

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-641

Filed 2 April 2025

Mecklenburg County, Nos. 17CR014938-590, 17CR014939-590, 17CR213783-590, 17CR213784-590, 17CR213785-590, 17CR213786-590, 19CR207918-590, 19CR207919-590, 19CR207920-590, 19CR207921-590

STATE OF NORTH CAROLINA

v.

CHRISTIAN WATTS

Appeal by defendant from judgment entered 12 October 2023 by Judge Matthew J. Osman in Mecklenburg County Superior Court. Heard in the Court of Appeals 26 February 2025.

*Attorney General Jeff Jackson, by Special Deputy Attorney General Derrick Mertz, for the State.*

*Stephen G. Driggers, for the defendant.*

ARROWOOD, Judge.

Christian Watts (“defendant”) appeals from judgment entered 12 October 2023 upon his conviction of: (1) four counts of sex offense with a child, (2) four counts of indecent liberties with a child, and (3) two counts of sexual activity-substitute parent. On appeal, defendant argues: (1) the trial court erred by failing to sustain an

objection to the State’s closing arguments; (2) the trial court erred by failing to intervene *ex mero motu* during Ms. Tucker’s testimony at trial; and (3) the trial court committed reversible error by failing to exercise its discretion when responding to the jury’s request to review a transcript of testimony. For the following reasons, we find no error.

I. Background

The evidence at trial tended to show the following:

In 2015, Nadirah Tucker (“Ms. Tucker”) lived in Charlotte with her sons N.L.<sup>1</sup> and Q.M. N.L. was born in December 2007 and Q.M. was born in May 2011. When Ms. Tucker initially moved to Charlotte in 2010, she did not have a family support system. However, her close friend, Whitney Williams (“Ms. Williams”), lived in Charlotte and Ms. Tucker became close with Ms. Williams’s family. Defendant is Ms. Williams’s younger brother. Ms. Williams, defendant, and their grandmother, Barbara Hannah (“Ms. Hannah”) all lived in a home on Grasset Avenue in Charlotte. Ms. Hannah would watch N.L. and Q.M. when Ms. Tucker went to work.

Ms. Tucker stated that while she did not believe N.L. had a tight bond with defendant, Q.M. knew defendant as “dad” and even called defendant “dad[.]” Defendant was listed as Q.M.’s father on his birth certificate. Although defendant is not Q.M.’s biological father, Ms. Tucker listed defendant as Q.M.’s father on his birth

---

<sup>1</sup> Initials are used to protect the identity of the juveniles.

certificate to make it easier for defendant to help Ms. Tucker enroll Q.M. in preschool. Ms. Tucker would drop Q.M. off at defendant's home to be watched by Ms. Hannah every day before she went to work. At the beginning of this arrangement, Q.M. did not stay overnight at the home, but eventually he did stay overnight on some occasions.

Later in 2015, Ms. Tucker moved to Wilmington, North Carolina but left Q.M. with defendant and his family in Charlotte, for about eight months. Defendant would help his other family members in watching over Q.M. while he stayed in defendant's home. While Q.M. stayed at defendant's house, Q.M. slept in defendant's room in a bed next to defendant's bed. Defendant's bedroom was the only bedroom located on the first floor of the residence. By 2017, Ms. Tucker was living in Wilmington, North Carolina with Q.M., N.L., and her third child who was born in November 2015.

On 26 January 2017, Q.M. was taking a bath with his older brother N.L. and tried to put his penis in N.L.'s butt. N.L. stopped Q.M. and directed Q.M. to tell his mother about the incident. Q.M. testified at trial that on the day of this incident in 2017, he believed he told N.L. that defendant would put his penis in Q.M.'s butt. Q.M. later told his mother that defendant used to put his penis in Q.M.'s butt.

Ms. Tucker contacted the Carousel Center, which offered therapy services for children, and started taking Q.M. and N.L. there in February 2017. Q.M. told his mother and staff at the Carousel Center that while defendant and Q.M. were lying in their beds in defendant's bedroom, defendant would tell Q.M. to undress and come

into defendant's bed. Q.M. testified that he would lay on his stomach and defendant would lay down on top of Q.M. and put his penis in Q.M.'s butt. Q.M. also testified that defendant would then have Q.M. suck defendant's penis, would have Q.M. try to put his penis in defendant's butt, and would suck Q.M.'s penis. No other person was present in the room during these incidents. However, Q.M. noted that Ms. Hannah once walked in on defendant and Q.M. while defendant was on top of Q.M. Q.M. testified that defendant would engage in some sort of sexual activity with him every night while Q.M. was staying with defendant's family.

