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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-711

Filed 19 August 2026

Lee County, Nos. 23CR004039-520, 23CR004040-520, 23CR004042-520,
23CR004043-520

STATE OF NORTH CAROLINA

v.

MARIO DARRELL WILLIAMS, Defendant.

Appeal by Defendant from order entered 7 November 2024 by Judge Jessica Locklear in Lee County Superior Court. Heard in the Court of Appeals 11 February 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Lisa B. Finkelstein, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Heidi Reiner, for defendant-appellant.

STADING, Judge.

Defendant Mario Darrell Williams appeals from judgment entered after a jury found him guilty of one count of taking indecent liberties with a child, three counts of statutory rape of a child by an adult, and six counts of statutory sex offense of a child by an adult. After careful review, we discern no error and dismiss Defendant's ineffective assistance of counsel claim with prejudice.

I. Background

Maya,¹ the victim in this case, had lived exclusively with her father and stepmother between the ages of one and eight. In 2016, custody proceedings began between Maya's father and mother. Ultimately, Maya's father was awarded full custody, and her mother was awarded visitation rights every other weekend and every other week during the summer.

At all relevant times, Maya's mother was in a relationship with Defendant. The record tends to show that about two years after visitation began, Maya began to show hesitation about staying at her mother's home. When visiting her mother's home, Maya would sleep in a cot in the living room. The home was a two-bedroom trailer occupied by Maya's mother, Defendant, and Defendant's seventeen-year-old son. Maya primarily slept in the living room but would sometimes sleep in Defendant's son's room if he was staying elsewhere.

Maya's testimony recounts that initially, when she went to her mother's home, Defendant would take her on trips to the store or to a family member's home without incident. But when she was about ten years old, two years after the start of visitation with her mother, Defendant began touching her "private area." At night, Defendant would walk into the living room to Maya's cot, slip his hands into her sleeping bag and under her clothes, and "touch [her] privates." Maya additionally testified that

¹ A pseudonym is used to protect then identity of the then minor victim. N.C. R. App. P. 42(b).

Defendant started with his fingers under her clothes and then evolved into using his fingers to go inside her vagina. Defendant would additionally make Maya touch and rub his penis and “forced his penis into [her] mouth,” and “lick [her] private area.” This continued for a few years until Maya was around twelve or thirteen years old. Then, Defendant began to “put his penis inside of [Maya],” and continued to do so up to two times per visit until visitation ceased in April 2023.

Maya did not initially disclose the abuse. She did not mention the abuse from about 2018 to 2023 because she was “nervous.” Maya’s father testified that before going to her mother’s home, she would cry, fall quiet, and pack her bags slowly. Similarly, Maya’s testimony shows efforts throughout that time to avoid going to her mother’s house, including wanting to stay with other relatives.

Then in April 2023, when Maya was fourteen years old, she left a handwritten note for her stepmother to find which read “I don’t want to go to my mom house no more cuz Almost every time I go [Defendant] has sex with Me and the only reason I havent said Anything is because I was Scarde but ive had unuf So im telling you Plz don’t send me there.” (capitalization and spelling in original). Maya’s stepmother testified that when she returned from work, she found the letter on the living room table. Upon reading it, Maya’s stepmother discussed the abuse with Maya and then woke up Maya’s father so they could take her to the hospital.

At the hospital, Maya was seen by Nurse Audrey Boyles, the Sexual Assault Nurse Examiner Clinical Coordinator. Nurse Boyles testified for the State and

recounted performing an exam on Maya. At the beginning of the examination, Nurse Boyles questioned Maya about the events leading to her being at the hospital. The account Maya provided Nurse Boyles was Defendant began touching her at first and then progressed to “vaginal penetration, every time [Maya] goes to [Defendant] and [her] mother’s house.” Nurse Boyles further questioned Maya on the specifics of Defendant’s actions including the type of penetration, whether he ejaculated during the act, whether he used a condom, and date of last sexual contact—information obtained to consider performing a “sexual assault evidence collection kit.” Maya was deemed outside the useful window for a sexual assault evidence collection kit; nevertheless, Nurse Boyle performed a “head-to-toe” and general exam. Nurse Boyles’s examination revealed a transection of Maya’s hymen which is indicative of prior penetration.

