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NO. COA10-1572

NORTH CAROLINA COURT OF APPEALS

Filed: 6 September 2011

STATE OF NORTH CAROLINA

v.

Mecklenburg County
No. 08 CRS 207208

ERIC ANTHONY MORALES,
Defendant.

Appeal by defendant from judgment entered 16 April 2010 by Judge Calvin E. Murphy in Mecklenburg County Superior Court. Heard in the Court of Appeals 25 April 2011.

Attorney General Roy Cooper, by Special Deputy Attorney General L. Michael Dodd, for the State.

M. Alexander Charns for defendant-appellant.

GEER, Judge.

Defendant Eric Anthony Morales appeals from his conviction of first degree murder. Defendant argues only that the trial court erred in denying his motion to dismiss the first degree murder charge. We hold, however, that when all inferences are drawn in favor of the State, as required by the standard of review, the State presented sufficient evidence from which a

reasonable jury could conclude that defendant killed the victim. The trial court, therefore, properly denied defendant's motion to dismiss.

Facts

The State's evidence tended to show the following facts. Defendant and Atoi Watson began dating in 2006. In February 2007, they moved into an apartment with Ms. Watson's brother, James Williams. Mr. Williams heard the couple argue often while they were living with him.

In the summer of 2007, Ms. Watson's ex-boyfriend, Wilbur Littlejohn, was released from jail, and Ms. Watson began seeing him again. Sometime during the week before 14 September 2007, Ms. Watson told defendant she had been seeing Mr. Littlejohn again, causing defendant to become very angry and the two of them to argue loudly.

On Wednesday, 12 September 2007, Latanya Watson, Ms. Watson's cousin, had a cookout to celebrate her birthday. Latanya heard defendant tell Ms. Watson that "if he couldn't have her, no one could." Around this general time, Ms. Watson was frequently talking about leaving defendant. Ms. Watson also asked defendant to leave, but he refused.

Two days later, Friday, 14 September 2007, was the last time Ms. Watson was seen alive. Mr. Williams was away in South

Carolina at that time. At 4:00 p.m., Allen Gaines, a neighbor who lived about 30 to 40 yards behind Mr. Williams' apartment and who could see Mr. Williams' apartment from his back door, bought crack cocaine from Ms. Watson. Defendant was not at the apartment at the time.

Later that evening, at around 6:30 p.m., Mr. Gaines saw defendant come home. Immediately after defendant entered the apartment, Mr. Gaines heard Ms. Watson scream loudly, "no, Poppy, no, as loud as she could." Defendant occasionally went by the name "Poppy" and had a tattoo of that name around his naval area. Ms. Watson's screams made Mr. Gaines think to himself, "boy, she's getting a good ass whipping." Mr. Gaines heard Ms. Watson scream these words only once or twice, and then, according to Mr. Gaines, the screams "cut off so fast," right when she was in the middle of a word. Afterward, Mr. Gaines heard no more screaming or voices.

A few hours later, at approximately 1:00 a.m., Mr. Gaines saw defendant drive his truck around the back of the building alone. Defendant got out of the truck and was holding a brown bag and a couple of 22-ounce beers.

The next time Mr. Gaines saw defendant was around 8:30 a.m. on Saturday morning, 15 September 2007. Defendant was alone and was moving some of his belongings, including a television,

table, a couple of chairs, and a rug, out of the apartment. Defendant kept his head down the entire time and would not look at Mr. Gaines.

Later that morning, at about 10:30 a.m., Ms. Watson's best friend, Lasheena Young, came with her two sons to the apartment to visit Ms. Watson. She banged on the door, but no one answered. After about three to five minutes, one of the boys reached for the knob and began to turn it. The door was locked, but defendant rushed to the door as the knob turned. Normally, defendant would open the door all the way and let them in, but this time, he just cracked the door and stuck his head out. When Ms. Young asked defendant where Ms. Watson was, he answered, "I don't know, she didn't come home." He then closed the door, and Ms. Young and her sons left. Because Ms. Young thought something did not seem right, she called Ms. Watson's brother, Mr. Williams, but she could not reach him.

