

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA25-329

Filed 2 September 2026

Randolph County, Nos. 19CR056145-750, 19CR056146-750, 19CR056148-750,
19CR056149-750, 20CR000037-750

STATE OF NORTH CAROLINA

v.

ZACKARY EUGENE STUART

Appeal by defendant from judgment entered 7 June 2024 by Judge Dawn McDonald Layton in Randolph County Superior Court. Heard in the Court of Appeals 16 October 2025.

Attorney General Jeff Jackson, by Assistant Attorney General Whitney Nicole Shaffer, for the State.

The Sweet Law Firm, PLLC, by Kaelyn N. Sweet, for defendant.

FREEMAN, Judge.

Defendant appeals from judgment entered upon a jury verdict of guilty on the charges of attempted murder, two counts of breaking and/or entering, assault with a deadly weapon with intent to kill inflicting serious injury, robbery with a dangerous weapon, felony larceny of a motor vehicle, larceny after breaking and entering,

obtaining property by false pretense, felony conspiracy to commit murder, and felony conspiracy to commit robbery with a dangerous weapon. On appeal, defendant argues the trial court (1) erred or plainly erred by permitting lay-opinion identification of a co-defendant based on a surveillance photograph and (2) erred by admitting a seized letter between defendant and his co-defendant. After careful review, we conclude that defendant received a fair trial free from prejudicial error.

I. Factual and Procedural Background

Detective Parrish of the Randolph County Sheriff's Office went to the victim's residence for a welfare check. The victim's daughter arrived and let Detective Parrish into the residence. Inside, they found the victim semi-conscious and covered in blood with swollen eyes and bruises. Near the victim was a hammer, baseball bat, and blood on the bed and walls. The victim had no memory of being attacked. The victim's GMC truck was in the driveway, but the victim's gold 2014 Nissan Altima was missing.

The victim's State Employee's Credit Union (SECU) bank card was also missing. The bank card was used at a Hardee's in Marion, Virginia and other locations. The bank card was also used to withdraw \$300.00 from an ATM in High Point, North Carolina. A license plate scanner spotted the victim's Nissan in High Point.

A second break-in occurred at the victim's residence, during which a TV was taken. Cigarette butts and soda cans that were not present after the first break-in

were found at the victim's residence. The Nissan was returned but the GMC truck was missing. After the Nissan was recovered, a black memo pad labeled "Zack's Workbook" was found in the car. Fast food receipts matching the SECU bank card purchases were also found in the car.

On 9 December 2019, Zackary Eugene Stuart (defendant) and Brittany Jones-Autrey (co-defendant) were arrested. The key fob for the victim's Nissan was seized from defendant's pocket upon arrest.

On 13 January 2020, defendant was indicted for receiving stolen goods, attempted murder, two counts of breaking and entering, larceny after break/enter, assault with a deadly weapon with intent to kill inflicting serious injury, robbery with dangerous weapon, larceny of motor vehicle, obtaining property by false pretenses, conspiracy to commit murder, and conspiracy to commit robbery with a dangerous weapon. On 3 June 2024, the case came on for trial.

Testimony at trial tended to show the following: A forensic scientist testified as an expert that DNA found on cigarettes at the scene of the crime after the second break in matched defendant and co-defendant. The expert testified that the DNA found on the cigarettes was "approximately 649 sexdecillion times more likely to have come from [defendant] and [co-defendant] than if it originated from two other individuals." A witness testified that defendant sold the victim's missing GMC truck to him. Fingerprints found on the victim's Nissan matched defendant and co-defendant.

STATE V. STUART

Opinion of the Court

The State sought to enter a seized letter into evidence. The unredacted¹ version of the letter was read into the transcript as follows:

Hey best friend and lover.

First off, I love you with all of my heart and soul forever and always. And by the way, I just got some more of your letters yesterday. Thank you, smart ass, lol. I miss you so fucking much. I wish we were out there together, but, baby, we'll be back together soon I pray, but it does not matter how long we have to be in here. I promise you that my love for you is not going anywhere, and my feelings are not going to change. You are my everything, and I'm going to spank your ass if you ever say that to me again about writing someone else. You almost had me in tears because today I finally got some paper, but you know that I can't spell good. But I will write you when I can, love. I have not much paper, but I love you with all my heart and soul forever and always, always and forever.

. . . .

Zack's love, Brittany forever and always.

The back of the letter said: "Brittany Jones Stuart."

On 7 June 2024, defendant was found guilty of all charges. On 11 June 2024, defendant filed a written notice of appeal.

