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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-6

Filed 7 October 2026

Pitt County, Nos. 22CR323605-730, 22CR323616-730, 22CR323632-730

STATE OF NORTH CAROLINA

v.

KEVIN EARL PARKER

Appeal by defendant from judgments entered 15 August 2024 by Judge Jeffery B. Foster in Pitt County Superior Court. Heard in the Court of Appeals 15 September 2026.

Attorney General Jeff Jackson, by Special Deputy Attorney General Stephanie A. Brennan, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Candace Washington, for defendant-appellant.

ZACHARY, Judge.

Defendant Kevin Earl Parker appeals from the trial court's judgments entered upon a jury's verdicts finding him guilty of robbery with a dangerous weapon, first-degree rape, and first-degree sexual offense. On appeal, Defendant argues that the

trial court erred in denying his motion for a mistrial. After careful review, we conclude that Defendant received a fair trial, free from error.

I. Background

On 8 July 2006, Grace¹ opened the windows in her duplex in Greenville, North Carolina, and went to bed. Sometime later, while it was still dark outside, Grace awoke to find Defendant standing at the foot of her bed, holding something that “glittered” from the nightlight in the bathroom; it appeared to be a knife. Defendant forced Grace to pull her shirt over her eyes, ordered her to turn over, and tied her hands. He then raped Grace multiple times, both vaginally and anally.

Afterward, Defendant instructed Grace to take a shower and clean herself. He also informed her that he was going to take the cash from her purse.

When Grace thought that Defendant had left, she got out of the shower and telephoned the Greenville Police Department. Law enforcement officers arrived and transported Grace to Pitt Memorial Hospital, where a forensic nurse completed an examination and a sexual assault kit. The examination found multiple contusions and abrasions on Grace’s body, vagina, and rectum, as well as blood in her vagina and rectum. Officers sent the sexual assault kit to the State Crime Lab. In 2007, the kit was tested for DNA but returned no matches to the semen found on Grace.

In 2020, advancements in DNA testing technology prompted officers to request

¹ We have adopted a pseudonym to protect the victim’s identity.

that Grace's sexual assault kit be tested again. The State Crime Lab entered the 2020 test results into the Combined DNA Index System (CODIS).

Meanwhile, the Raleigh Police Department was investigating Defendant for sexual assaults that occurred in Wake County in 2018 and 2019. On 8 July 2022—during the investigation of these cases—Raleigh officers obtained a search warrant for a buccal swab specimen from Defendant and served the warrant on 9 July 2022.² On 19 July 2022, the Greenville Police Department was notified that there had been a CODIS hit in Grace's case that matched Defendant. Later, on 4 October 2022, the Greenville Police Department also obtained a search warrant for a buccal swab specimen from Defendant to confirm the CODIS hit; this warrant was served on 5 October 2022.

The State Crime Lab received both of Defendant's samples for DNA testing. However, the State Crime Lab only tested the sample obtained by the Raleigh Police Department. April Perry, a State Crime Lab forensic scientist, determined that the DNA profile from the sperm fraction of the rectal swab taken from Grace was 58 nonillion times more likely to match to Grace and Defendant than to Grace and an unknown, unrelated individual.³

On 9 January 2023, a Pitt County grand jury indicted Defendant for robbery

² A buccal swab is a sterile cotton-tipped applicator that is used to obtain a sample of cheek cells from the inside of a person's mouth for, *inter alia*, DNA testing.

³ Fifty-eight nonillion is fifty-eight followed by thirty zeros (58×10^{30}).

with a dangerous weapon, first-degree rape, and first-degree sexual offense.

Defendant filed a motion to suppress on 7 August 2024, requesting that the trial court suppress “any evidence relating to the Raleigh sample” of Defendant’s DNA because “[n]o probable cause existed related to the Pitt County charges to obtain the Raleigh sample” of Defendant’s DNA. In the alternative, Defendant made a motion in limine to “prohibit the introduction of the Raleigh sample and any evidence flowing from the Raleigh sample.”

On 12 August 2024, Defendant’s case came on for trial in Pitt County Superior Court. Before jury selection, the court heard Defendant’s motions. Defendant informed the court that he believed “the State . . . d[id] not intend to introduce any evidence of [the Raleigh case].” The State agreed that it had “no intention of trying to present the Raleigh case” to the jury, but that “if the defense open[ed] the door by making a big issue in front of the jury about how Raleigh is involved and why Raleigh took the swab then . . . at that point it [would] need[] to be explained.” The trial court granted “Defendant’s motion with the caveat that [if,] at any time[,] the State believe[d] that Defendant ha[d] opened the door,” that the State approach the bench to discuss the matter with the court before proceeding.

At trial, a Raleigh Police Department detective testified regarding the collection of the Raleigh sample of Defendant’s DNA. Over Defendant’s objection, the detective explained how she could identify Defendant’s specific sample using case numbers to keep cases and samples separate. Later, outside the presence of the jury,

Defendant moved for a mistrial due to the State's question to the detective as to "how the Police Department would keep track of two different cases." The court denied the motion.