When Mr. Williams returned home the next day, Sunday, 16 September 2007, he asked Mr. Gaines if he had seen his sister. Mr. Gaines told him, "[M]an, I think your sister's dead" and explained that he thought so because her voice "cut out so quick." Mr. Williams noticed when he returned that although the bathroom in the apartment had been clean before he left for South Carolina, it looked on his return "like somebody had been

scuffling" in there -- a flower and toothbrush holder were knocked over, a lot of other things were not in place, and there was dirt on the floor.

Ms. Young was finally able to reach Mr. Williams on the phone that night to share her concern, and Mr. Williams told her he would look for his sister. On Monday, 17 September 2007, Mr. Williams started calling everyone with whom he thought his sister might be, but no one knew where she was. He also asked defendant, who was still in Mr. Williams' apartment, where his sister was. Defendant claimed he had not seen Ms. Watson since Saturday.

The next day, Tuesday, 18 September 2007, defendant's boss, James Sparks, Jr., drove defendant home to Mr. Williams' apartment after work. Defendant told Mr. Sparks that his hands hurt, and Mr. Sparks noticed that defendant's left hand "looked sort of pussy and swollen." During the subsequent police investigation, Mr. Sparks reported that, in September 2007, he had noticed some cuts on defendant's hand that "looked pretty deep."

William Sturgis, who also worked for Mr. Sparks and was Ms. Watson's cousin, similarly observed that around the time he learned his cousin was missing, defendant had "a hole in his hand" which was covered in bandages for about a week. Defendant

told Mr. Sturgis the injury happened when he was changing an oil filter. He "poked the screwdriver and it went through the oil filter into his hand." Mr. Sturgis did not believe this explanation made sense since he had also changed oil filters, and, according to Mr. Sturgis, a screwdriver is "not gonna poke from the filter, from one end to another, and all the way through your hand. It's not going to happen."

At around 5:00 p.m. on that Tuesday afternoon, defendant arrived at Mr. Williams' apartment with Mr. Sparks and Mr. Sparks' son, and they began to move defendant's bed, dresser, and rug out of the apartment. The only items they left in defendant's and Ms. Watson's bedroom were Ms. Watson's clothes.

After the three men left, Mr. Williams went to Ms. Watson's place of employment and found out she had not picked up her paycheck that day, which was unusual. Mr. Williams and Ms. Young then called the Charlotte-Mecklenburg Police Department to report that Ms. Watson was missing.

The following day, Wednesday, 19 September 2007, Mr. Williams, Ms. Young, and another friend began to search the apartment for any clues as to what might have happened to Ms. Watson. In the bathroom, they discovered a roll of toilet paper -- not just a wad -- "full of blood" on one side, "buried" in the trash can, like someone hid it. Mr. Williams and Ms. Young

called the police again to tell them about the blood and to ask if they would "come out and see whose blood it is." DNA testing on the toilet paper roll indicated that the blood was from a female.

That evening, Mr. Williams and Ms. Young went to defendant's sister's house on Sloan Drive, about 35 to 40 minutes away, to see if defendant was there. When they found defendant, Mr. Williams asked him where Ms. Watson was, but defendant said he did not know. Ms. Young also asked defendant where the blood in the bathroom came from, and defendant acted "like, he didn't know at first," but then he said he had hurt his hand while he was working on his truck. To Ms. Young, defendant appeared "[m]ean and like scary, crazy looking," but he did not seem to be worried about Ms. Watson. Mr. Williams and Ms. Young asked defendant to help them look for Ms. Watson, but he never did.

Approximately five months later, on 9 February 2008, police responded to a call regarding the discovery of a human foot in the woods behind a Studio 6 Hotel at the corner of Queen City Drive and Sloan Drive, the street that defendant's sister lived on. Defendant's sister's residence backed up to these woods. The remains in the woods were subsequently identified as Ms. Watson's. Her body had been dismembered, and various body

parts, which were severely decomposed, were recovered from different locations in the woods. The torso was lying on chicken wire.