Nurse Boyles testified the “gold standard” for adolescent sexual assault examinations is to test for sexually transmitted infections (“STI”) and to “treat prophylactically.” The testing and potential treatment is especially important for adolescent patients because there is a risk of infection or pelvic inflammatory disease resulting from an STI during puberty. Therefore, Nurse Boyles recounted testing Maya for STIs, including human immunodeficiency virus (“HIV”) and hepatitis. Nurse Boyles recounted asking Maya about STI risks from Defendant to which Maya informed Nurse Boyles that she thought Defendant might have HIV. All Maya’s screens returned negative. Additionally, a social worker from Child Protective

Services, Lacy Brigman, Detective Lieutenant Megan Rosser with the Lee County Sheriff's Office, Moore County Children's Advocacy Center Forensic Interviewer, Darian Korbecki, and Pediatric Nurse Practitioner, Deborah Flowers, all testified about their involvement with Maya's case. Each testimony evidenced a consistent account from Maya's testimony.

The State rested, and Defendant moved to dismiss all charges. The trial court denied the motion. Defendant then testified in his defense. On direct examination, defense counsel questioned Defendant about his HIV status which Defendant confirmed. Defense counsel then clarified Defendant's HIV diagnosis date and asked whether Defendant had been diagnosed with other STIs, to which Defendant answered that he had been diagnosed with HIV in 2003 and chlamydia in 2019. Upon the completion of Defendant's testimony, Defendant rested and renewed his motion to dismiss. The trial court again denied the motion.

On 7 November 2024, the jury returned a guilty verdict on all counts. The trial court sentenced Defendant to 483 to 640 months' imprisonment and ordered lifetime registration as a sex offender. Defendant timely filed written notice of appeal on 19 November 2024.

II. Analysis

On appeal, Defendant argues the evidence of his HIV status was irrelevant and prejudicial and should have been excluded; evidence of his prior incarceration and convictions were irrelevant, inadmissible character evidence, and should have

been excluded; and the cumulative effect of his counsel's failure to object to irrelevant evidence, improper character evidence, and unfairly prejudicial evidence constituted ineffective assistance of counsel.

A. Defendant's HIV Status

Defendant first challenges whether evidence of his HIV status should have been excluded pursuant to N.C. Gen. Stat. §§ 8C-1, Rules 401 and 403 (2025). Specifically, Defendant maintains the trial court's failure to exclude the evidence of Defendant's HIV status constituted plain error. Since Defendant did not object at trial to the admission of his HIV status into evidence, we review the introduction of this evidence for plain error. *State v. Reber*, 386 N.C. 153, 158, 900 S.E.2d 781, 786 (2024); *see also State v. Lawrence*, 365 N.C. 506, 512, 723 S.E.2d 326 (2012) ("Parties therefore must assert a timely objection to preserve error for appellate review. If parties do not timely object, they waive the right to raise the alleged error on appeal."); *see also* N.C. R. App. P. 10(a)(1). Although Defendant argues Rule 403 on appeal, "plain error review is unavailable for issues that fall 'within the realm of the trial court's discretion,' such as Rule 403 determinations." *State v. Gillard*, 386 N.C. 797, 821, 909 S.E.2d 226, 251 (2024) (internal citations omitted). We thus decline to address Defendant's Rule 403 argument for plain error. *See id.* Nevertheless, we review Defendant's challenge under Rule 401. *See id.*

To establish plain error:

First, the defendant must show that a fundamental error

occurred at trial. Second, the defendant must show that the error had a “probable impact” on the outcome, meaning that “absent the error, the jury probably would have returned a different verdict.” Finally, the defendant must show that the error is an “exceptional case” that warrants plain error review, typically by showing that the error seriously affects “the fairness, integrity or public reputation of judicial proceedings.”

