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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1008

Filed 16 September 2026

Lee County, Nos. 18CR050731-520, 23CR004820-520

STATE OF NORTH CAROLINA

v.

MICHAEL JAMES CRUM

Appeal by defendant from judgment entered 11 July 2024 by Judge Paul A. Holcombe III in Lee County Superior Court. Heard in the Court of Appeals 12 August 2026.

Center for Death Penalty Litigation, by Kailey Morgan, for defendant-appellant

Attorney General Jeff Jackson, by Assistant Attorney General Meghan E. Boyd Ward, for the State

FREEMAN, Judge.

Defendant appeals from judgment entered upon a jury verdict finding him guilty of statutory sex offense with a child by adult and indecent liberties with a child. On appeal, defendant argues that the trial court erred by (1) admitting hearsay evidence that did not meet the exception under Rule 803(4) and (2) admitting a recorded video interview of the victim that was not properly authenticated. After

Careful review, we conclude that defendant received a fair trial free from error.

I. Factual and Procedural Background

On 1 May 2018, a grand jury indicted Michael James Crum (defendant) of First-Degree Statutory Sex Offense with H.W.¹ On 4 December 2023, a grand jury issued a superseding indictment of Statutory Sex Offense of a Child by Adult and issued an indictment of Indecent Liberties with H.W. The case came on for jury trial on 1 July 2024.

At trial, H.W. testified as follows: H.W. lived in a trailer with members of her family including her sisters, father, and grandmother. Defendant, who dated H.W.'s grandmother, was also living in the trailer. H.W. and her sisters slept in the living room on couches or the floor. On 16 April 2018, defendant rubbed H.W.'s arms "to help [her] fall asleep." Later that night, she "woke up because [she] felt [defendant's] hand going up [her] shirt." She acted like she was sleeping because she was scared. Defendant "kept opening" her legs as H.W. "tried to keep them closed." H.W. testified she felt defendant's hand "in my pants" and "on my private." Once defendant left, H.W. told her mother what happened.

H.W.'s mother testified as follows: After H.W. told her mother about what happened, H.W.'s parents took H.W. and her sisters to Carolina Central Hospital. H.W. was then sent by ambulance to Chapel Hill. After being examined at Chapel

¹ Initials are used to protect the identity of the minor child. N.C. R. App. P. 42.

Hill for “several hours,” the family went to Lee County Social Services. Afterward, they went to UNC Children’s Hospital.

A general pediatrician at UNC Children’s Hospital (Doctor) testified as follows: Doctor worked as part of the Beacon Child Maltreatment Team (Beacon), which handled cases regarding children’s acute injury or sexual abuse. For sexual abuse cases, they “would see those patients with our mostly multi-disciplinary team in . . . the clinic.” On 25 April 2018, the Doctor performed a medical evaluation on H.W. After discussing how H.W. was referred to the Doctor, the following testimony was given regarding the Doctor’s examination of H.W. and how the Beacon program’s multi-disciplinary team evaluation differs from a Sexual Assault Nurse Examination:

[A] Sexual Assault Nurse Examination is for an acute, meaning like an immediate concern. Those are performed usually within three to five days of the last contact of concern. They are— they do collect kind of the story, the history, and information about what happened, but it’s also focused on collecting forensic evidence, if that’s appropriate. It’s not always done, but if there is concern that there might be DNA evidence or acute injuries.

So it’s really kind of like it’s an emergency exam. So it’s making sure that the child is— doesn’t have any life-threatening injuries or any injuries that require treatment, and then the child medical exam is typically always carried out . . . after the fact, a little bit later on.

. . . .

So what we do in the child medical exam, we take a much more thorough history. We provide what’s called a multi-disciplinary team evaluation. So I or a physician or nurse practitioner on our team would work together, typically

with licensed clinical social worker . . . who's trained to interview kids in a way that is very careful in not leading and asking questions in an appropriate manner for their development. . . .

[T]ypically, we really only see patients that are referred from either law enforcement or child protective services. So often that interviewing them and gathering information from those partners, community partners, is often part of the evaluation and often part of how they get to us to begin with. So it's a much more comprehensive evaluation, both medically as well as from a history standpoint.