N.L. testified that he also occasionally stayed at defendant's house in Charlotte in 2015. When N.L. would stay overnight at the house, he would stay in defendant's bedroom and sleep in defendant's bed with him. N.L. testified that defendant would touch N.L.'s penis with his hands and mouth, while Q.M. was in the room with them. N.L. testified that these incidents occurred "more than five times." N.L. first reported that defendant had sexually abused him when N.L. told his father, Lawrence Lennon ("Mr. Lennon"), about the incidents in December 2017. Mr. Lennon called Ms. Tucker immediately to discuss the sexual abuse and their conversation "got a little heated."

N.L. discussed the sexual abuse with Ms. Tucker around November 2018, when he was being seen by the Carousel Center for physical abuse. At the Carousel Center, N.L. disclosed that his mother, Ms. Tucker, had beaten him with an electric cord. Ms. Tucker testified that she beat N.L. because she believed he was lying about being sexually abused by defendant. She further testified that N.L. had a history of

lying repeatedly and had not previously told her that he had been abused by defendant.

On 14 February 2017, Kendra Kellerman (“Ms. Kellerman”), a family nurse practitioner at the Carousel Center, conducted a forensic examination on Q.M. As part of her examination, Ms. Kellerman noted Q.M.’s past medical and behavioral history, which included Q.M. having angry outbursts in school. However, Ms. Kellerman noted there were no diagnostic findings from Q.M.’s physical examination. Ms. Kellerman also examined N.L. on 23 February 2017 and again on 20 November 2018. The focus of the first exam was to determine if N.L. had suffered from any sexual abuse and the second exam was focused on whether N.L. suffered physical abuse from his mother. During the first examination, N.L. did not report any sexual abuse to Ms. Kellerman. Finally, on 27 November 2018, N.L. underwent a follow-up examination where he revealed to Ms. Kellerman that he had previously performed oral sex on defendant.

New Hanover County Department of Social Services (“DSS”) became involved with the case in 2017 after Q.M.’s sexual abuse was reported to the Carousel Center. DSS referred the case to the Crimes Against Children Unit at the Charlotte-Mecklenburg Police Department. The case was assigned to Officer Tony Reno (“Officer Reno”), who was working as a detective in the unit from August 2015 to December 2021. After speaking with a social worker at DSS, Officer Reno contacted defendant on 3 March 2017 and asked defendant to come to the police department for

a voluntary interview. Officer Reno also called Ms. Tucker, who informed Officer Reno that in January 2017, Q.M. disclosed to her that he had been sexually abused by defendant.

Officer Reno interviewed defendant, who corroborated that Q.M. stayed with him from September 2015 to July 2016 and that N.L. sometimes stayed with him during the weekends. Defendant also admitted that Q.M. and N.L. slept in defendant's bedroom with him. Finally, after Officer Reno told defendant about Q.M.'s allegations, he asked defendant if defendant could "swear to God" that he did not sexually abuse Q.M. Defendant initially responded that he could not swear to that, but then he eventually did swear that he did not sexually abuse Q.M. Officer Reno stated that defendant "was getting increasingly nervous" throughout the interview, and eventually stopped the interview and stated he wanted an attorney.

On 14 April 2017, defendant was arrested, about a month after Officer Reno initially questioned him about the sexual abuse against Q.M. Lieutenant Amy Wheaton ("Lieutenant Wheaton"), who worked in the Crimes Against Children Unit at the Charlotte Mecklenburg Police Department with Officer Reno, interviewed defendant after he was arrested. Lieutenant Wheaton asked defendant a series of questions about the case, but defendant remained silent throughout the questioning. However, defendant did acknowledge Lieutenant Wheaton's question when she asked him if this was the first time that inappropriate contact had occurred, to which defendant shook his head indicating "no". Later during the interview, defendant told

Lieutenant Wheaton that Q.M. had once come into his bedroom and asked defendant to perform oral sex on him. Defendant stated that he briefly thought about it but decided not to because it would be inappropriate. Defendant also admitted that he previously masturbated in front of Q.M. Defendant claimed that he had been molested as a child and that this was an explanation for his behavior towards Q.M. In February 2019, after N.L. disclosed that defendant had sexually abused him as well, Officer Reno also opened up a new case against defendant with N.L. as the victim.