Reber, 386 N.C. at 158, 900 S.E.2d at 786 (internal citations omitted). The *Reber* court explained that the second prong of the plain error analysis asks: “whether, without that evidence, the jury probably would have reached a *different* result.” *Id.* at 160, 900 S.E.2d at 788 (emphasis in original). That said, plain error “should be ‘applied cautiously and only in the exceptional case,’ that is reserved for ‘grave error which amounts to a denial of a fundamental right of the accused,’ and . . . has ‘resulted in a miscarriage of justice’ or the denial of a ‘fair trial.’” *Id.* (citation omitted).

Under Rule 401, “[r]elevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” N.C. Gen. Stat. § 8C-1, Rule 401. “‘All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by the Constitution of North Carolina, by Act of Congress, by Act of the General Assembly or by’ our Rules of Evidence.” *Gillard*, 386 N.C. at 821, 909 S.E.2d at 251 (citing N.C. Gen. Stat. § 8C-1, Rule 402 (2023)). “While a trial court’s relevancy determinations are not discretionary, ‘we accord them great deference on appeal.’” *Id.*

At trial, Defendant's HIV status was first discussed during the State's direct examination of Maya's father regarding his reaction after reading Maya's note asking not to go to Defendant's home because of sexual abuse:

Q. Now, did you talk to [Maya] before you left to go to the hospital about what you read in [the note]?

A. I told her to get her shoes on, I would talk to her in the car.

Q. What was your concern after you read [the note]?

A. That he had given her something.

(Pause.)

Q. Had that been an issue in your custody action?

A. Yes, ma'am.

Q. What was your specific concern?

A. That he had give (sic) her HIV.

Defendant's HIV status was again mentioned by Maya's father when asked about bringing her to the hospital: "A. When we walked in, . . . I said, 'I think my daughter's been sexually molested, and the person that did it might have HIV.'" Nurse Boyle was asked by the State whether there existed a specific concern that Defendant had HIV: "Q. And when you were getting history with [Maya's stepmother]— or was there a concern that [Defendant], [Maya's] stepfather, had HIV? A. Yes. That's something I specifically asked about, and she said that she thought he might have HIV." Nurse Boyle also confirmed Maya tested negative for HIV.

Defendant then testified about his HIV status on direct examination:

Q. Early on in [the custody proceedings], did you step away from the court proceedings?

A. Yes, I did.

Q. Did you believe it was in . . . [Maya's] mother's, best interest for you to step away?

A. Yes.

Q. Why did you believe that was the case?

A. Because I felt like it was using my HIV status as a way for her not to see her daughter.

Defendant's counsel inquired again: "You mentioned that you're HIV positive?"

Defendant answered, "[y]eah." Defendant was questioned about his status on cross examination as well.

Attempting to show plain error, Defendant argues that the introduction of his HIV status was irrelevant to the crimes charged, and even if relevant, it was unfairly prejudicial due to stigma and ability to "inflame the passions of the jurors." The first factor under plain error requires a fundamental error occurred at trial. *Reber*, 386 N.C. at 158, 900 S.E.2d at 786. In this context, a showing of fundamental error would necessitate the evidence be irrelevant under N.C. R. Evid. 401. That said, Rule 401 considers relevant evidence having "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." The introduction of Defendant's HIV status and Maya's testing negative for HIV certainly would have the tendency

of establishing a fact to the determination of Defendant's culpability *less probable*. Thus, the trial court did not err in admitting relevant evidence, and without "fundamental error," there cannot be plain error. *See Gillard*, 386 N.C. at 822, 909 S.E.2d at 251; *see also Reber*, 386 N.C. at 158, 900 S.E.2d at 786.