The jury returned its verdicts on 15 August 2024, finding Defendant guilty of all charges. That same day, the trial court entered judgments sentencing Defendant to 77 to 102 months' incarceration for robbery with a dangerous weapon, 288 to 355 months' incarceration for first-degree rape, and 288 to 355 months' incarceration for first-degree sexual offense, to be served consecutively in the custody of the North Carolina Department of Adult Correction. The court also ordered Defendant to register as a sex offender for the remainder of his natural life.

II. Discussion

On appeal, Defendant argues that "[t]he trial court erred by denying [his] motion for mistrial where the prosecutor's questioning at trial about two different cases could lead the jury to infer that [Defendant] had criminal charges beyond those that he faced at trial." We disagree.

A. Standard of Review

"Upon motion of a defendant or with his concurrence the judge may declare a mistrial at any time during the trial." N.C. Gen. Stat. § 15A-1061 (2025). A mistrial must be declared "upon the defendant's motion if there occurs during the trial an error or legal defect in the proceedings, or conduct inside or outside the courtroom, resulting in substantial and irreparable prejudice to the defendant's case." *Id.*

“The determination as to whether substantial and irreparable prejudice has occurred lies within the sound discretion of the trial judge and will not be disturbed on appeal absent a showing of abuse of discretion.” *State v. McNeill*, 371 N.C. 198, 248, 813 S.E.2d 797, 829 (2018) (extraneity omitted), *cert. denied*, 586 U.S. 1209, 203 L. Ed. 2d 417 (2019). “An abuse of discretion occurs only upon a showing that the judge’s ruling was so arbitrary that it could not have been the result of a reasoned decision.” *State v. Lynch*, 254 N.C. App. 334, 336, 803 S.E.2d 190, 192 (2017) (quoting *State v. Salentine*, 237 N.C. App. 76, 81, 763 S.E.2d 800, 804 (2014)). “The trial court’s decision in this regard is to be afforded great deference since the trial court is in a far better position than an appellate court to determine whether the degree of influence on the jury was irreparable.” *State v. Hauser*, 271 N.C. App. 496, 498, 844 S.E.2d 319, 322 (2020) (quoting *State v. King*, 343 N.C. 29, 44, 468 S.E.2d 232, 242 (1996)).

B. Analysis

At trial, the State elicited testimony from a Raleigh Police Department detective about the DNA evidence collected from Defendant. The detective testified that she was able to identify the evidence envelope that contained Defendant’s DNA sample because written on the envelope were the detective’s initials, the date, the case number, and the crime. The State then asked the detective whether “[t]he [case] number that you read out a minute ago on the back, is that Raleigh Police Department[s] way of keeping up with the evidence and reference in two different cases?” Defendant objected. After a brief bench conference, the trial court overruled

the objection, and the State revised the question, asking: “[a]re all these numbers so you can identify and keep up with that swab?”

Later, outside the presence of the jury, Defendant moved for a mistrial, arguing that the State’s question—whether “this [would] be how the Police Department would keep track of two different cases”—could lead the jury to conclude that there were two different cases involving Defendant. After hearing from the State, the trial court denied Defendant’s motion for a mistrial, explaining:

All right, so, again, just perspective for both of you. What I heard was – made it sound to me as if he was in Raleigh and Raleigh was helping us by getting a swab. That’s the way I heard it. With regard to the number, . . . the entire context I heard was not that he was saying there was another case in Raleigh, but he was just saying this is the way you separate this case from another case, meaning generically from any other case is the way I heard it. That was my impression when I asked the question. And I’ve got to tell you, I was listening pretty closely because I know that this is the area where we had this argument so I was trying to pay attention to make sure that everybody didn’t – everybody danced on the line and didn’t cross it. So I hear what you’re saying. It’s preserved in the record. I’m going to respectfully deny your motion for a mistrial. I don’t believe the jury was prejudiced. I don’t believe the question indicated that there was another charge. And I think the evidence in its entirety did not give that impression.

Defendant argues on appeal that the State’s question left the jury “to speculate about [Defendant’s] criminal past as well as [the] nature and seriousness of any possible crimes,” and “probably caused irreparable harm to [his] case”; thus, “[i]n denying [his] motion for a mistrial, the trial court abused its discretion.”

After careful review of the transcript and the context of the question, we conclude that the State's question was, at best, ambiguous, and does not establish or even suggest that Defendant had a prior criminal record or pending charges. Additionally, Defendant fails to demonstrate "how he was substantially and irreparably harmed by the testimony." *State v. Brunson*, 180 N.C. App. 188, 191, 636 S.E.2d 202, 204 (2006), *aff'd per curiam*, 362 N.C. 81, 653 S.E.2d 144 (2007).

The trial court's thoughtful consideration of the challenged testimony demonstrates that the court's ruling was not "so arbitrary that it could not have been the result of a reasoned decision." *Lynch*, 254 N.C. App. at 336, 803 S.E.2d at 192. Giving the trial court's decision the great deference that it is due, we conclude that the court did not abuse its discretion in denying Defendant's motion for a mistrial. Defendant's challenge has no merit.

III. Conclusion

For the foregoing reasons, we conclude that the trial court did not abuse its discretion in denying Defendant's motion for a mistrial.

NO ERROR.

Judges FLOOD and FREEMAN concur.

Report per Rule 30(e).