IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

SKYLER FRANCIS,

Appellant,

v. Case No. 5D18-3587

STATE OF FLORIDA,

Appellee.

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Opinion filed December 4, 2020

Appeal from the Circuit Court
for Brevard County,
Robin C. Lemonidis, Judge.

James S. Purdy, Public Defender, and Nancy Ryan, Assistant Public Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Kristen L. Davenport, Assistant Attorney General, Daytona Beach, for Appellee.

EDWARDS, J.

Appellant, Skyler Francis, beat two uniformed Brevard County deputy sheriffs with a metal asp baton when they pulled down a section of fence and made a daytime,

warrantless entry into his backyard.[1] Based upon a citizen's report and matters they perceived on-scene, the deputies believed that Appellant was beating or otherwise harming his girlfriend. Before entering the backyard, deputies had attempted for more than ten minutes to engage Appellant and his girlfriend to confirm her wellbeing. After receiving no meaningful responses, the deputies finally entered the backyard. For the beating of Deputy Hriciso, Appellant was convicted of attempted manslaughter. For the beating of Deputy Skinner, he was convicted of aggravated battery on a law enforcement officer. Appellant has raised a number of issues for our consideration. After careful consideration of all matters raised on appeal, we affirm. We write to address certain points briefed by Appellant.[2]

First, the specific jury instruction requested by Appellant, regarding whether exigent circumstances existed so as to permit the warrantless entry made by deputies, did not provide an accurate, clear statement of applicable law which would have assisted the jury in its deliberations.[3] *See Crew v. State*, 146 So. 3d 101, 107 (Fla. 5th DCA 2014). Therefore, the trial court did not err or abuse its discretion in refusing to give that instruction. *See Rodriguez v. State*, 174 So. 3d 502, 505 (Fla. 4th DCA 2015).

Second, we find no palpable abuse of discretion here in the trial court's denial of Appellant's sequential motions to continue the trial. *See Boffo v. State*, 272 So. 3d 876,

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[1] An asp baton is essentially a telescoping metallic night stick, a weapon often carried by law enforcement. Appellant testified he bought his asp baton at a flea market.

[2] As to any other issue on appeal, we affirm without need of discussion.

[3] We recognize that the trial court relied upon a different rationale for not giving the requested instruction. However, it reached the right result, even if for the wrong reason, and that result will be upheld under the tipsy coachman doctrine. *Dade Cnty. Sch. Bd. v. Radio Station WQBA*, 731 So. 2d 638, 644 (Fla. 1999).

878 (Fla. 5th DCA 2019). Third, regarding Appellant's claims that the trial court should have continued the sentencing hearing and ordered a mental health examination, those possible issues were not preserved for our review, because no such requests were presented to the trial court. *See Charles v. State*, 258 So. 3d 549, 552 (Fla. 3d DCA 2018).

Fourth, Appellant did not preserve the issue of the trial court's inappropriate comments or demeanor for appellate review.[4] We note that a trial court's inappropriate demeanor and conduct do not necessarily amount to fundamental error. *See Mathew v. State*, 837 So. 2d 1167, 1169–70 (Fla. 4th DCA 2003). Finally, Appellant's several claims of ineffective assistance of counsel during trial and sentencing do not rise to the level appropriate for consideration on direct appeal. *See Blanco v. Wainwright*, 507 So. 2d 1377, 1384 (Fla. 1987). Appellant may pursue claims of ineffective assistance of counsel via a Florida Rule of Criminal Procedure 3.850 motion if he can do so in good faith.[5]

AFFIRMED.

COHEN and LAMBERT, JJ., concur.

[4] In subsequent judicial disciplinary proceedings, the trial judge conceded, and the Florida Supreme Court agreed, that the judge's conduct reflected a perceived dislike for Appellant's trial counsel that "was inappropriate, intemperate, and violated the Canons" of judicial conduct. *In re Lemonidis*, 283 So. 3d 799, 801–02 (Fla. 2019).

[5] We express no opinions on the merits of any such claims.