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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-899

Filed 2 September 2026

Guilford County, No. 22CR330886-400

STATE OF NORTH CAROLINA

v.

PATRICIA SAUNDERS HILTON, Defendant.

Appeal by defendant from judgment entered 6 August 2024 by Judge Tonia A. Cutchin in Superior Court, Guilford County. Heard in the Court of Appeals 19 May 2026.

Attorney General Jeff Jackson, by Special Deputy Attorney General Phillip Harris, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Emily Holmes Davis, for defendant-appellant.

STROUD, Judge.

Defendant Patricia Saunders Hilton appeals her conviction for felony hit and run resulting in serious bodily injury. Her challenge targets the trial court's instruction on a lesser-included offense—misdemeanor hit and run. The court began by telling the jury that the misdemeanor, unlike the felony hit-and-run offenses, did

not require the State to prove that Defendant “knew or reasonably should have known” that a person was injured in the crash. But moments later, the court listed that very requirement among the elements the State had to prove beyond a reasonable doubt. And the court’s final mandate repeated the requirement, conditioning a guilty verdict for the misdemeanor on that same finding.

Defendant argues that this inconsistency in the jury instructions amounted to plain error and entitles her to a new trial on the hit-and-run charge. We conclude that she has not shown that the alleged error probably affected the jury’s verdict. So we find no plain error.

I. Background

On 20 March 2023, a Guilford County grand jury returned an indictment charging Defendant with one count of felony hit and run resulting in serious injury or death and reckless driving. *See* N.C. Gen. Stat. §§ 20-166 (2025) (Duty to stop in event of a crash; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability), 20-140(a) (2025) (Reckless driving). The case went to trial in July 2024.

The evidence at trial tended to show that on the evening of 29 October 2022, eighteen-year-old Thomas Durham traveled with a friend to Cook Out, a fast-food restaurant. Some fifty people—several of them high school students—were hanging out in the Cook Out parking lot and a surrounding lot when he arrived. Durham

started in the other lot but walked over to the Cook Out lot “to go see a lot of people”; he recognized some classmates there, including Maverick Baker and Robert Jones.

That same evening, Defendant finished a shift working at the Woods of Terror, a Halloween attraction, and drove to Cook Out with her twelve-year-old daughter and her daughter’s friend. She still wore her costume, including a “lime green” wig, which “drew the attention of some of [the] teenagers” in the parking lot. While Defendant waited in the drive-through line, some teenagers pointed at her and called her names. Defendant testified they “call[ed] [her] crazy things,” “cuss[ed] [her] out,” and “wish[ed] [her] dead,” and that she “said some things [she] [was] not happy about” in response. Then, someone in the crowd splashed water on her car as she left the drive-through.

Defendant began to drive away, then made a U-turn and drove back past the crowd, trying to throw her drink at the group. She drove off again, made a second U-turn, and headed back toward the crowd and a shopping-center exit. Around the same time, Durham started walking across the parking lot toward the car that had brought him. He testified that he looked both ways, stepped forward, and saw Defendant’s car coming at him, with Defendant “looking right at [him].” Defendant’s front bumper struck Durham, throwing him into her windshield and over the top of her car; he landed on the pavement. Witnesses described the impact as loud, and some estimated Defendant’s speed at thirty to forty-five miles per hour. Defendant did not brake, slow down, or stop.

Baker and Jones, Durham's classmates, both testified at trial. When they saw the car hit Durham, they called 911 and rushed with other bystanders to Durham, who was lying unconscious. Durham suffered a laceration on the back of his arm, a fractured and dislocated thumb with a torn tendon in the same hand, a broken fibula, and a torn ACL and PCL in his left leg. He had multiple surgeries on his hand and knee, and he could not walk without assistance for roughly six months.

Eyewitnesses gave law enforcement officers the car's license plate number, which identified Defendant as its registered owner. An officer went to Defendant's home and found Defendant and her car in the driveway. The officer saw the driver's-side headlight "completely smashed," the driver's-side windshield glass "completely smashed in" around a hole, and what appeared to be blood along the windshield's cracks.

Defendant testified in her own defense. As she left the parking lot, she said, she heard a boom that felt and sounded like a rock hitting her car, and she believed someone had thrown one at it. She drove straight home. And she testified that she "was scared to death" and did not remember hitting the brakes. Once home, she did not immediately call 911 or inspect her vehicle; instead, she phoned a friend in law enforcement to report that someone had thrown a rock at her car. The friend told her that an accident had happened at Cook Out and she needed to call the police. Defendant then called 911 to report that she "had been attacked by something hitting [her] car." Defendant testified that she did not know her car had hit a person until

officers told her. Her daughter testified that she heard a loud boom, saw the broken windshield, and told Defendant that she believed someone had thrown a rock at the car.

