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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-147

Filed 18 November 2026

Scotland County, Nos. 20CR052133-820, 22CR000095-820

STATE OF NORTH CAROLINA,

v.

JONATHAN PONCE BRAYBOY, Defendant.

Appeal by Defendant from judgment entered 23 February 2024 by Judge Patrick Thomas Nadolski in Scotland County Superior Court. Heard in the Court of Appeals 14 October 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Hunter E. Fritz, for the State.

Mary McCullers Reece for Defendant-Appellant.

GRIFFIN, Judge.

Defendant Jonathan Ponce Brayboy appeals from a judgment entered after a jury found him guilty of discharging a weapon into an occupied moving vehicle and two counts of assault with a deadly weapon. Defendant argues the trial court plainly and prejudicially erred by failing to instruct the jury as to the defense of automatism.

We disagree with Defendant and hold the trial court did not err.

I. Factual and Procedural Background

Damian Ransom and Taylor Strickland were previously in a relationship and had two sons together. However, by October 2020, the couple was no longer together.

On 28 October 2020, Ransom had his older son for visitation and had planned to keep him for the night. Nevertheless, Ransom changed his plans and decided to take his older son back to Strickland's residence that evening, despite Strickland's request that Ransom keep their older son because she was spending the evening with Defendant. Upon his arrival at Strickland's apartment, Ransom knocked on the door but, after no one answered, he opened the door and saw Strickland "on top of [Defendant]" while Defendant was naked. Ransom "lost it" and began beating Defendant.

After the confrontation, Ransom left the apartment and returned to his vehicle, where his son was still strapped in his seat. Ransom told Strickland to meet him in half an hour to get their older son. While Strickland was getting ready to leave to go get her son, Defendant left the apartment and said he was going to kill Ransom. As Ransom was driving away, he heard gunshots hitting his truck. Ransom saw someone, who was later determined to be Defendant, hanging out of a car window behind him. Ransom called both 9-1-1 and Strickland to report that Defendant was shooting at him. Afterward, Ransom's vehicle had multiple bullet holes in various areas of the truck, and his back glass was shot out.

After the shooting, Ransom claims he received a Facebook Messenger message from Defendant stating, "WYA," which Ransom understood to mean "where you at." The message was later purportedly "unsent."

Defendant testified he remembered being hit repeatedly and hearing ringing in his ears. Defendant stated he did not remember how the assault ended or what he did afterward. He further testified the next thing he did remember was being on the road in his car and trying to figure out where he was and where his phone and wallet were. Defendant also detailed that he remembered holding his gun but did not remember shooting. Defendant claimed he was in "disbelief," shock, and not thinking clearly.

Defendant introduced medical records showing diagnosis of closed head injury with concussion sans loss of consciousness, contusion of the face and periorbital region, neck strain, and assault. Further, Dr. Amy James, expert in forensic psychology, testified Defendant reported he had experienced a concussion and emotional distress as well as ringing in his ears, tunnel vision, and inability to see. Dr. James also noted Defendant reported feeling "like someone else was acting in his place." She also stated Defendant's symptoms were consistent with emotional distress and concussion, but that concussions "rarely cause a loss of consciousness." Dr. James acknowledged concussions can cause "confusion, ringing in the ears, impulsivity, personality changes, irritability, blurred vision," and concentration of

memory problems. Dr. James testified she did not opine Defendant was "experiencing automation."

Defendant did not request an instruction on automatism or unconsciousness at the charge conference. The trial court instructed the jury on lack of mental capacity as it related to specific-intent offenses such as attempted first-degree murder or assault with a deadly weapon with intent to kill. The jury found Defendant guilty of discharging a weapon into an occupied vehicle and two counts of assault with a deadly weapon but did not find Defendant guilty of the specific-intent charges.

II. Analysis

Defendant claims the trial court erred by failing to instruct the jury as to the defense of automatism.

Generally, "to preserve an issue for appellate review, a litigant must raise the issue and secure a ruling from the trial court." *State v. Reber*, 386 N.C. 153, 157, 900 S.E.2d 781, 785 (2024) (citation omitted). An issue not preserved by an objection at trial and not deemed preserved by another rule or law may still be the basis of an issue on appeal when the action questioned allegedly amounts to plain error. N.C. R. App. P. 10(a)(4).

The plain error rule must be "applied cautiously and only in the exceptional case." *State v. Odom*, 307 N.C. 655, 660, 300 S.E.2d 375, 378 (1983) (citation modified). Typically, for an instructional error to constitute plain error, a defendant must show (1) a fundamental error occurred at trial, (2) the fundamental error had a

probable impact on the trial's outcome, and (3) the error critically "affects the fairness, integrity, or public reputation of judicial proceedings." *Reber*, 386 N.C. at 158, 900 S.E.2d at 786 (citation modified). A fundamental error may be an error "so basic, so prejudicial, so lacking in its elements that justice cannot have been done." *Odom*, 307 N.C. at 660, 300 S.E.2d at 378 (citation modified).

Here, Defendant did not raise his instructional error on automatism/unconsciousness at trial and there are no other rules preserving this argument. Therefore, Defendant's issue is unpreserved, and we review it for plain error.

The complete defense of automatism, or unconsciousness, applies when a person, "though capable of action, is not conscious of what he is doing." *State v. Fields*, 324 N.C. 204, 208, 376 S.E.2d 740, 742 (1989) (citation modified); *State v. Caddell*, 287 N.C. 266, 290, 215 S.E.2d 348, 363 (1975). Automatism is equated with involuntary action and implies the existence of "some attendant disturbance of conscious awareness." *Fields*, 324 N.C. at 208, 376 S.E.2d at 742 (citation modified).