The Doctor was not the only member of the Beacon program that saw H.W. on 25 April 2018. A licensed clinical social worker (Social Worker) also was involved in H.W.'s visit. Doctor testified to the Beacon program's protocol at length:

[The Social Worker] and I both met before the visit even started, before [H.W.] and her mom arrived. We met with—or gathered information. [The Social Worker] usually does that, sometimes by phone and sometimes in person, with both law enforcement and child protective services. So she had gotten some information about how [H.W.] had—you know why—why there was a concern and how she had gotten to us.

And then [the Social Worker] and I both meet briefly with the caregiver or the parent. [The Social Worker] is really trying to find out things like, "What are their pets' names," things—things that might come up in the interview that she needs to know. "Who are the family members? You know, what names do they use for body parts?" That kind of thing[], just to help her understand, you know, what the kid is saying.

And then . . . [the Social Worker] goes to interview the child while I remain with . . . whoever brought the child, and I get history or the story about how she ended up there in our office that day, what—how the concern arose, what the

child has told the parent or anyone else . . . that they're aware of.

And then I also do just a basic medical history.

. . . .

[F]or a sexual abuse evaluation, we would gather a very careful and detailed urinary history, genital history, any symptoms that the children— that the child might have had, that might be related to, you know, the concern.

. . . .

[The Social Worker and I] meet back in the conference room. And typically, [the Social Worker] will share any specific information that the child might have mentioned. Specifically about body parts that might have been contacted, that's really important for me to help me know what areas might need sexually-transmitted infection testing, what areas I need to pay specific attention to on my physical exam.

The interview by the Social Worker was videotaped. The interview room was in the hospital down the hall from the exam room. The room had two green child-sized chairs and a child-sized table. Paper and markers were on the table. Also in the room were two adult-sized chairs with a table between them.

At trial, the video of H.W. was entered into evidence after a bench conference and discussions on admissibility.

The jury returned a guilty verdict for statutory sex offense with a child by adult and indecent liberties with a child. Defendant gave oral notice of appeal.

II. Jurisdiction

Because this Court has jurisdiction to hear an appeal from a final judgment of

a superior court, we have jurisdiction over defendant's appeal of right. N.C.G.S. §§ 7A-27(b), 15A-1444(a) (2025).

III. Discussion

On appeal, defendant argues that the trial court erred by (1) admitting hearsay evidence that did not meet the exception under Rule 803(4) and (2) admitting a recorded video interview of the victim that was not properly authenticated. We address each argument in turn.

A. Hearsay

1. Preservation

The State contends that defendant did not properly preserve the hearsay issue and that the issue is waived because defendant failed to allege plain error. Thus, as an initial matter, we must determine whether this issue is preserved.

In order to preserve an issue for appellate review, a party must have presented to the trial court a timely request, objection, or motion, stating the specific grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the context. It is also necessary for the complaining party to obtain a ruling upon the party's request, objection, or motion.

N.C. R. App. P. 10(a)(1). The purpose of this Rule is to prevent unnecessary new trials caused by errors that the trial court could have corrected if brought to its attention at the proper time. *Dogwood Dev. & Mgmt. Co. v. White Oak Transp. Co.*, 362 N.C. 191, 195 (2008) (quoting *Wall v. Stout*, 310 N.C. 184, 188–89 (1984)).

Here, defendant's objection itself cannot be found on the record, but the parties

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discussed this issue before the judge and the specific grounds were apparent from the context. The relevant part of the transcript is as follows:

MS. BARTHOLOMEW: So, Your Honor, at this time, the State would tender into evidence State's Exhibit Number 4 and ask to publish it to the jury.

THE COURT: All right. That'll be introduced as Exhibit Number 4, and you may publish that.

(Pause.)

THE COURT: All right. Actually, let me see attorneys for a moment.

(Bench Conference.)

. . .

THE COURT: All right. Let the record reflect then that all 14 jurors have left the courtroom, and the door to the jury room is now shut.

