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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-310

Filed 18 November 2026

Mecklenburg County, No. 21CR004309-590

STATE OF NORTH CAROLINA

v.

JANICE ELAINE SINGS

Appeal by defendant from judgment entered 15 August 2025 by Judge Justin N. Davis in Mecklenburg County Superior Court. Heard in the Court of Appeals 29 September 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Allison C. Hawkins, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Callie S. Thomas, for defendant-appellant.

FREEMAN, Judge.

Janice Elaine Sings (defendant) appeals from judgment entered upon a jury verdict of assault with a deadly weapon inflicting serious injury. On appeal, defendant argues that the trial court erred by excluding evidence of the victim's abuse of defendant and that defense counsel was ineffective for failing to preserve the issue.

After careful review, we hold that defendant received a fair trial free from plain error.

I. Factual and Procedural Background

This case involves a stabbing and divergent witness testimony as to that assault. On 20 September 2020, defendant stabbed victim in the thigh. Defendant asserts self-defense, claiming victim was the aggressor. She claims she did not enter the house carrying a knife and simply wanted victim to pay back money owed to her. Defendant testified that victim pushed her down and started kicking her. Other witness testimony tells a different story: One witness saw defendant walking up the driveway carrying a butcher knife. Inside, this witness heard the victim, sitting on a couch, say "Stop, girl, before you stab me." A second witness heard defendant ask victim about money and testified to her moving a knife close to the victim. This witness testified to the victim using a coffee table to block the defendant. A third witness, after hearing someone say they were stabbed, entered the living room and saw blood.

On 22 March 2021, defendant was indicted for one count of assault with a deadly weapon inflicting serious injury. On 11 August 2025, the matter came on for trial. On 15 August 2025, the jury returned a verdict convicting defendant of one count of assault with a deadly weapon inflicting serious injury. Defendant timely entered oral notice of appeal.

II. Jurisdiction

Because this Court has jurisdiction over "any final judgment of a superior

court, other than one based on a plea of nolo contendere," we have jurisdiction over defendant's appeal. N.C.G.S. §§ 7A-27(b)(1), 15A-1444(a) (2025).

III. Discussion

Defendant argues that the trial court erred by excluding evidence of the victim's abuse of defendant and, alternatively, defense counsel was ineffective for failing to preserve the issue. We address each argument in turn.

A. Preservation

As an initial matter, we must determine if the issue is preserved, as no offer of proof was made. Defendant contends that despite not making an offer of proof, the issue is preserved because the significance of the evidence is obvious from the record. The State contends that it is unclear what information defense counsel was seeking to elicit because defense counsel never completed the line of questioning.

> To preserve for appellate review the exclusion of evidence, a defendant must make an offer of proof as to what the evidence would have shown or the relevance and content of the answer must be obvious from the context of the questioning. . . . An exception to the exclusion of evidence cannot be sustained where the record fails to show what the witness' testimony would have been had he been permitted to testify.

State v. Hipps, 348 N.C. 377, 407 (1998) (cleaned up). "The reason for such a rule is that 'the essential content or substance of the witness' testimony must be shown before we can ascertain whether prejudicial error occurred.' " *State v. Barton*, 335 N.C. 741, 749 (1994) (quoting *State v. Simpson*, 314 N.C. 359, 370 (1985)). "In the

absence of an adequate offer of proof, 'we can only speculate as to what the witness' answer would have been.' " *Id.* (quoting *State v. King*, 326 N.C. 662, 674 (1990)).

Defendant argues that the significance of her testimony is obvious from the record because the State, in a pre-trial hearing, reserved the argument if defendant "opened the door to prior interactions with the victim about prior assaults." In her testimony, defendant then described the victim kicking her in the living room, leading to defendant stabbing the victim in the leg. At trial, the following line of questioning between defense counsel and defendant occurred:

> Q. And you said you fell down and he was kicking you?
>
> A. Yeah, he was kicking me. And then he boarded me up against the table and kicking me like that. And I just juned
>
> him in the leg with whatever that was on the table, whether it was a knife or a mail opener, it was laying on the coffee table.
>
> . . .
>
> Q. Did you at any time tell anyone, "If he doesn't give me my money, I'm going to stab him"?
>
> A. No. And they talking about $60. I don't stab him over $60. Me and Cole never argued around nobody about the money, how much money. It wasn't about the money.
>
> Q. This isn't the first time you and Cole have had --

The state objected immediately thereafter.

