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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-801

Filed 4 November 2026

Wake County, Nos. 16CR005701-910; 16CR223384-910

STATE OF NORTH CAROLINA

v.

BRANDON XAVIER HILL, Defendant.

Appeal by defendant from judgment entered 26 August 2024 by Judge Paul C. Ridgeway in Wake County Superior Court. Heard in the Court of Appeals 12 August 2026.

Attorney General Jeff Jackson, by Special Deputy Attorney Generals Robert C. Ennis and Caden William Hayes, for the State.

Sarah Holladay for defendant-appellant.

DILLON, Chief Judge.

Defendant Brandon Xavier Hill appeals the final judgment entered consistent with the jury's verdict finding him guilty of two counts of first-degree murder for the deaths of both a male and a female victim. Defendant contends the trial court committed reversible error during his trial. For the foregoing reasons, we conclude Defendant received a fair trial, free from reversible error.

I. Background

The evidence at trial tended to show as follows: On 2 December 2016, Defendant drove Seaga Edward Gillard[1] to a hotel to meet up with the female victim. Upon arrival at the hotel, Defendant and Gillard encountered the male victim in the hallway. Defendant waited in an interior stairwell while Gillard entered the female victim's room. During an altercation in the hallway between Defendant and the male victim, Defendant fatally shot the male victim. While exiting the female victim's room, Gillard fired two shots into the room killing the female victim. A hotel security camera recorded both incidents, which was played for the jury during the trial.

Three days later, Defendant was arrested in Florida and charged for the deaths. The jury convicted Defendant of two counts of first-degree murder. The first count, for the death of the male victim, whom Defendant shot, was under theories of (1) malice, premeditation, and deliberation and (2) felony murder. The second count, for the death of the female victim, whom Gillard shot, was only under a theory of felony murder. The predicate felony in both counts was the commission or attempted commission of robbery with a firearm of the female victim. Defendant appeals.

II. Analysis

[1] Our Supreme Court recently upheld Gillard's conviction of two counts of first-degree murder for the killings of the male and female victims. *See State v. Gillard*, 386 N.C. 797, 867 (2024).

Defendant argues that certain evidence should have been suppressed and that the trial court erred in denying his motion to dismiss based on the insufficiency of the evidence. We address each in turn.

A. Suppression of Evidence Seized Without a Warrant

Defendant first argues the trial court erred or plainly erred in denying the motion to suppress evidence which was discovered when officers attempted to arrest Defendant, evidence Defendant contends is the *only* evidence to support the State's theory that Defendant went to the hotel room to rob the female victim. He notes there was no evidence at the crime scene to indicate Defendant had any intent to rob the female victim, as Defendant and Gillard fled the scene after shooting the victims without taking money from the female victim's purse.

However, at trial, two women testified to prior, unrelated events where each agreed to meet up with one man at a hotel for sex. Each woman testified she was then raped and robbed by both two men, with her credit cards and identification stolen. The State also offered evidence that the women's identifications were later found during a warrantless search of Defendant's duffle bag.

We conclude this evidence was sufficient to allow the jury to conclude Defendant had the intent to rob the female victim when he and Gillard met up with her at the hotel, but they fled before completing the robbery after Gillard fatally shot the female victim.

Defendant, though, contends the search of his duffle bag was not lawful and

these women would have never testified at trial but for the discovery of their stolen identifications in Defendant's duffle bag during the unlawful, warrantless search. We conclude, though, the search was lawful based on the automobile exception, as concluded by the trial court, for the reasoning below.

The evidence regarding the police's discovery of the testifying women's identifications tended to show as follows: After the victims were killed and police had reviewed footage from the hotel security cameras, police obtained an arrest warrant for Defendant. They traveled to Defendant's apartment to execute the warrant, where they observed Defendant placing a large black duffle bag into a vehicle. Defendant got into the vehicle, and Defendant's wife drove them away. When police tried to initiate a traffic stop, Defendant and his wife fled at a high speed. Police utilized spike strips to slow the vehicle. As the vehicle was coming to a stop, Defendant jumped out and fled on foot. Once Defendant's wife was placed in custody, police conducted an inventory of the car.

During the inventory, police recovered the black duffle bag from the trunk of the vehicle. They searched the bag and found, among other things, multiple identification cards from 16 different individuals—including the stolen driver's licenses of the two women who testified at Defendant's trial.