On 22 July 2019, a grand jury indicted defendant on: (1) four counts of sexual offense with a child – adult offender, (2) four counts of taking indecent liberties with children, and (3) two counts of sexual activity by a substitute parent. The State filed a motion to compel therapy records and request for in-camera review of records from the Carousel Center. The trial court granted this request.

During trial, several witnesses testified for the State, including Ms. Tucker. On cross-examination, Ms. Tucker was asked about when N.L. disclosed that he had been sexually abused by defendant. Ms. Tucker responded:

Q: . . . So 2018 you hit [N.L.] because he was lying to you, right?

A: Uh-huh (yes).

Q: And he lied frequently.

A: Yes, it was – we were having some problems.

Q: And he never told you he was abused by [defendant].

A: Right.

Q: And you thought he was lying about that accusation as well.

STATE V. WATTS

*Opinion of the Court*

A: At that time, I did.

Q: Well, all the way up until July 25th, 2019, at least, right?

A: Yes.

Q: Because you would tell [Q.M.'s] therapist that you thought [N.L.] was lying.

Later, during redirect examination, Ms. Tucker testified as to the following:

Q: . . . You said earlier in cross-examination that you did not believe [N.L.] at first, when he disclosed sexual abuse. Did I hear that correctly?

A: Yes.

Q: Sitting here today, do you believe him?

A: Yes.

Defendant's counsel did not object to this testimony.

Defendant also testified during trial. Defendant confirmed that Q.M. and N.L. frequently stayed at his house. Defendant also testified that he had noticed Q.M. and N.L. engaging in sexual behavior with each other on occasion but did not tell anyone about this behavior. Defendant again claimed Q.M. asked defendant to perform oral sex on him and he did "think about it" but quickly dismissed the idea. Finally, defendant denied touching Q.M. or N.L. in a sexual manner. However, during cross-examination, defendant admitted that Q.M. and N.L. were in the bedroom when defendant masturbated and they could have seen defendant masturbate.

At the close of evidence, defendant moved to dismiss the charges against defendant for insufficiency of the evidence which was denied. Prior to closing arguments, the trial court instructed the jury as follows:

It is improper, however, for a lawyer in a final argument to



STATE V. WATTS

*Opinion of the Court*

become abusive, to eject personal experiences, to express a personal belief as to the truth or falsity of the evidence, or to make arguments on the basis of matters outside the record, except for matters concerning which the Court might take judicial notice.

Later during the State's closing arguments, the State argued

[State]: There was some phrasing used about the district attorney's office and that our only job is to get convictions, and that's what we're here to do, is just get convictions. Members of the jury, when a case comes into the district attorney's office, we have to screen it. We have to review the evidence. We have to talk to witnesses. We have to meet with police officers. But before we even become prosecutors, we take an oath, and we take an oath to only prosecute cases that prove beyond a reasonable doubt of someone's guilt.

[Defendant's Counsel]: Objection.

The Court: Overruled.

After closing arguments and the jury charge, the jury left the courtroom for deliberations. During deliberations, the jury requested to review transcripts from Q.M.'s testimony during trial. Both the State and defendant's counsel stated they did not wish to produce this evidence for the jury to review it. The trial court called the jury back and denied the request, instructing that the jury must rely on their memory and recollection to the best of their ability. The jury returned to deliberations and submitted another question which stated "[t]o confirm, two counts means the act happened more than once." The trial court responded that two counts did mean two separate and distinct acts, and noted that the jury had a verdict form for each

separate count.

After deliberation, the jury found defendant guilty of all charges. Defendant was sentenced to a term of 300 to 420 months in prison. Defendant filed notice of appeal in open court on 12 October 2023.

## II. Discussion

On appeal, defendant argues: (1) the trial court erred by failing to sustain an objection to the State’s closing arguments; (2) the trial court erred by failing to intervene *ex mero motu* during Ms. Tucker’s testimony at trial; and (3) the trial court committed reversible error by failing to exercise its discretion when responding to the jury’s request to review a transcript of testimony. We address each argument in turn.

### A. Closing Arguments

Defendant first argues that the trial court erred in failing to sustain an objection to the State’s closing argument where the State improperly vouched for the credibility of Q.M. and N.L. when stating it had taken an oath to prosecute only those cases that it believed could be proven beyond a reasonable doubt. We disagree.