Assuming *arguendo* the evidence of Defendant's HIV status was not relevant, Defendant must still demonstrate the introduction of the evidence had a "probable impact" on the jury's verdict. *Reber*, 386 N.C. at 158, 900 S.E.2d at 786. The properly admitted evidence at trial consisted of multiple witnesses who testified to the consistency of Maya's account and the results of Maya's medical evaluations. This is because the evidence introduced at trial tended to show Maya would stay overnight at Defendant's home. At trial, Maya identified Defendant and recounted that during those overnight visits, Defendant would sexually abuse her—consistent with the note she left her parents and the accounts she provided to the social workers. Those accounts were consistent with the physical signs of penetration as elicited in Nurse Boyles's testimony and opinion. Nurse Boyles testified that the physical findings from her examination of Maya, specifically the "transection is consistent with prior penetrative trauma or prior penetration . . . [is] a very concerning finding for child sexual abuse." Additionally, Nurse Flowers had been tendered and accepted as an expert in child maltreatment and personally examined Maya. Nurse Flowers testified based on her observation of Maya, she is consistent with the profile of a child who has experienced sexual abuse. *See, e.g., State v. Barnes*, 334 N.C. 67, 75–76, 430

S.E.2d 914 (1993) (cleaned up) (“The test for sufficiency of the evidence is the same whether the evidence is direct or circumstantial or both. Circumstantial evidence may . . . support a conviction even when the evidence does not rule out every hypothesis of innocence.”); *see also State v. Whiteside*, 325 N.C. 389, 397, 383 S.E.2d 911, 915 (1989) (citation modified) (“Circumstantial evidence tending to connect an accused with the crime” is relevant, “[h]owever, the inference to be drawn from the evidence must be reasonable.”).

Therefore, even without the admission of Defendant’s HIV status, Defendant cannot show that a jury “probably would have reached a different result,” or that the purported error effects “the fairness, integrity or public reputation of judicial proceedings.” *Reber*, 386 N.C. at 158–59, 900 S.E.2d at 786–87.

B. Character Evidence

We next consider Defendant’s argument that the admission of his “prior incarceration and convictions w[ere] irrelevant and inadmissible character evidence” under Rules 401 and 404. We note Defendant also challenges the admission of this evidence under Rule 403; however, as mentioned above, plain error review is unavailable for Rule 403. *Gillard*, 386 N.C. at 821, 909 S.E.2d at 251. Defendant’s arguments, thus, are limited to relevancy under Rule 401 and admissibility under Rule 404(a) and (b). Rule 404 provides:

(a) Character evidence generally. — Evidence of a person’s character or a trait of his character is not admissible for the purpose of proving that he acted in conformity

therewith on a particular occasion, except:

(1) Character of accused. — Evidence of a pertinent trait of his character offered by an accused, or by the prosecution to rebut the same;

. . . .

(b) Other crimes, wrongs, or acts. — Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake, entrapment or accident. Admissible evidence may include evidence of an offense committed by a juvenile if it would have been a Class A, B1, B2, C, D, or E felony if committed by an adult.

N.C. Gen. Stat. § 8C-1, Rule 404 (2025). Rule 404(b) is a “general rule of inclusion of relevant evidence of other crimes, wrongs or acts by a defendant.” *State v. Coffey*, 326 N.C. 268, 278–79, 389 S.E.2d 48 (1990) (cleaned up).

Defendant maintains the State impermissibly introduced evidence of his prior convictions during the direct examination of Detective Rosser. The relevant line of questioning was as follows:

Q. And what happened when you went to go execute that search warrant?

A. So when we first arrived, typically, with most our search warrants that we do, as within our detective division, we usually utilize our special response team. [Defendant], he does have kind of a lengthy record. So we then utilized the SRT team, and they made the approach and entry into the residence.

Defense counsel did not object to Detective Rosser’s testimony about Defendant

“hav[ing] kind of a lengthy record.” Here, Defendant is unable to establish plain error resulting from the introduction of Detective Rosser’s testimony. To reiterate, Defendant “must show that the error had a ‘probable impact’ on the outcome, meaning that ‘absent the error, the jury probably would have returned a different verdict.’” *Reber*, 386 N.C. at 158, 900 S.E.2d at 786 (internal citations omitted). Even if admission of this testimony amounted to an error, as detailed above, the State presented other ample evidence from which the jury could reasonably find Defendant guilty. *See e.g., id.* at 162, 900 S.E.2d 788–89. That is, the jury probably would not have returned a different verdict absent Detective Rosser’s challenged testimony.