The State has requested to introduce Exhibit Number 4, which is an interview of the alleged victim. . . . It's my understanding that the sole debate at this point is whether this interview would be allowed in for substantive purposes as a statement in connection with medical diagnosis or treatment and/or whether it would simply be considered as to whether it is corroborative of her statements on the stand as a prior consistent or inconsistent statement.

Afterwards, the parties and the trial court discussed the issue at length, citing cases such as *State v. Corbett* and *State v. Hinnant*. When defense renewed its objection "pursuant to the []6th and 14th Amendments to the U.S. Constitution as well as lack of foundation," the trial court stated:

The Court reaffirms its decision that, in its discretion, it

believes that the interview, Exhibit Number 4 . . . which was introduced after [H.W.] testified in this trial does meet all of the parameters as laid out in both State versus Hin[n]ant and reaffirmed in State versus Corbett and . . . may be considered by the jurors as substantive evidence under 803 subsection four as a statement for the purposes of medical diagnosis or treatment.

This specific issue was discussed at length on the record, the specific grounds of the objection were apparent from the context, and the trial court made clear rulings while citing precedent. Thus, we consider the issue preserved for appellate review.

2. *Standard of Review*

“A trial court’s determination that an out-of-court statement is inadmissible under Rule 803(4) is reviewed de novo.” *State v. Corbett*, 376 N.C. 799, 811 (2021) (citing *State v. Norman*, 196 N.C. App. 779, 783 (2009)). Under a de novo review, we consider the matter anew and freely substitute our own judgment for that of the lower court. *State v. Hicks*, 243 N.C. App. 628, 639 (2015).

3. *803(4) Exception*

Defendant contends that the trial court erred by admitting hearsay evidence that did not meet the exception under Rule 803(4).

Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered into evidence to prove the truth of the matter asserted. N.C.G.S. § 8C-1, Rule 801(c). Hearsay is not admissible except as provided by statute or by the rules of evidence. N.C.G.S. § 8C-1, Rule 802.

Under our rules of evidence, the following is not excluded by the hearsay rule,

even though the declarant is available as a witness: “Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.” N.C.G.S. § 8C-1, Rule 803(4).

Statements made to a physician for purposes of diagnosis and treatment are deemed trustworthy due to “the patient’s strong motivation to be truthful.” N.C.G.S. § 8C-1, Rule 803 official commentary.

The same guarantee of trustworthiness extends to statements of past conditions and medical history, made for purposes of diagnosis or treatment. . . . Under the exception the statement need not have been made to a physician. Statements to hospital attendants, ambulance drivers, or even members of the family might be included.

N.C.G.S. § 8C-1, Rule 803 official commentary.

In *State v. Hinnant*, our Supreme Court interpreted rule 803(4) to “require[] a two-part inquiry: (1) whether the declarant’s statements were made for purposes of medical diagnosis or treatment; and (2) whether the declarant’s statements were reasonably pertinent to diagnosis or treatment.” 351 N.C. 277, 284 (2000) (citing *State v. Aguallo*, 318 N.C. 590, 595–97 (1986)).

a. Treatment Motive

The first prong of the *Hinnant* test inquires as to whether the declarant’s statements were made for purposes of medical diagnosis or treatment. *Id.* at 286.

The requirement of a treatment motive is important because “the declarant’s motivation to tell the truth in order to receive proper treatment” is why this hearsay exception “is considered inherently reliable.” *Id.*

If a treatment motive on the part of the declarant is not required, . . . the jurisprudential basis upon which we conclude that statements of the declarant are inherently reliable is undeniably diminished. . . . [E]vidence admitted under Rule 803(4) without considering the declarant’s motive has less inherent reliability than evidence admitted under the traditional common-law standard underlying the physician treatment rule. . . . The veracity of the declarant’s statements to the physician is less certain where the statements need not have been made for purposes of promoting treatment or facilitating diagnosis in preparation for treatment.

Id.