Defendant moved to suppress the evidence of the testifying women's identification (and the testimonies of these women as fruit of the poisonous tree). The trial court, though, concluded that the search was valid pursuant to the automobile

exception. On appeal, Defendant argues the automobile exception is inapplicable because his vehicle had been rendered immobile due to the police use of spike strips. Defendant relies on our Supreme Court's opinion in *State v. Julius*, 385 N.C. 331 (2023). In *Julius*, the Court concluded that the automobile exception did not apply where the vehicle at issue was partially submerged in water off the main road and incapable of being driven out of the ditch. *Id.* at 336.

We conclude the facts of this case are distinguishable from *Julius*. Here, Defendant's vehicle was still in a public area and more easily movable than the vehicle in *Julius*. *See State v. Isleib*, 319 N.C. 634, 638 (1987) ("We hold that no exigent circumstances other than the motor vehicle itself are required in order to justify a warrantless search of a motor vehicle if there is probable cause . . . and [if] the vehicle is in a public place."). *See also Michigan v. Thomas*, 458 U.S. 259, 261 (1982) ("[T]he justification to conduct such a warrantless search does not vanish once the car has been immobilized; nor does it depend upon a reviewing court's assessment of the likelihood in each particular case that the car would have been driven away, or that its contents would have been tampered with, during the period required for the police to obtain a warrant.").

In a case cited by our Supreme Court in *Julius*, the United States Supreme Court instructed that:

> [A]lthough ready mobility alone was perhaps the original justification for the vehicle exception, our later cases have made clear that ready mobility is not the only basis for the

> exception. The reasons for the vehicle exception, we have said, are twofold. Besides the element of mobility, less rigorous warrant requirements govern because the expectation of privacy with respect to one's automobile is significantly less than that relating to one's home or office.
>
> Even in cases where an automobile was not immediately mobile, the lesser expectation of privacy resulting from its use as a readily mobile vehicle justified application of the vehicular exception [to the warrant requirement].

California v. Carney, 471 U.S. 386, 391 (1985).

The United States Supreme Court also has held that police may search a closed container in the trunk of a vehicle without a warrant where the automobile exception otherwise applies. *United States v. Ross*, 456 U.S. 798, 824 (1982).

Here, Defendant makes no argument police lacked probable cause to search the duffle bag left in the vehicle while Defendant fled the police's valid arrest attempt. And we, otherwise, conclude police had probable cause to search the duffle bag found in the trunk of the vehicle and the automobile exception applied to the search.

B. Insufficiency of the Evidence as to Felony Murder

Next, Defendant argues the trial court erred in denying the motion to dismiss for insufficiency of the evidence as to felony murder. Specifically, Defendant contends the State failed to prove the requisite overt act because no weapon was brandished or property demanded to suggest an intent to rob the female victim.

We review the denial of a motion to dismiss for insufficient evidence de novo. *Gillard*, 386 N.C. at 832 (citation omitted). When ruling on a motion to dismiss, the

trial court must determine only whether there is substantial evidence of each essential element of the crime and that the defendant is the perpetrator. *Id*. at 831 (citations omitted). Said differently, there need only be more than a scintilla of competent evidence to support the allegations for the case to be submitted to the jury. *Id*. at 832 (citation omitted).

Felony murder includes a killing which is "committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree." N.C.G.S. § 14-17(a). An attempt occurs when an individual intends to commit a crime and performs an overt act beyond mere preparation for that purpose but falls short of completing the offense. *Gillard*, 386 N.C. at 832 (citation omitted). Rule 404(b) evidence may be used to prove the intent of a defendant to commit an underlying felony. *Id*. (citation omitted).

An attempted armed robbery "occurs when a person, with the specific intent to unlawfully deprive another of personal property by endangering or threatening his life with a dangerous weapon, does some overt act calculated to bring about this result." *Id*. at 834 (citations omitted). In proving an overt act, the State must demonstrate that a defendant has taken a "direct movement towards the commission [of the offense] after the preparations are made." *Id*. at 833 (citations omitted). This movement "need not be 'the last proximate act' before the crime occurs[;]" "it is sufficient once a defendant has 'begun to execute the criminal design that he helped

concoct.' " *Id*. (citations omitted).

Based on the evidence, including the testimonies of the two women who were victims of prior robberies and whose identifications were found in Defendant's duffle bag, we conclude a rational juror could believe Defendant intended to rob the female victim prior to being interrupted by the shooting of the male victim. We note our Supreme Court rejected a similar argument made by Gillard in his appeal from his conviction. *Gillard*, 386 N.C. at 835.

III. Conclusion

Based on the reasoning provided above, we conclude Defendant received a fair trial, free from reversible error.

NO ERROR.

Judges FLOOD and MURRY concur.

Report per Rule 30(e).