Defendant’s arguments on this basis are therefore overruled. *See State v. Davenport*, 386 N.C. 454, 466, 904 S.E.2d 738, 748 (2024).

C. Ineffective Assistance of Counsel

Defendant next argues the cumulative effect of his counsel’s failure to object to “irrelevant evidence, improper character evidence, and unfairly prejudicial evidence” amounted to ineffective assistance of counsel (“IAC”).

“Whether a defendant received IAC at trial is a question of law reviewable *de novo*.” *State v. Parker*, 290 N.C. App. 650, 653, 898 S.E.2d 544, 547 (2023). “Under a *de novo* standard of review, the court considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.” *State v. Clemons*, 274 N.C. App. 401, 409, 852 S.E.2d 671, 676 (2020) (cleaned up).

“A defendant’s right to counsel, as guaranteed by the Sixth Amendment to the

United States Constitution, includes the right to effective assistance of counsel.” *State v. Todd*, 369 N.C. 707, 710, 799 S.E.2d 834, 837 (2017). “When a defendant attacks his conviction on the basis that counsel was ineffective, he must show that his counsel’s conduct fell below an objective standard of reasonableness.” *State v. Braswell*, 312 N.C. 553, 561–62, 324 S.E.2d 241, 248 (1985). We utilize “a two-pronged test for determining whether a defendant has received ineffective assistance of counsel.” *Todd*, 369 N.C. at 710, 799 S.E.2d at 837. That test requires:

First, the defendant must show that counsel’s performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the “counsel” guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel’s errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable.

Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064 (1984). “Thus, both deficient performance and prejudice are required for a successful ineffective assistance of counsel claim.” *Todd*, 369 N.C. at 711, 799 S.E.2d at 837. “[T]he prejudice standard for ineffective assistance claims is lower” than that under plain error: “the defendant need only show a ‘reasonable probability’ that absent the error the jury would have reached a different result.” *Reber*, 386 N.C. at 166, 900 S.E.2d at 791 (citation omitted).

“IAC claims brought on direct review will be decided on the merits when the cold record reveals that no further investigation is required, i.e., claims that may be developed and argued without such ancillary procedures as the appointment of investigators or an evidentiary hearing.” *State v. Fair*, 354 N.C. 131, 166, 557 S.E.2d 500, 524 (2001). That said, “should the reviewing court determine that IAC claims have been prematurely asserted on direct appeal, it shall dismiss those claims without prejudice to the defendant’s right to reassert them during a subsequent MAR proceeding.” *Id.* at 167, 557 S.E.2d at 525.

Here, Defendant asserts he received IAC since his trial counsel failed to object to “repeated testimony about [Defendant’s] prior incarcerations and convictions and to testimony about his HIV status” and the failure to object constituted a cumulative effect requiring a new trial. Having concluded Defendant’s HIV status was relevant and admitted not in error and the testimony was relevant to Defendant’s innocence, we are unable to discern “‘a reasonable probability’” that the jury would have reached a different result absent its admission. *Reber*, 386 N.C. at 166, 900 S.E.2d at 791 (citation omitted). Further, the testimony regarding Defendant’s prior incarceration and convictions, even if admitted in error, does not show a “reasonable probability that absent the error the jury would have reached a different result.” *Id.* (citation modified). That is, Defendant has not shown he was deprived of “a fair trial, [one] whose results were reliable.” *Strickland*, 466 U.S. at 687, 104 S. Ct. at 2064. Defendant’s arguments on IAC are dismissed with prejudice.

III. Conclusion

For the foregoing reasons, we conclude the trial court did not commit error and dismiss Defendant's IAC claim with prejudice.

NO ERROR; DISMISSED.

Judges COLLINS and WOOD concur.

Report per Rule 30(e).