¹ This is the version read outside the presence of the jury when deciding admissibility. A version of the letter with some redactions was read to the jury. Besides the redactions, that version has some minor differences in the transcript. The version as read to the jury is as follows:

Hey best friend and lover. First off, I love you with all my heart and soul forever and always. And by the way, I just got some more of your letters yesterday. Thank you, smart ass, lol. I miss you so fucking much. My feelings are not going to change. You are my everything, and I am going to spank your ass if you ever say that to me again about writing someone else. You almost had me in tears because today I finally got some paper. But you know that I don't spell good, but I will write you when I can, love. I have not got much paper, but I love you with all my heart and soul forever and always. Always and forever Zack loves Brittany forever and always.

II. Jurisdiction

Defendant appeals from the final judgment of the Superior Court pursuant to N.C.G.S. § 7A-27(b) and N.C.G.S. § 15A-1444(a). Accordingly, this Court has jurisdiction over defendant's appeal.

III. Standard of Review

Ordinarily, “[w]e review a trial court’s ruling on the admissibility of lay opinion testimony for abuse of discretion.” *State v. Belk*, 201 N.C. App. 412, 417 (2009). However, we review alleged errors which are unpreserved under plain error review. *State v. Koke*, 264 N.C. App. 101, 107 (2019). We review a “trial court’s determination as to whether a document has been sufficiently authenticated” de novo. *State v. Crawley*, 217 N.C. App. 509, 515 (2011).

IV. Discussion

Defendant raises two arguments on appeal. First, defendant contends that the trial court erred or plainly erred by allowing lay-opinion identification of the co-defendant from a surveillance video. Second, defendant argues that the trial court erred by admitting a seized letter between defendant and the co-defendant because it was not properly authenticated. We address each argument in turn.

A. Identification Testimony

Defendant first contends that the trial court erred or plainly erred by permitting Detective Williams to provide lay-opinion identification of the co-defendant based on a surveillance photograph. Defendant specifically argues that

the State “had not laid the proper foundation for the photo’s admission,” and that Detective Williams “was no more qualified than the jury to identify [the co-defendant] as the subject using [the victim’s] debit card in the ATM surveillance photo.”

Because defendant did not object to the identification testimony at trial, we review for plain error. *See* N.C. R. App. at Rule 10(a)(4).

Our Supreme Court has explained that plain error is to 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 that it focuses on error that has resulted in a miscarriage of justice or the denial of a fair trial.” *State v. Reber*, 386 N.C. 153, 158 (2024) (cleaned up). Under plain error review, the defendant must show (1) a fundamental error occurred at trial, (2) the error had a probable impact on the outcome, and (3) the error is an exceptional case that seriously affects the fairness, integrity, or public reputation of the judicial proceedings. *Id.* (citing *State v. Lawrence*, 365 N.C. 506, 517–19 (2012)). This test “examines the state of all the evidence except for the challenged evidence and asks whether, in light of that remaining evidence, the jury probably would have done something different.” *Id.* at 162. “[T]his standard—showing that a jury probably would have reached a different result—requires a showing that the outcome is significantly more likely than not.” *Id.* at 159 (emphasis omitted).

Under Rule 701 of the North Carolina Rules of Evidence, a non-expert witness’s “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 (2025).

This Court has recognized that lay opinion testimony identifying a criminal defendant in a photograph or videotape may be admissible “where such testimony is based on the perceptions and knowledge of the witness, the testimony would be helpful to the jury in the jury’s fact-finding function rather than invasive of that function, and the helpfulness outweighs the possible prejudice to the defendant from admission of the testimony.”

State v. Thomas, 295 N.C. App. 269, 277 (2024) (quoting *State v. Buie*, 194 N.C. App. 725, 730 (2009)).

Defendant relies on *State v. Belk*, 201 N.C. App. 412 (2009), to argue that the trial court erred by permitting Detective Williams to identify defendant in a surveillance photograph. There, we listed four factors as relevant when determining the admissibility of lay opinion testimony identifying a person in a photograph or video:

(1) the witness’s general level of familiarity with the defendant’s appearance; (2) the witness’s familiarity with the defendant’s appearance at the time the surveillance photograph was taken or when the defendant was dressed in a manner similar to the individual depicted in the photograph; (3) whether the defendant had disguised his appearance at the time of the offense; and (4) whether the defendant had altered his appearance prior to trial.

Belk, 201 N.C. App. at 415 (quoting *United States v. Dixon*, 413 F.3d 540, 545 (6th Cir. 2005)).

In *Belk*, we held that the trial court erred by allowing testimony of an officer identifying the defendant by video. *Id.* at 418. We reasoned that there was no basis for the trial court to conclude that the officer was more likely than the jury to identify the defendant as the individual in the surveillance footage. *Id.* We determined that “[t]he only factor supporting the trial court’s conclusion is [the officer’s] familiarity with [the d]efendant’s appearance, based on three brief encounters, the most recent being when she passed by [the defendant] in her patrol car.” *Id.* Moreover, we determined that the defendant was prejudiced because the State’s case rested *exclusively* on that video and the officer’s identification testimony and the State offered no other identification testimony. *Id.* Thus, we reversed and remanded for a new trial. *Id.* at 419.