The medical examiner subsequently determined that Ms. Watson's cause of death was multiple stab wounds. The medical examiner identified four distinct injuries to the bone -- one to the neck, three to the back -- that were inflicted while Ms. Watson was alive. With respect to the neck, at the C-4 vertebra, a knife had gone all the way from the back to the front of the vertebra, meaning it had gone all the way through the spinal canal. That injury would have caused Ms. Watson's diaphragm to stop moving, and she would have stopped breathing. She could still have been able to form words with her mouth, but her ability to make any noise would have ceased immediately. Ms. Watson also had several sharp, incised injuries on her hands which were consistent with defensive wounds.

On Monday, 11 February 2008, the police obtained a search warrant for defendant's sister's home. During the search, officers collected two sofa cushions. The right cushion had "several dried red blood stains" which "took up a good portion of" the surface area. The left cushion had "a couple of different cuts." DNA testing revealed eight blood stains on the cushions. With respect to two of the stains, the DNA profile was consistent

with a mixture of at least two individuals. Defendant could not be excluded as a contributor to the major DNA profile, and the female contributor of the DNA profile obtained from the blood on the toilet paper roll could not be excluded as a contributor to the minor DNA profile. Four more of the stains were consistent with a mixture of at least two individuals. Defendant could not be excluded as a contributor to the major DNA profile in those stains, while no conclusion could be made as to the minor DNA profile. One stain yielded only a partial DNA profile, but defendant could not be excluded as a possible contributor. Finally, there was one stain that was not a mixture; defendant was a match for that stain.

The police also searched a storage shed in the back yard behind defendant's sister's house. Among the items in the shed was a freezer, which a detective explained stood out initially from the rest of the items because it "looked almost as if it was brand new. It was absolutely spotless, was not consistent at all with anything that we had come across not only in the shed, but on the entire property. It was spotless." It also had a "very quickly noticeable odor that came from it" -- like something was rotting -- when it was opened, even though it was empty. A swab taken from the interior drain of the freezer revealed the

presence of human DNA, but it was not enough to yield a DNA profile.

Near the shed police also found some chicken wire and three chicken coops, one of which was missing the wire from the top of the coop. One of the crime scene investigators described this chicken wire as being "like" the chicken wire under Ms. Watson's torso.

Defendant was indicted for the first degree murder of Ms. Watson on 1 March 2010. At trial, following the close of the State's evidence, the trial court denied a motion by defendant to dismiss the charge based upon the insufficiency of the evidence. Defendant presented no evidence on his own behalf but renewed his motion to dismiss, which the court denied. The jury found defendant guilty of first degree murder. The trial court sentenced defendant to life imprisonment without parole. Defendant timely appealed to this Court.

Discussion

The sole issue on appeal is whether the trial court erred in denying defendant's motion to dismiss. "This Court reviews the trial court's denial of a motion to dismiss *de novo*." *State v. Smith*, 186 N.C. App. 57, 62, 650 S.E.2d 29, 33 (2007). "Upon defendant's motion for dismissal, the question for the Court is whether there is substantial evidence (1) of each essential

element of the offense charged, or of a lesser offense included therein, and (2) of defendant's being the perpetrator of such offense." *State v. Powell*, 299 N.C. 95, 98, 261 S.E.2d 114, 117 (1980). Substantial evidence is that amount of evidence "sufficient to persuade a rational juror to accept a particular conclusion." *State v. Goblet*, 173 N.C. App. 112, 118, 618 S.E.2d 257, 262 (2005), *overruled on other grounds by State v. Tanner*, 364 N.C. 229, 695 S.E.2d 97 (2010).

"The trial court in considering such motions is concerned only with the sufficiency of the evidence to carry the case to the jury and not with its weight." *Powell*, 299 N.C. at 99, 261 S.E.2d at 117. When the evidence is circumstantial, "[t]he trial court's function is to test whether a reasonable inference of the defendant's guilt of the crime charged may be drawn from the evidence." *Id.* (emphasis omitted). The Court views the evidence in the light most favorable to the State. *State v. Hyatt*, 355 N.C. 642, 666, 566 S.E.2d 61, 77 (2002).

