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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-46

Filed 21 October 2026

Wake County, Nos. 22CR343051-910, 22CR343054-910

STATE OF NORTH CAROLINA

v.

TONY ARVRAY WILLIAMS

Appeal by defendant from judgment entered 17 April 2025 by Judge Warren McSweeney in Wake County Superior Court. Heard in the Court of Appeals 29 September 2026.

Attorney General Jeff Jackson, by Senior Deputy Attorney General J. Joy Strickland, for the State.

Reid Cater for defendant-appellant.

ARROWOOD, Judge.

Tony Arvray Williams (“defendant”) appeals from judgment entered following jury trial where he was found guilty on eight counts. Defendant argues that the trial court violated his right to a unanimous verdict as to four statutory sex offense counts. For the following reasons, we find no error and affirm the trial court’s judgment.

I. Introduction

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Defendant began dating “Ms. S” when her daughters S.A.¹ and S.B. were in elementary school. Defendant lived with Ms. S and her daughters at their residence in Zebulon, moving in around 2016 or 2017. This home had four bedrooms; each daughter had her own room, defendant and Ms. S shared a bedroom, and the fourth was for defendant’s son T.W. Defendant’s daughter K.C. would occasionally spend the night in the house as well. K.C. had two sisters, twins K.A. and K.B., who were not defendant’s biological children.

S.A. was born in 2006 and was nineteen years old when she testified at trial. S.A. testified that defendant first sexually assaulted her when she was in the sixth grade and defendant came into the bathroom at the home and performed oral sex on her. Defendant repeated this act several times in the living room, her bedroom, and his bedroom. She testified that on several occasions defendant touched her on her breasts, buttocks, and vagina, over and under her clothes. S.A. described an occasion when defendant forced her to perform oral sex on him in her bedroom and the living room, ejaculating in her mouth. She testified that she did not tell Ms. S about the abuse because Ms. S seemed happy in her relationship with defendant, although the abuse continued “pretty regularly” until defendant’s arrest in 2022.

S.B. was born in 2007 and was seventeen years old when she testified at trial. She testified that defendant began sexually abusing her when she was ten or eleven

¹ Pseudonym initials are used to protect the identity of the juveniles.

years old. This began when defendant touched her vagina, which he did several times in the living room, her bedroom, and in his “man cave” room. Defendant also touched her breasts and buttocks under her clothes several times. On one occasion in the “man cave” S.B. awoke on the couch when defendant was unbuttoning her shorts, and during this incident, defendant masturbated himself to completion, touched her vagina, and performed oral sex on her. S.B. testified that he abused her “pretty consistently” but she did not tell anyone at first, because she was “scared” and because defendant told her not to tell anyone. She only disclosed the abuse to her godmother and godsister.

In the summer of 2021, Ms. S learned that K.A. and K.B. accused defendant of sexual abuse. Defendant initially left Ms. S’s home after these accusations but moved back in after spending several months in jail on unrelated charges.

S.A.’s godmother, a cousin of Ms. S., often invited S.A. to stay with her. After learning that S.B. disclosed her sexual abuse, she went to S.A.’s workplace to ask her about defendant and later called the police after S.A. disclosed the pattern of abuse.

Beginning 12 October 2022, Wake County Social Worker Michelle Higgs (“Ms. Higgs”) investigated the abuse allegations against defendant. Ms. Higgs met with S.A. and S.B., who both disclosed details about the abuse. Angie Mullis (“Ms. Mullis”), a forensic interviewer with SAFEchild Advocacy Center who testified as an expert at trial, recorded interviews with S.A. and S.B. on 15 November 2022; videos of the sessions were published to the jury. On the same day, Dr. Karen Todd (“Dr.

Todd”), a pediatrician working with SAFEchild, examined S.A. and S.B. and noted that both sisters showed signs of depression, avoidance, and withdrawal. Dr. Todd’s physical examinations did not reveal evidence of sexual assault, but she testified that the vast majority of patients present with “normal or nonspecific findings” when alleging sexual abuse. Dr. Todd discussed matters with Ms. S, who admitted that she allowed defendant to return to her home because she “loved him and believed what he said” and that “nobody believed [K.A.] and [K.B.]’s” accusations. Ms. Mullis testified that it is not unusual for children to delay disclosure of sexual abuse.