After closing arguments, the trial court instructed the jury on felony hit and run resulting in serious bodily injury and on two lesser-included offenses—felony hit and run resulting in injury and misdemeanor hit and run.¹ For felony hit and run resulting in serious bodily injury, the court told the jury that the State had to prove “six things beyond a reasonable doubt,” including that Defendant “knew or reasonably should have known that the Defendant was involved in a crash which resulted in serious bodily injury to a person.” If the jury did not so find or had “a reasonable doubt as to one or more of th[ose] things,” the court said, it “would not return a verdict of guilty of hit and run with serious bodily injury, but . . . would consider whether . . . Defendant [wa]s guilty of felony hit and run with injury.” The court likewise instructed on the elements of felony hit and run resulting in injury—including that Defendant “knew or reasonably should have known that a person suffered injury in the crash”—and directed the jury, if it did not so find or had reasonable doubt as to those elements, to “consider whether . . . Defendant [wa]s guilty of misdemeanor hit and run.”

Turning to misdemeanor hit and run, the trial court explained that the “offense

¹ The trial court also gave instructions on the reckless driving charge. Defendant does not challenge that conviction on appeal.

differ[ed] from felony hit and run with injury in that it [wa]s not necessary for the State to prove beyond a reasonable doubt that . . . Defendant knew or reasonably should have known that the person suffered injury in the crash.” The court continued:

For you to find . . . Defendant guilty of misdemeanor hit and run, the State must prove six things beyond a reasonable doubt:

First, that . . . Defendant was driving a vehicle.

Second, that the vehicle was involved in a crash.

Third, that a person suffered injury in this crash.

Fourth, that . . . Defendant *knew or reasonably should have known that a person suffered injury in this crash*. . . . Defendant’s knowledge can be actual or implied—that it may be inferred where the circumstances proven as such would lead . . . Defendant to believe that . . . Defendant had been in a crash which caused injury to a person.

Fifth, that . . . Defendant did not stop the vehicle immediately at the scene of the crash.

And sixth, that . . . Defendant failed to stop and was willful and that it’s intentional without justification or excuse.

(Emphasis added.) In its final mandate on the misdemeanor, the court instructed that if the jury found “from the evidence beyond a reasonable doubt” all six elements—including that Defendant “knew or reasonably should have known that [she] was involved in a crash in which a person had suffered injury”—it would be the jury’s “duty to return a verdict of guilty.”

On 2 August 2024, the jury found Defendant guilty of felony hit and run resulting in serious bodily injury and reckless driving. Defendant gave oral notice of appeal.

II. Jurisdiction

This Court has jurisdiction under North Carolina General Statute Sections 7A-27(b)(1) and 15A-1444(a). *See* N.C. Gen. Stat. § 7A-27(b)(1) (2025) (“[A]ppeal lies of right directly to the Court of Appeals . . . [f]rom any final judgment of a superior court. . . .”); *see also* N.C. Gen. Stat. § 15A-1444(a) (2025) (“A defendant who has entered a plea of not guilty to a criminal charge and who has been found guilty of a crime is entitled to appeal . . . when final judgment has been entered.”).

III. Discussion

Defendant argues that the trial court plainly erred in instructing the jury on misdemeanor hit and run: the court first “correctly” told the jury that the misdemeanor did not require proof that she “knew or should have known a person was injured,” but it later required that very finding “to convict.” She concedes that she did not object to the jury instructions at trial, so we review only for plain error. *See State v. Lawrence*, 365 N.C. 506, 512, 723 S.E.2d 326, 330 (2012) (“Unpreserved error in criminal cases, on the other hand, is reviewed only for plain error.” (citation omitted)).

“Plain error exists for the rare cases where the harshness of this preservation rule vastly outweighs its benefits.” *State v. Reber*, 386 N.C. 153, 158, 900 S.E.2d 781,

786 (2024)). Under this “three-factor test,” a 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 warrants plain error review.” *Id.* (citation omitted). If she cannot satisfy the second factor—the prejudice requirement—we need not decide whether an alleged instructional error was improper. *See State v. Jones*, 280 N.C. App. 241, 260, 866 S.E.2d 509, 523 (2021) (“[W]e need not reach a firm conclusion on whether the instruction was an error because assuming arguendo the trial court erred, it was not a plain error; [the] [d]efendant cannot show prejudice.” (citations omitted)).

To establish prejudice, a defendant must show that “absent the error, the jury probably would have returned a different verdict,” meaning “the outcome is significantly more likely than not.” *Reber*, 386 N.C. at 158, 159, 900 S.E.2d at 786, 787 (citation omitted). As our Supreme Court has explained, albeit in an evidentiary error context:

The question [under the prejudice prong] is not whether the challenged evidence made it more likely that the jury would reach the *same* result. Instead, the analysis is whether, without that evidence, the jury probably would have reached a *different* result. This is a crucial distinction because something can become more likely to occur yet still be far from *probably* going to occur.

Id. at 160, 900 S.E.2d at 788. The question here, then, is whether a correct instruction on misdemeanor hit and run probably would have led the jury to a different verdict. *Id.*

We hold below it would not. We therefore assume, without deciding, that the trial court erred. *Jones*, 280 N.C. App. at 260, 866 S.E.2d at 523. Even so, that error “d[oes] not rise to the level of plain error.” *State v. Turner*, 237 N.C. App. 388, 392, 765 S.E.2d 77, 82 (2014) (citation omitted).