Defendant contends that the State failed to present sufficient evidence from which a reasonable jury could find that defendant was the person who murdered Ms. Watson. Defendant argues this case is substantially similar to four cases in which the Supreme Court held that the State failed to sufficiently prove that the defendant was the perpetrator of the murder. See

State v. Lee, 294 N.C. 299, 240 S.E.2d 449 (1978); *State v. White*, 293 N.C. 91, 235 S.E.2d 55 (1977); *State v. Jones*, 280 N.C. 60, 184 S.E.2d 862 (1971); *State v. Cutler*, 271 N.C. 379, 156 S.E.2d 679 (1967).

In *State v. Bell*, 65 N.C. App. 234, 237, 309 S.E.2d 464, 466 (1983), *aff'd per curiam*, 311 N.C. 299, 316 S.E.2d 72 (1984), however, this Court noted the difficulty in addressing the sufficiency of the evidence in murder cases such as this one, when the State presented only circumstantial evidence. The *Bell* Court explained:

The real problem lies in applying the test to the individual facts of a case, particularly where the proof is circumstantial. One method courts use to assist analysis is to classify evidence of guilt into several rather broad categories. Although the language is by no means consistent, courts often speak in terms of proof of motive, opportunity, capability and identity, all of which are merely different ways to show that a particular person committed a particular crime. In most cases these factors are not essential elements of the crime, but instead are circumstances which are relevant to identify an accused as the perpetrator of a crime.

Id. at 238, 309 S.E.2d at 467.

The Court continued: "While the cases do not generally indicate what weight is to be given evidence of these various factors, a few rough rules do appear. It is clear, for instance, that evidence of *either* motive or opportunity alone is

insufficient to carry a case to the jury." *Id.* at 238-39, 309 S.E.2d at 467. On the other hand, "[w]hen the question is whether evidence of *both* motive and opportunity will be sufficient to survive a motion to dismiss, the answer is much less clear. The answer appears to rest more upon the strength of the evidence of motive and opportunity, as well as other available evidence, rather than an easily quantifiable 'bright line' test." *Id.* at 239, 309 S.E.2d at 468.

All four of the cases cited by defendant fall under the general rule expressed in *Bell* that a defendant's motion to dismiss should be allowed when the State presents only evidence of *either* motive or opportunity. In *White* and *Cutler*, the State presented evidence of opportunity without presenting any evidence of the defendant's motive for the murder. *See White*, 293 N.C. at 96-97, 235 S.E.2d at 59 (noting that "no motive was established for the crime[,] "no flight was attempted by the defendant[,] and the State only "established that the defendant had an opportunity to commit the crime charged"); *Cutler*, 271 N.C. at 384, 156 S.E.2d at 682 ("There is no evidence to show ill will between the deceased and the defendant or any other motive for the defendant to assault or kill the deceased.").

In *Lee*, on the other hand, the State presented evidence of motive but not opportunity. *See Lee*, 294 N.C. at 303, 240

S.E.2d at 451 (holding that while evidence that defendant threatened to kill victim two days before her death and had previously been violent toward her was enough to establish motive, "[t]he criminal act cannot be inferred from evidence of state of mind alone" when State presented no evidence placing defendant at murder scene). In *Jones*, 280 N.C. at 66-67, 184 S.E.2d at 866, the last case relied upon by defendant, the evidence found insufficient only established that the defendant had the opportunity to kill his wife and raised the question of whom else could have committed the murder.