“The standard of review for improper closing arguments that provoke timely objection from opposing counsel is whether the trial court abused its discretion by failing to sustain the objection.” *State v. Jones*, 355 N.C. 117, 131 (2002).

When applying the abuse of discretion standard to closing arguments, this Court first determines if the remarks were improper . . . . [I]mproper remarks include statements of personal opinion, personal conclusions, name-calling, and references to events and circumstances outside the

evidence, such as the infamous acts of others. Next, we determine if the remarks were of such a magnitude that their inclusion prejudiced defendant, and thus should have been excluded by the trial court.

*State v. Sanders*, 201 N.C. App. 631, 641–42 (2010) (cleaned up). “As a general rule, counsel possesses wide latitude to argue facts in evidence and all reasonable inferences arising from those facts.” *State v. Wiley*, 355 N.C. 592, 620 (2002).

Here, defendant argues the State improperly vouched for the veracity of Q.M. and N.L. by stating,

There was some phrasing used about the district attorney's office and that our only job is to get convictions, and that's what we're here to do, is just get convictions. Members of the jury, when a case comes into the district attorney's office, we have to screen it. We have to review the evidence. We have to talk to witnesses. We have to meet with police officers. But before we even become prosecutors, we take an oath, and we take an oath to only prosecute cases that prove beyond a reasonable doubt of someone's guilt.

Defendant's counsel timely objected to this statement during closing arguments, however, defendant's counsel never provided grounds for the objection. To preserve review of an objection for appeal, the party must make a timely objection “stating the specific grounds for the ruling the party desired the court to make.” N.C. R. App. P. 10(a)(1). Thus, because defendant's counsel did not provide a basis for his objection, the review of his objection is not preserved for appeal.

Even assuming *arguendo* defendant's appeal was properly preserved, the State did not make improper statements during its closing arguments. Our Supreme Court

has previously held that “[p]rosecutors are allowed to outline the function of the various participants in a trial.” *State v. Prevatte*, 356 N.C. 178, 242 (2002). In *State v. Price*, our Supreme Court held that prosecutor remarks related to only charging guilty people does not “amount to the expression of a personal opinion as to the veracity of defendant or his witnesses, of defendant’s guilt, or of anything else that could be remotely prejudicial to defendant.” 313 N.C. 297, 302 (1985).

Here, the State was clearly indicating their role in the trial process. The State outlined how they gather evidence from law enforcement and screen cases before bringing them to trial. The State never made any comments about the veracity of Q.M. or N.L. and is merely stating its obligation as representation for the State.

Furthermore, defendant has not shown that he was prejudiced by this statement. Defendant argues that because the State told the jury that it had sworn to only prosecute cases that could be proven, “[t]here is no doubt the jury understood the State to mean that it believed Q.M. and N.L. as to each of the charges against [defendant].” However, the State provided ample corroborating evidence, outside Q.M. and N.L.’s testimony, to support a guilty conviction. For example, the state provided videotaped evidence of the children’s disclosure of the sexual abuse to mental health professionals and testimony from Ms. Tucker. Additionally, defendant himself testified to masturbating while the children were in his bedroom with him. Thus, the trial court did not err in failing to sustain defendant’s objection to the State’s closing arguments.

B. Testimony from Ms. Tucker

On appeal, defendant argues the trial court erred in not intervening *ex mero motu* during Ms. Tucker’s testimony. Specifically, defendant argues that the trial court should have intervened when the State asked Ms. Tucker if she believed on the day of her testimony that N.L. was sexually abused, essentially vouching for his credibility. We disagree.

Because there was no objection to Ms. Tucker’s testimony at trial, the challenge is unpreserved. This Court reviews unpreserved challenges to the admission of lay opinion testimony for plain error. N.C. R. App. P. 10(a)(4). 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). “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.” *Id.* (citations and internal quotation marks omitted).

Under Rules 405 and 608 of the North Carolina Rules of Evidence, a witness “may not testify that the prosecuting child-witness in a sexual abuse trial is believable, or that the child is not lying about the alleged sexual assault.” *State v. Baymon*, 336 N.C. 748, 752 (1994) (internal citations omitted). However, “otherwise inadmissible evidence may be admissible if the door has been opened by the opposing party’s cross-examination of the witness.” *Id.* “Opening the door refers to the principle that where one party introduces evidence of a particular fact, the opposing

party is entitled to introduce evidence in explanation or rebuttal thereof, even though the rebuttal evidence would be incompetent or irrelevant had it been offered initially.” *State v. Sexton*, 336 N.C. 321, 360 (1994).