K.A. and K.B. both testified as Rule 404(b) witnesses. K.A. testified that defendant first touched her inappropriately over her clothes when she was fourteen years old and that he later kissed her and performed oral sex on her. K.A. also stated that when she stayed overnight with defendant and Ms. S, he penetrated her vagina digitally and attempted to put his penis in her vagina. She did not disclose the abuse to her mother because she “thought she loved him more than she loved us.” K.B. testified that defendant began touching her inappropriately when she was fourteen years old, and she did not disclose the abuse to her mother because she feared she would not be believed.

Defendant testified in his defense at trial, denying that he sexually abused any of the four girls who made allegations against him. He accused all four girls of making false allegations after he punished them for various misconduct. However, defendant also admitted that he was arrested and ordered not to have contact with

any minor person after he was released on bond in October 2021, but returned to live with Ms. S, S.A., and S.B., and had contact with the girls alone at that time.

Defendant's biological children testified on his behalf, stating that he never touched them inappropriately. K.C. testified that she never saw him touch K.A. or K.B., and T.W. testified that he never saw him touch S.A. or S.B.

On 17 April 2025, the jury found defendant guilty on all charges. The trial court sentenced defendant to four consecutive terms of 276 to 392 months for first-degree statutory sex offense and two consecutive terms of 19 to 32 months for indecent liberties with a child. Defendant entered notice of appeal in open court.

II. Discussion

Defendant argues on appeal that his right to a unanimous verdict was violated as to the four convictions for statutory sex offense, claiming that this right was abridged by "identical indictments, indistinct verdict sheets, and nonspecific evidence." We disagree.

The North Carolina Constitution and the General Statutes of North Carolina require a unanimous jury verdict in a criminal jury trial. N.C. Const. art. I, § 24; N.C.G.S. § 15A-1237(b); *see also State v. Jordan*, 305 N.C. 274, 279 (1982). We review alleged violations of constitutional rights *de novo*. *State v. Graham*, 200 N.C. App. 204, 214 (2009). Where defendant's right to a unanimous jury verdict is erroneously violated, the standard for prejudice is harmless error. *State v. Wilson*, 363 N.C. 478, 487 (2009); *see also State v. Nelson*, 341 N.C. 695, 700 (1995).

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We consider four factors in reaching a determination as to jury unanimity: (1) the evidence; (2) the indictments; (3) the jury charge; and (4) the verdict sheets. *State v. Bates*, 179 N.C. App. 628, 633 (2006). “An indictment is ‘constitutionally sufficient if it appraises the defendant of the charge against him with enough certainty to enable him to prepare his defense and to protect him from subsequent prosecution for the same offense.’” *State v. Hutchings*, 139 N.C. App. 184, 188, *review denied*, 353 N.C. 273, 546 S.E.2d 381 (2000). A verdict is deemed sufficient if it “can be properly understood by reference to the indictment, evidence and jury instructions.” *State v. Connard*, 81 N.C. App. 327, 336 (1986), *aff’d*, 319 N.C. 392 (1987).

The counts related to S.B. are not at issue in this dispute. Defendant was indicted on four counts of statutory sexual offense for victim S.A., with offense dates from 1 January 2019 until 12 October 2022. The verdict sheet corresponding to this file number includes six counts related to the abuse against S.A., separated by numbers 1 through 6: 1 and 2 are counts of indecent liberties, and 3 through 6 are counts of statutory sex offense.

Defendant does not challenge the sufficiency of the indictment itself. However, as to the evidence presented to prove the latter four offenses at trial, defendant asserts that the State’s case “did not support four specific, discrete incidents in the indicted time range.”

The precise dates listed in an indictment for a sex offense of this kind are “not an essential element of the crime charged[.]” *State v. Norris*, 101 N.C. App. 144, 151

(1990). In *State v. Blackmon*, 130 N.C. App. 692 (1998), this Court stated:

this Court has observed more generally that “the date given in the bill of indictment is not an essential element of the crime charged and [that therefore] the fact that the crime was committed on some other date is not fatal.” In that same vein, we have also stated that a “variance between allegation and proof as to time is not material where no statute of limitations is involved.”

Id. at 696–97. Further, in cases involving the sexual abuse of children, courts are lenient concerning differences between dates alleged in the indictment and dates proven at trial. *State v. McGriff*, 151 N.C. App. 631, 637 (2002); *see also Hutchings*, 139 N.C. App. at 188. Our Supreme Court has stated that “in the interests of justice and recognizing that young children cannot be expected to be exact regarding times and dates, a child’s uncertainty as to time or date upon which the offense charged was committed goes to the weight rather than the admissibility of the evidence.” *State v. Wood*, 311 N.C. 739, 742 (1984).

