt to defend her. After he threw Crowder onto a car and finished hitting her, Decedent engaged with the other individual present at the scene. Crowder, at this point, got away from Decedent and was “trying to sneak off[.]” Decedent and Defendant then engaged with each other, culminating in Defendant stabbing Decedent. While the exact timeline of these events is unclear, Crowder testified they occurred quickly.

The similarities between the facts here and those in *Gomola* and *Williams* are numerous and warrant the same result. Initially, like the defendant in *Williams*, Defendant was present when Decedent made threats of violence against Crowder. Then, again like the defendant in *Williams* and like the defendant in *Gomola*, Defendant only intervened after Decedent began physically assaulting another who he was friends with. Also, like in *Williams*, another individual also felt it necessary to intervene before Defendant ultimately engaged with and killed Decedent. Finally, like in *Gomola*, there was conflicting testimony about Defendant’s actions. In total, a jury could have determined Defendant reasonably believed it necessary to use force against Decedent to prevent him from seriously injuring or killing Crowder.

In sum, competent evidence presented at trial existed to warrant a jury

STATE V. LONG

Opinion of the Court

instruction on the defense of others. Accordingly, the trial court should have provided the instruction and allowed the jury to weigh the evidence.

Regardless, in addition to showing there was sufficient evidence to support the requested jury instruction at trial, a defendant must also show they were prejudiced by the trial court's refusal. *Vaughn*, 293 N.C. App. at 775, 901 S.E.2d at 264–65. Prejudice occurs “when there is a reasonable possibility that, had the error in question not been committed, a different result would have been reached at the trial out of which the appeal arises.” N.C. Gen. Stat. § 15A-1443(a) (2023).

Here, there was a reasonable possibility that had the jury been instructed on the defense of others, they would have found Defendant's use of force justified. During deliberations, the jury requested to see multiple pieces of evidence, such as interviews and body camera footage, in which Crowder discussed the events surrounding the stabbing. Moreover, the jury stated they were not able to reach a verdict and questioned the credibility of Crowder's statements, thus reflecting there may have been contention among the jury about the events surrounding the stabbing and the possibility that some jurors found her statements against Defendant dubious. Were this the case, there is a reasonable possibility they may have found Defendant's use of force justified if given the option.

The State also admits Decedent attacked Crowder during its closing argument, even going as far as to say “had [Decedent] not been killed, he could have been charged with misdemeanor assault on a female or misdemeanor assault inflicting

serious [*sic*] by her body – by her toe being bloody.” But the jury’s ability to weigh this into their determination was foreclosed by the trial court’s failure to instruct them on the defense of others. Had the jury had the opportunity to weigh the defense of others when reaching its verdict; there is a reasonable possibility it would have found Defendant’s use of force lawful as defending another. *See Gomola*, 257 N.C. App. at 822, 810 S.E.2d at 802 (explaining “[t]here were contradictory witness accounts of the altercation, the first trial ended with a deadlocked jury, and the prosecutor argued in closing that self-defense/defense of others was irrelevant[,]” when holding the defendant was prejudiced by the trial court’s failure to instruct on the defense of others).

Accordingly, we hold Defendant was prejudiced by the trial court denying his request for an instruction on the defense of others. Because this holding warrants remanding this matter for a new trial, we do not reach Defendant’s remaining argument.

III. Conclusion

For the aforementioned reasons, we hold the trial court erred by failing to give the requested instruction on the defense of others because there was sufficient, competent evidence to support the instruction. We therefore vacate Defendant’s conviction and remand for a new trial.

NEW TRIAL.

Judges COLLINS and WOOD concur.

STATE V. LONG

Opinion of the Court

Report per Rule 30(e).