Here, defendant’s counsel opened the door to testimony about the veracity of N.L.’s claims. The first time the issue of N.L. lying about the sexual abuse was introduced was by defendant’s counsel while he cross-examined Ms. Tucker. Defendant’s counsel had the following exchange with Ms. Tucker:

Q: . . . So 2018 you hit him because he was lying to you, right?

A: Uh-huh (yes).

Q: And he lied frequently.

A: Yes, it was – we were having some problems.

Q: And he never told you he was abused by [defendant].

A: Right.

Q: And you thought he was lying about the accusation as well.

A: At that time, I did.

Q: Well, all the way up until July 25th, 2019, at least, right?

A: Yes.

This exchange shows that defendant’s counsel was questioning Ms. Tucker about the time period in which she did not believe N.L. when he said he had been sexually abused by defendant. Defendant’s counsel was introducing evidence that Ms. Tucker did not believe N.L.’s claims between sometime in 2018 and 25 July 2019. Thus, on redirect, the door was open for the State to further clarify the time period in which Ms. Tucker did not believe her son. Accordingly, the State, in referencing Ms. Tucker’s statements during cross-examination, had the following exchange with Ms.

Tucker:

Q: . . . You said earlier in cross-examination that you did not believe [N.L.] at first, when he disclosed sexual abuse. Did I hear that correctly?

A: Yes.

Q: Sitting here today, do you believe him?

A: Yes.

Thus, Ms. Tucker's testimony regarding her belief in the veracity of N.L.'s claims was not incompetent and no error occurred when the trial court failed to intervene *ex mero motu* in this testimony.

Even assuming *arguendo* that this failure to intervene was in error, the error was not prejudicial. As stated in the previous section, the State provided ample evidence of defendant's guilt, outside of Ms. Tucker's testimony to the veracity of N.L.'s claims, that would support a guilty conviction against defendant.

### C. Jury Requests

Defendant also argues on appeal that the trial court erred in failing to provide a partial transcript of Q.M.'s testimony to the jury when the trial court knew it had the ability to produce and provide such testimony. We disagree.

Under N.C.G.S. § 15A-1233(a), if a jury, after retiring for deliberations, requests certain testimony or other evidence, the trial court must conduct the jurors back to the courtroom. The trial judge, "*in his discretion*", after notice to the prosecutor and defendant, may direct that requested parts of the testimony be read to the jury and may permit the jury to reexamine in open court the requested

materials admitted into evidence.” *Id.* (emphasis added). Additionally, “[u]pon request by the jury and with consent of all parties, the judge may in his discretion permit the jury to take to the jury room exhibits and writings which have been received in evidence.” N.C.G.S. § 15A-1233(b). “Ultimately, it is the defendant’s burden to show that the trial court abused its discretion under N.C.G.S. § 15A-1233(a).” *State v. Vann*, 386 N.C. 244, 252 (2024) (internal quotations omitted). While the decision of whether or not to grant the jury’s request is reviewed for abuse of discretion, “[t]here is error when the trial court refuses to exercise its discretion in the erroneous belief that it has no discretion as to the question presented.” *State v. Starr*, 365 N.C. 314, 317 (2011).

Here, the trial court clearly knew it had discretion to grant or deny the jury’s request to review transcripts of Q.M.’s testimony. After receiving a note from the jury requesting transcripts of Q.M.’s testimony, the trial court specifically asked both the State and defendant’s counsel what their responses would be to the jury’s request. Even though both the State and defendant’s counsel responded that they would not like to grant the jury’s request, the trial court still inquired as to how long it would take to produce the transcript. After hearing that producing the transcripts would take “a couple hours,” the trial court, in its discretion, determined that the requested transcripts could not be provided “in a timely fashion” and spending the time to produce them would not be in the best interest of carrying out the remainder of the trial. Thus, the trial court did not err in failing to exercise its discretion when



STATE V. WATTS

*Opinion of the Court*

responding to the jury's request for transcripts of Q.M.'s testimony.

III. Conclusion

For the foregoing reasons, we find no error.

NO ERROR.

Judges CARPENTER and STADING concur.

Report per Rule 30(e).