Although the precise dates need not correspond to the evidence at trial, the age of the victim constitutes an essential element of this statutory offense. *State v. Banks*, 367 N.C. 652, 658 (2014). As discussed in testimony, S.A. was born in January 2006; she would have turned thirteen in January 2019 and sixteen in January 2022. Accordingly, defendant is correct that the statutory elements obligate the jury’s four guilty verdicts as to statutory sex offense to correspond to evidence presented about incidents of proscribed conduct by defendant against S.A. which occurred during the period when she was ages thirteen, fourteen, and/or fifteen.

The State presented sufficient evidence to support the elements of the charged offenses. S.A. did not testify to an exact number of occasions when defendant sexually abused her. She instead described defendant sexually abused her “pretty regularly” from the time she was in the sixth grade, when she would have been about “11 or 12[,]” until his arrest in 2022 when she was sixteen. She testified about a recurring pattern of abuse by defendant throughout those years. S.A. described defendant putting his mouth on her vagina “more than once” and listed three places in the house where this occurred: her bedroom, his bedroom, and the living room. She also said that defendant made her perform oral sex upon him “more than once” and said this occurred in both her bedroom and the living room. S.A. described the different places that he would ejaculate on the occasions he would orgasm: “On the bed, sometimes, like on me, in my mouth.” She described defendant touching her vagina with his hands “more than once” in both her bedroom and the living room.

S.A. further testified that she learned to pick up on signs that “something was going to happen.” For example, she illustrated situations when she would bend over in front of the refrigerator and become aware of defendant “looking at [her] for, like a long period of time[,]” whereupon “he’ll come up and kind of like touch me[.]” Asked where he would touch her in such situations, she replied “on my butt” and over her clothes and said defendant only did so if nobody else was around. She stated that whether defendant was drinking or not drinking had no effect on her worry that defendant would abuse her: “Honestly, no. It was the same way drunk or not.” These

touches on her buttocks would not have supported the four challenged verdicts. However, S.A.'s learned awareness to predict defendant's behavior was relevant context supporting her testimony about the recurrence of sexual abuse which took place "pretty regularly" during the statutory period and therefore would have supported the verdicts.

S.A. also gave testimony about the first incident of abuse, during which she was "11 or 12" when he first performed oral sex upon her. N.C.G.S. § 15A-924(a)(4) (2026) provides:

Error as to a date or its omission is not ground for dismissal of the charges or for reversal of a conviction if time was not of the essence with respect to the charge and the error or omission did not mislead the defendant to his prejudice.

Id. There is no applicable statute of limitations for any of the felony offenses, so time was not of the essence in this case. *See State v. Johnson*, 275 N.C. 264, 271 (1969) ("In [North Carolina] no statute of limitations bars the prosecution of a felony."). Indeed, S.A.'s testimony about the first incident provided valuable context for the subsequent alleged pattern of abuse. However, even if we assumed *arguendo* that the jury only heard evidence of three distinct incidents during the statutory window, it would not merit reversal had the jury unanimously reached the fourth verdict based on that testimony. Time was not of the essence, and defendant would not have been prejudiced by this hypothetical error, as he defended himself against the allegations by testifying and denying that any of the alleged misconduct ever

occurred, a defense the jury clearly did not find credible.

Accordingly, the fact that S.A. testified about these earlier events or incidents of touching over her clothes, which either occurred outside the time frame or which would not have supported the four challenged verdicts, would not support the conclusion that the jury heard insufficient evidence to support its determination that at least four incidents proscribed by this statute occurred by the time S.A. was fifteen. Viewed as a whole, S.A. gave testimony that incidents of proscribed misconduct, meeting the necessary statutory elements, occurred regularly within the relevant window. The jury was able to consider S.A.'s credibility and reach the four challenged verdicts, having heard sufficient evidence to support them, whether by testimony at trial or in the forensic interview admitted as evidence.

Having examined the evidence and indictment and found them both constitutionally sufficient in relation to the challenged verdicts, we now turn to the court's jury instructions. To determine whether a trial court's single jury instruction imposed a unanimity requirement for multiple counts, "a single instruction to the jury may not be judged in artificial isolation but must be viewed in the context of the overall charge." *State v. McNeil*, 327 N.C. 388, 392 (1990), *cert. denied*, 499 U.S. 942 (1991). We also apply the presumption "that jurors pay close attention to the particular language of the judge's instructions in a criminal case and that they undertake to understand, comprehend, and follow the instructions as given." *State v. Nicholson*, 355 N.C. 1, 60 (2002) (quotations omitted).