Defendant contends that defense counsel began asking about prior abusive incidents between the victim and defendant. However, we cannot say that the context

of the questioning reveals what the defendant's testimony would have been. While the line of questioning began with allegations of kicking, subsequent testimony concerned the money in dispute and the defendant's history of not arguing with plaintiff about the money in front of others. At the point of the objection, it is not obvious that defendant would have then, in response to defense counsel's question, testified to prior physical abuse by the victim.

Because defense counsel failed to provide an offer of proof, and the significance of defendant's asserted testimony is not obvious from the record, this issue is not preserved.

B. Plain Error Review

In the alternative, defendant requests plain error review should we determine the issue unpreserved. Accordingly, we review for plain error. *See* N.C. R. App. P. Rule 10(a).

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 *State v. Lawrence*, 365 N.C. 506, 516–17 (2012)). 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).

Defendant argues that the trial court improperly prevented her from establishing self-defense by improperly excluding defendant's testimony. However, it is not clear that the trial court's ruling was error, let alone plain error. The State objected to the incomplete question: "This isn't the first time you and Cole have had --" without providing a reason. We are left to merely speculate why this objection was sustained. As this was a leading question, the trial court could have very well sustained the objection for form under the North Carolina Rules of Evidence Rule 611(c). This ruling, if error at all, certainly could not have been the "obvious" and "apparent" error required to be "fundamental." Thus, defendant cannot show plain error.

C. Ineffective Assistance of Counsel

Finally, defendant argues that even if the issue was unpreserved and not plain error, defense counsel was ineffective for failing to preserve it.

We review "whether a defendant was denied effective assistance of counsel de novo." *State v. Wilson*, 236 N.C. App. 472, 475 (2014).

"A defendant's right to counsel includes the right to the effective assistance of counsel." *State v. Braswell*, 312 N.C. 553, 561 (1985). "There exists a strong presumption that counsel's conduct falls within the wide range of professional assistance, but this presumption is rebuttable." *State v. Gillard*, 386 N.C. 797, 867 (2024) (cleaned up). To show ineffective counsel, a defendant "must show that his

counsel's conduct fell below an objective standard of reasonableness." *Braswell*, 312 N.C. at 561–62. To meet this burden, a defendant must satisfy a two-part test:

> First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

Gillard, 386 N.C. at 867 (quoting *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). "Prejudice is established by showing 'that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.' " *State v. Campbell*, 359 N.C. 644, 690 (2005) (quoting *Strickland*, 466 U.S. at 694).

"When this Court reviews this type of claim on direct appeal, the claim 'will be decided on the merits when the cold record reveals that no further investigation is required, i.e., claims that may be developed and argued without such ancillary procedures as the appointment of investigators or an evidentiary hearing.' " *State v. Reber*, 296 N.C. App. 114, 118 (2024) (quoting *State v. Fair*, 354 N.C. 131, 166 (2001)). Further, "when this Court reviews ineffective assistance of counsel claims on direct appeal and determines that they have been brought prematurely, we dismiss those claims without prejudice, allowing defendant to bring them pursuant to a subsequent

motion for appropriate relief in the trial court." *State v. Thompson*, 359 N.C. 77, 123 (2004).

Defendant argues that there was no reason not to provide an offer of proof when the trial court sustained the State's objection, and the lack of offer of proof constituted ineffective assistance of counsel. We disagree, as defendant fails to meet *Strickland*'s second prong in two ways.

First, nothing in the record tends to show what the defendant would have testified. Without further investigation, we cannot determine what information defense counsel was trying to elicit from defendant and thus cannot determine whether counsel's failure to provide an offer of proof would have made that conduct deficient. Because we cannot determine whether the conduct was deficient, we cannot determine whether that conduct was prejudicial to defendant. Thus, we cannot declare that there is a reasonable probability that the result of the proceeding would have been different

Second, if the trial court based its ruling on the form of the question, then there was no need to make an offer of proof as to the alleged prior abuse, and so defense counsel's conduct would not have been deficient nor prejudicial as to that testimony.

Thus, defendant has not proved her burden for her claim of ineffective assistance of counsel. "We therefore hold that the record before us is insufficient to determine whether defendant received ineffective assistance of counsel." *State v. Todd*, 369 N.C. 707, 712 (2017).

IV. Conclusion

We hold that the trial court did not err and we dismiss without prejudice defendant's alternative claim of ineffective assistance of counsel.

NO PLAIN ERROR.

Judges ARROWOOD and GRIFFIN concur.

Report per Rule 30(e).