In contrast to those decisions, the State in this case presented ample evidence of both motive and opportunity. As to motive, the evidence tended to show that defendant was jealous and controlling, that Ms. Watson wanted to leave defendant, and that defendant had warned Ms. Watson that if he could not have her, no one could. See *State v. Theer*, 181 N.C. App. 349, 357, 639 S.E.2d 655, 661 (2007) (holding sufficient evidence was offered to show defendant was perpetrator of murder where evidence of motive included ongoing marital problems between defendant and victim); *State v. Cannada*, 114 N.C. App. 552, 561, 442 S.E.2d 344, 349 (1994) (Greene, J., dissenting) (holding evidence was adequate to support conclusion that defendant killed victim where evidence of motive showed victim and

defendant lived together in house owned by victim, and on day victim was killed, victim had said she was going to ask defendant to leave her home), *rev'd per curiam for reasons stated in dissent*, 340 N.C. 101, 455 S.E.2d 158 (1995).

As for opportunity, the evidence tended to show that Ms. Watson was initially alone in the apartment on the last night she was seen alive. Immediately after defendant arrived and went inside, she began screaming, using defendant's nickname, and her screams cut off in the middle of a word -- a fact consistent with the medical examiner's explanation that the stab wound to her neck would have stopped her speech instantly. See *State v. Barrett*, 343 N.C. 164, 174, 469 S.E.2d 888, 893-94 (1996) (holding jury could infer that defendant shot victim where evidence showed defendant was seen standing next to victim seconds before shot was heard and victim's gunshot wound was made with gun placed firmly against his head); *Cannada*, 114 N.C. App. at 561, 442 S.E.2d at 349 (Greene, J., dissenting) (evidence showed victim and defendant were overheard arguing loudly in victim's house at about 5:30 p.m. on evening of killing, victim was last seen alive around 6:30 p.m., and defendant was seen around 7:30 p.m. walking from house to truck).

In addition, other circumstances also tended to show defendant was the killer. After the initial argument between defendant and Ms. Watson, a neighbor heard nothing further, but noticed defendant drive his truck around the back of the building. The next morning, defendant, with no sign of Ms. Watson, began moving some of his belongings, including a rug, out of the apartment. Two hours later, defendant would not let Ms. Young enter the apartment and claimed that Ms. Watson had not come home, even though Mr. Gaines had heard her yelling the night before.

When Ms. Watson's brother returned to the apartment, it appeared that there had been a fight in the bathroom. Later, he and Ms. Young found a bloody roll of toilet paper -- the blood was that of a woman. Defendant, however, claimed that the blood came from him when he hurt his hand while working on a truck.

Ms. Watson's cut-up remains were ultimately found behind defendant's sister's residence, on chicken wire like the chicken wire from defendant's sister's chicken coop. See *State v. Mlo*, 335 N.C. 353, 370, 440 S.E.2d 98, 106 (1994) (holding evidence tended to show defendant was perpetrator where, *inter alia*, victim's body was found far from home, but in location with which defendant would have been familiar, having worked nearby). There was also a mixture of defendant's blood and a female's

blood -- the same blood that matched the blood-soaked toilet paper roll -- on large stains on sofa cushions in defendant's sister's home. Defendant's employer and a co-employee had observed that defendant's left hand had deep cuts three days after Ms. Watson was killed. Finally, the freezer in a storage shed in defendant's sister's backyard smelled as if something was rotting, but was spotlessly clean, contrary to other items in the shed. The freezer contained human DNA.

From this evidence, the jury could reasonably find that defendant attacked Ms. Watson when he returned home and stabbed her in the neck, causing her voice immediately to stop, and ultimately stabbed her to death. Defendant had the opportunity to remove Ms. Watson's body, and the jury could have reasonably concluded that he took her body to his sister's house, dismembered it, and stored it in his sister's freezer until he dumped the remains in the woods behind his sister's house, using chicken wire from his sister's chicken coop to transport the remains.

Based on this evidence, we hold that the State presented substantial evidence of defendant's identity as the perpetrator -- including evidence showing both motive and opportunity and other circumstances -- such that a reasonable juror could have concluded that defendant was the person who killed Ms. Watson.

The trial court, therefore, did not err in denying defendant's motion to dismiss.

No error.

Chief Judge MARTIN and Judge ELMORE concur.

Report per Rule 30(e).