Defendant’s reliance upon *Belk* is misplaced for two reasons. First, *Belk* did not involve plain-error review. *See State v. Thomas*, 295 N.C. App. 269, 278 (2024) (stating that the defendant’s reliance on *Belk* was misplaced as it did not involve plain error review and holding that even if the trial court erred, it did not amount to plain error). We cannot say that admission of the testimony amounts to an exceptional case that seriously affects the fairness, integrity, or public reputation of the judicial proceedings. *See Lawrence*, 365 N.C. at 517–18.

Second, even assuming that error occurred, defendant has not shown that the alleged error had a probable impact on the jury’s finding that defendant was guilty. *See Thomas*, 295 N.C. App. at 278 (quoting *Lawrence*, 365 N.C. at 518). In the case

at bar, the State presented substantially more identification evidence than in *Belk*. The evidence at trial tended to show that after the victim's Nissan was recovered, a black memo pad labeled "Zack's Workbook" was found in the car. Fingerprints on the Nissan matched defendant and co-defendant. DNA found on the cigarettes at the crime scene matched defendant and co-defendant. Further, a witness testified that defendant sold him the victim's missing GMC truck. Thus, unlike *Belk*, the State's case certainly did not rest exclusively on the officer's identification testimony from the video.

For the foregoing reasons we cannot say that a fundamental error occurred at trial. And because of the quantity of identification evidence produced at trial, we cannot say that the officer's testimony would have had a probable impact on the outcome. Thus, the trial court did not plainly err.

B. Authentication

Second, defendant contends that the trial court erred by admitting a letter seized from the Randolph County Jail because it was not properly authenticated.

"[T]he competency, admissibility, and sufficiency of the evidence is a matter for the court to determine. The credibility, probative force, and weight is a matter for the jury." *State v. Wiggins*, 334 N.C. 18, 34 (1993) (quoting *Queen City Coach Co. v. Lee*, 218 N.C. 320, 323 (1940)).

"The requirement of authentication or identification as a condition precedent to admissibility is satisfied by 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) (2025). Rule 901 does not require conclusive proof of authenticity, but “only that the evidence is relevant for the jury to conclude that it is authentic.” *Crawley*, 217 N.C. App. at 516. Thus, “the burden to authenticate under Rule 901 is not high—only a prima facie showing is required[.]” *State v. Davenport*, 297 N.C. App. 605, 611 (2025) (quoting *State v. Ford*, 245 N.C. App. 510, 519 (2016)).

Rule 901 of our Rules of Evidence provides a non-exhaustive list of acceptable authentication methods, including the authentication of handwriting through lay opinion. N.C.G.S. § 8C-1, Rule 901(b). “However, Rule 901 also provides that authentication or identification may be established through distinctive characteristics and the like, i.e., through ‘appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.’” *State v. Young*, 186 N.C. App. 343, 353 (2007) (quoting N.C.G.S. § 8C-1, Rule 901(b)(4)). “[T]he authorship and genuineness of letters . . . may be proved by circumstantial evidence.” *State v. Davis*, 203 N.C. 13, 28 (1932); accord *Young*, 186 N.C. App. at 354. For example, in *State v. Young*, the content of the admitted letters indicated that the defendant wrote them because, *inter alia*, the letters contained the co-defendant’s names and “contained intimate knowledge of the crime.” 186 N.C. App. 343, 354 (2007); *see also United States v. Dumeisi*, 424 F.3d 566, 575 (7th Cir. 2005) (considering physical characteristics and circumstances surrounding discovery for authentication).

Here, the letter's contents and the surrounding circumstances are sufficient to support a finding that the letter is what its proponent claims. Detective Turner testified that she found the letter with defendant's personal belongings at the Randolph County Jail. The letter contains defendant's and co-defendant's names on the signature line, and co-defendant's name appears on the back of the letter. Additionally, the letter references that defendant and co-defendant were in jail. Thus, the letter's contents and distinctive characteristics, coupled with the location in which the letter was found, are sufficient for a jury to conclude that defendant wrote the letter. Therefore, the trial court did not err by admitting the letter.

V. Conclusion

We conclude that the trial court did not plainly err by admitting identification testimony. Additionally, the trial court did not err by admitting the letter seized by the jail. Therefore, defendant received a fair trial free from prejudicial error.

NO ERROR.

Judges HAMPSON and CARPENTER concur.

Report per Rule 30(e).