Our Supreme Court held that the defendant in *Fields* was entitled to an automatism instruction where he suffered from post-traumatic stress disorder, was prone to experiencing "disassociative" states, was found by a psychologist to be in a "disassociative" state when the defendant shot the victim, and had a history of being "in his own world" since he was a child. *Id.*, at 208–10, 376 S.E.2d at 742–43.

On the other hand, the defendant in *State v. King* was not entitled to an automatism instruction where the evidence consisted of his self-serving statements such as he "blacked out" while other evidence showed he could describe and knew what happened. 281 N.C. App. 587, 595–98, 868 S.E.2d 913, 919–21 (2022).

In another example in *State v. Andrews*, while evidence may have supported an inference that a defendant's medication impaired his ability to premediate and deliberate, it did not support an automatism instruction; the doctor in *Andrews* never testified that the defendant was *actually* unconscious or incapable of controlling his actions at the time of the relevant events. 154 N.C. App. 553, 557–58, 572 S.E.2d 798, 801–02 (2002).

Generally, the burden of persuasion is on the defendant to prove the existence of automatism to the jury. *State v. Rogers*, 219 N.C. App. 296, 307, 725 S.E.2d 342, 349 (2012) (citation omitted). "When determining whether an instruction of diminished capacity should be submitted to the jury, the Court must consider whether there is evidence sufficient to cause a reasonable doubt in the mind of a juror as to whether defendant had a culpable mental state." *State v. Bush*, 164 N.C. App. 254, 265, 595 S.E.2d 715, 722 (2004) (citation omitted). "If there is evidence from which an inference can be drawn that defendant committed the act without the criminal intent necessary, then the law with respect to that intent should be explained and applied to the evidence by the Court." *Id.* (citation omitted). "In determining whether the evidence supports an instruction on any affirmative

defense, the evidence should be viewed in the light most favorable to the defendant." *Id.* (citation omitted). However, "evidence which merely shows it possible for the fact in issue to be as alleged, or which raises a mere conjecture that it was so . . . should not be left to the jury," and a trial court should not instruct a jury as to such possibility or conjecture. *State v. Clark*, 324 N.C. 146, 162–63, 377 S.E.2d 54, 64 (1989) (citation modified). A trial court must instruct a "jury on all substantive features of the case," including defenses; however, the trial court shall never give instructions that are unsupported by a reasonable view of the case's evidence. *State v. King*, 281 N.C. App. at 595, 868 S.E.2d at 919 (citations omitted).

"The evidence of the man himself will rarely be sufficient unless it is supported by medical evidence which points to the cause of the mental incapacity." *State v. Caddell*, 287 N.C. at 288, 215 S.E.2d at 362 (citation modified). "'It is not sufficient for a man to say, "I had a black-out:" for "black-out" . . . "is one of the first refuges of a guilty conscience and a popular excuse."'" *Id.* (citation omitted). Generally, a man will need "some medical or scientific evidence to distinguish the genuine from the fraudulent." *Id.* (citation modified).

Here, it is undisputed that Defendant was injured, distressed, and confused. Rather, the question is whether Defendant was unconscious such that he was unable to exercise conscious control over his physical actions when he shot at Ransom's truck. Defendant claims Dr. James's testimony supports his argument that he should have received an automatism instruction. Defendant contends the failure to instruct

the jury as to automatism was a fundamental error which would have probably changed the outcome of the trial. Further, Defendant claims the jury would have likely "been satisfied that automatism resulting from the attack was a total defense to the charges."

We hold the evidence does not show Defendant was unconscious or unable to exercise conscious control over his physical actions when he fired at Ransom's truck. First, Defendant's medical record showed he had a closed head injury with concussion, *without* loss of consciousness. Moreover, Dr. James testified that concussions "rarely cause a loss of consciousness." While Dr. James acknowledged loss of consciousness *may* occur in the extraordinary instance, she did *not* testify that is what occurred with Defendant. *See Andrews*, 154 N.C. App. at 557–58, 572 S.E.2d at 801–02 (holding the trial court did not err in refusing to give an automatism instruction because, despite expert witness testimony describing symptoms of a syndrome and explaining the defendant's medication *could have* caused the symptom of acting unknowingly, the expert did *not* testify that the defendant actually *had* the symptom of acting unknowingly). Instead, Dr. James stated she did *not* opine Defendant was "experiencing automation" or was "on autopilot."

Not only is the pattern of this expert testimony similar to the one in *Andrews*, but also it is distinguishable from *Fields*: the psychologist's testimony in *Fields* determined that the defendant was in fact "unable to exercise conscious control of his physical actions" and "acting like an automaton" at the time of the shooting. *Fields*,

324 N.C. at 207, 376 S.E.2d at 742. This contrasts to Dr. James's testimony simply describing the possible symptoms of a concussion, and Dr. James never purported such an opinion that Defendant was not conscious of his actions. We hold the evidence was not sufficient to cause reasonable doubt in a juror's mind as to whether Defendant had a culpable mental state. Therefore, the trial court's alleged error did not amount to error, much less plain error.

III. Conclusion

The trial court did not err in instructing the jury.

NO ERROR.

Judges STROUD and FLOOD concur.

Report per Rule 30(e).