The alleged error concerns the element separating the hit-and-run offenses, so we begin by briefly outlining the relevant law. See N.C. Gen. Stat. §§ 20-166(a), (a1), (c). Every hit-and-run offense requires the State to prove that the driver knew or reasonably should have known that “the vehicle which he or she is operating is involved in a crash.” *Id.* §§ 20-166(a)(1), (a1)(1); see also *id.* § 20-166(c) (substituting “the driver” for “he or she”). Only the felonies demand more. *Id.* §§ 20-166(a), (a1). Felony hit and run resulting in serious bodily injury—the greater felony here—requires knowledge that “the crash has resulted in serious bodily injury . . . or death,” *id.* § 20-166(a)(2); felony hit and run resulting in injury—the lesser—requires knowledge that “the crash has resulted in injury,” *id.* § 20-166(a1)(2). Misdemeanor hit and run requires neither: it applies when the driver “did not know and did not have reason to know of the death or injury.” *Id.* § 20-166(c)(2).

For the felonies, a defendant’s knowledge about an injury can be actual or implied. *State v. Fearing*, 304 N.C. 471, 477, 284 S.E.2d 487, 491 (1981). “Implied knowledge can be inferred when the circumstances of an accident are such as would lead a driver to believe that he had been in an accident which killed or caused physical injury to a person.” *Id.*

Defendant's prejudice theory centers on the knowledge element. In her view, had "the jury been properly instructed on the misdemeanor," it is "probable" that "at least one juror . . . would have deadlocked" the jury, leaving it "unable to return any verdict on the hit and run charge." The State counters that the instructions "had no probable impact because the evidence supported Defendant's conviction for the greater offense." We agree with the State.

First, the structure of the jury charge defeats Defendant's theory. For each felony, the trial court stated that if the jury did not find the required knowledge beyond a reasonable doubt, it "would not return a verdict of guilty" on that offense—for the greater felony, knowledge that Defendant "was involved in a crash which resulted in serious bodily injury to a person," and for the lesser, knowledge that the crash "resulted in injury to any person." Thus, had any juror harbored the doubt Defendant hypothesizes—doubt that she knew anyone was injured—that juror, under the trial court's instructions, would have declined to find her guilty of either felony, no matter how the court defined the misdemeanor.

Yet the jury unanimously found Defendant guilty of the greater felony. And we presume the jury followed its instructions. *See State v. Hardy*, 353 N.C. 122, 138, 540 S.E.2d 334, 346 (2000) ("Jurors are presumed to follow the trial court's instructions" (citation omitted)). That verdict thus forecloses Defendant's hypothesis. The jury resolved the knowledge element under correct instructions; by convicting on the felony, it never reached the misdemeanor instruction; and an error the jury never

reached could not have prejudiced Defendant. *See State v. Berry*, 295 N.C. 534, 542, 246 S.E.2d 758, 763 (1978) (holding that an instruction wrongly defining involuntary manslaughter as an “intentional” killing “could not have been prejudicial” because the jury convicted the defendant of first-degree murder); *see also State v. Freeman*, 275 N.C. 662, 667, 170 S.E.2d 461, 464 (1969) (similar).

Second, the evidence on the knowledge element confirms that a different verdict was not “probable.” *Reber*, 386 N.C. at 158, 900 S.E.2d at 786 (citation omitted). Defendant testified that she believed a rock, not a person, had struck her car. But the State’s evidence, as recounted above, pointed the other way—“overwhelming[ly].” *Lawrence*, 365 N.C. at 519, 723 S.E.2d at 334.

Durham saw Defendant “looking right at [him]” when her car smacked him and threw him “into the windshield and then over the car.” Witnesses heard an impact like “slamming metal, crunching metal”—like “a head-on collision . . . between two cars.” And Defendant’s car, according to the officer at trial, bore the proof: a windshield “completely smashed in,” blood along the cracking, and a headlight “completely smashed.”

The State also presented photos of the damage to Defendant’s car. The windshield had been “forced inward.” The photos show a depressed, shattered area in front of the driver’s seat, spanning nearly the full width of the windshield and reaching from the bottom almost to the top, with an open hole in the center where the glass was entirely gone. Yet no rock was ever found: the officers never saw one in the

car, and neither did Defendant, despite the hole in her windshield. She testified that the rock may have “busted through and then got out” by “rolling off the left side.” The jury heard the State’s evidence and Defendant’s explanation—and rejected that explanation. It found beyond a reasonable doubt, as the unchallenged felony instruction required, that Defendant “knew or reasonably should have known that [she] was involved in a crash which resulted in serious bodily injury to a person.”

Even if the trial court erred, Defendant has not shown that a correct misdemeanor instruction would have changed how the jury resolved the knowledge element—much less that the jury “probably would have returned a different verdict.” *Reber*, 386 N.C. at 158, 900 S.E.2d at 786 (citation omitted). So the court did not commit plain error.

IV. Conclusion

For the reasons explained above, we hold that Defendant received a fair trial, free of prejudicial error.

NO ERROR.

Judges HAMPSON and FREEMAN concur.

Report per Rule 30(e).