A crucial distinction was discussed in *State v. Bell*, 359 N.C. 1, 30 (2004), *cert. denied*, 544 U.S. 1052 (2005). “[A] disjunctive instruction, which allows the jury to find a defendant guilty if he commits either of two underlying acts, *either of which is in itself a separate offense*, is fatally ambiguous because it is impossible to determine whether the jury unanimously found that the defendant committed one particular offense.” *State v. Lyons*, 330 N.C. 298, 302–303 (1991). “In such cases, the focus is on the conduct of the defendant.” *Bell*, 359 N.C. at 30.

However, not every “disjunctive instruction” violates a criminal defendant’s Constitutional and statutory guarantee of a unanimous verdict. *State v. Walters*, 368 N.C. 749, 753 (2016). Instead, “our case law has long embraced a distinction between unconstitutionally vague instructions that render unclear the offense for which the defendant is being convicted and instructions which instead permissibly state that more than one specific act can establish an element of a criminal offense.” *Id.* (citing *Bell*, 359 N.C. at 29–30.) “[I]f the trial court merely instructs the jury disjunctively as to *various alternative acts which will establish an element of the offense*, the requirement of unanimity is satisfied.” *Lyons*, 330 N.C. at 302–303. “In this type of case, the focus is on the intent or purpose of the defendant instead of his conduct.” *Bell*, 359 N.C. at 30.

The relevant statute provides that

[a] defendant is guilty of a Class B1 felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old

and at least six years older than the person, except when the defendant is lawfully married to the person.

N.C.G.S. § 14-27.30. In keeping with this definition, the court outlined the four elements of each offense that the State had the burden of proving beyond a reasonable doubt. These were that S.A. was under age sixteen at the time of the offense, that defendant was over age twelve and at least six years older than S.A., that defendant and S.A. were not legally married, and finally:

[T]hat the defendant engaged in a sexual act with the victim. A sexual act means cunnilingus, which is any touching, however slight, by the lips or tongue of one person to any part of the female sex organ of another; fellatio, which is any touching by the lips or tongue of one person and the male sex organ of another; and/or penetration, however slight, by an object into the genital opening of a person's body.

As in *Hartness*, “the trial judge’s instruction regarding what constitutes [a sexual act] in this case was not derived from the statute, but was rather a clarification of the evidence presented for the jury’s benefit.” *Hartness*, 326 N.C. at 567. Indeed, the statute “does not list, as elements of the offense, discrete criminal activities in the disjunctive” as is the case in many other criminal statutes. *Id.* at 564. “The statutory definition of ‘sexual act’ does not create disparate offenses, rather it enumerates the methods by which the single wrong of engaging in a sexual act with a child may be shown.” *State v. Petty*, 132 N.C. App. 453, 462 (1999). Put another way, the crime is “a single offense which may be proved by evidence of the commission of any one of a number of acts.” *Hartness*, 326 N.C. at 567.

Accordingly, because this instruction falls into the second category outlined in *Bell*, we consider the “intent or purpose of the defendant instead of his conduct.” *Bell*, 359 N.C. at 30. As this is a strict liability crime, criminal *mens rea* is not a required element and the only relevant intent is the intention to engage in a sexual act. *State v. Sines*, 158 N.C. App. 79, 86, *cert. denied*, 357 N.C. 468 (2003). S.A.’s testimony certainly tended to show the existence of such intent.

“[W]here the trial court instructs the jury disjunctively as to various alternative acts which will establish an element of the offense, the requirement of unanimity is satisfied.” *Walters*, 368 N.C. at 753. “Even if we assume that some jurors found that one type of sexual conduct occurred and others found that another transpired, the fact remains that the jury as a whole would *unanimously* find that there occurred sexual conduct within the ambit of” the statute’s proscription, such that the element requiring “any sexual act” would be met. *Hartness*, 326 N.C. at 565 (emphasis added). Moreover, following the reading of the jury’s unanimous verdicts, the Clerk asked each juror if this was their verdict, and each juror answered affirmatively. This supports the conclusion that the jury understood the requirement that their verdict be unanimous.

Therefore, considering the instructions as a whole alongside the evidence, the indictments, and the verdict sheets, “the jury was not required to make specific findings regarding which sexual acts defendant committed . . . and the trial court’s instruction satisfied the unanimity requirement.” *State v. Scarboro*, 287 N.C. App.

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184, 190 (2022). Thus, we cannot agree with defendant's assignment of error, and we uphold the convictions and judgment in this case.

III. Conclusion

For the above reasons, we affirm the trial court's judgment.

NO ERROR.

Judges GRIFFIN and FREEMAN concur.

Report per Rule 30(e).