To determine whether the declarant’s statements were made for medical diagnosis or treatment, we examine the specific context in which the statements were made, considering all objective circumstances surrounding the declarant’s statements. *See Corbett*, 376 N.C. at 812; *Hinnant*, 351 N.C. at 288.

Our Supreme Court has determined that the following three factors are particularly probative regarding the reliability of such statements:

- (1) whether some adult explained to the child the need for treatment and the importance of truthfulness;
- (2) with whom, and under what circumstances, the declarant was speaking; and
- (3) the surrounding circumstances, including the setting of the interview and the nature of the questioning.

Corbett, 376 N.C. at 812–13 (cleaned up) (quoting *Hinnant*, 351 N.C. at 287–88). Nevertheless, we are not limited to any specific factors, nor is any specific factor dispositive. *Id.*

The Social Worker stated: “My job is that I talk to lots of kids and talk about things that happened, talk about your body and how you are feeling—just basically all the things the doctor needs to know to make sure you’re safe and you’re healthy.” The Social Worker stated multiple times that there would be a checkup by the Doctor. H.W. stated she was there to “go to the doctor.”

Next, the Social Worker engaged in some truth-telling exercises with H.W. The Social Worker went through some fictional scenarios with H.W. and asked H.W. questions such as “is that boy telling the truth or a lie.” After the truth-telling exercises, the following was said:

Since you and I are talking today to help the Doctor make sure you’re safe and healthy, it’s important that you tell me only true things and things that really happened. And it’s so important that I ask all kids this: So will you promise to tell me only true things and things that really happened while we talk today?

H.W. nodded yes.

The interview contained non-leading questions. The room was not “child-friendly” other than two green child-sized chairs and a child-sized table with paper and markers. After the interview, H.W. went to the exam room which was around the corner from the interview room.

These facts weigh in favor of H.W. understanding that her statements would lead to medical diagnosis or treatment, thus favoring the reliability of H.W.'s statements. Therefore, we conclude that H.W.'s statements were made for medical diagnosis or treatment and satisfy the first prong of the *Hinnant* test.

b. Reasonably Pertinent to Diagnosis or Treatment

The second prong of the *Hinnant* test inquires as to whether the declarant's statements were reasonably pertinent to diagnosis or treatment. 351 N.C. at 284. Statements "made solely for purposes of trial preparation rather than diagnosis or treatment" are inadmissible. *Hinnant*, 351 N.C. at 285.

Here, the interview by the Social Worker was reasonably pertinent to diagnosis or treatment. The Doctor testified:

[The Social Worker] will share any specific information that the child might have mentioned. Specifically about body parts that might have been contacted, that's really important for me to help me know what areas might need sexually-transmitted infection testing, what areas I need to pay specific attention to on my physical exam.

Because the Social Worker relayed information to the Doctor for the purposes of aiding the physical exam, we conclude that the interview by the Social Worker was reasonably pertinent to diagnosis or treatment.

Because both prongs of the *Hinnant* test are satisfied, we hold that the admission of the video interview did not violate the rule against hearsay.

B. Authentication

Defendant contends that the trial court erred in admitting the video interview into evidence because it was “never authenticated by any witness.”

“Where a defendant fails to preserve errors at trial, this Court reviews any alleged errors under plain error review.” *State v. Koke*, 264 N.C. App. 101, 107 (2019) (citing *State v. Lawrence*, 365 N.C. 506, 512 (2012)).

Our Supreme Court has explained that 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 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) (quoting *Lawrence*, 365 N.C. at 516–17). 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 *Lawrence*, 365 N.C. at 517–18).

Introducing a video “into evidence without adequate foundation is not the type of exceptional case where we can say that the claimed error is so fundamental that justice could not have been done.” *State v. Jones*, 176 N.C. App. 678, 684 (2006) (quoting *State v. Cummings*, 352 N.C. 600, 620–21 (2000)). Thus, we conclude the trial court did not plainly err.

IV. Conclusion

For the foregoing reasons, the trial court did not err by admitting the video

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interview.

NO ERROR.

Judges ARROWOOD and CARPENTER concur.

Report per Rule 30(e).