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Memorandum decisions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited as binding authority for any proposition of law, although it may be cited for whatever persuasive value it may have. See McCoy v. State, 80 P.3d 757, 764 (Alaska App. 2002).

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

CHRISTIAN ANDRE YOUNG,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-13776
Trial Court No. 3AN-16-07375 CR

MEMORANDUM OPINION

No. 7084 — December 27, 2023

Appeal from the Superior Court, Third Judicial District, Anchorage, Michael R. Spaan, Judge.

Appearances: Elizabeth D. Friedman, Law Office of Elizabeth D. Friedman, Prineville, Oregon, under contract with the Office of Public Advocacy, Anchorage, for the Appellant. Kenneth M. Rosenstein, Assistant Attorney General, Office of Criminal Appeals, Anchorage, and Treg R. Taylor, Attorney General, Juneau, for the Appellee.

Before: Wollenberg, Harbison, and Terrell, Judges.

Judge HARBISON.

Christian Andre Young was convicted, following a jury trial, of first-degree robbery, first-degree impersonating a public servant, and interference with official

proceedings.[1] The convictions were based on an incident in which Young pretended to be a police officer during a robbery and then bribed the complaining witness to not cooperate with the prosecution. Young raises two issues on appeal.

First, Young challenges his conviction for interference with official proceedings, contending that it was based on insufficient evidence or resulted from a flawed jury instruction. Second, he argues that the evidence was insufficient to support his conviction for first-degree impersonating a public servant. For the reasons explained in this decision, we reject Young's arguments and affirm his convictions.

Background facts and proceedings

On the night of June 20, 2016, Anchorage police officers responded to a report of an armed robbery of a guest at a local hotel. The guest, Jade Hart, reported to the police that a man (later identified as Young) contacted her through "backpage," an escorting website, and arranged to meet her at the hotel.

Hart later testified that Young entered her hotel room, displayed what appeared to be a police badge, and took out a pair of handcuffs. Young asked Hart "where's the money," but when Hart failed to answer, Young pulled out a pistol and pointed the gun at her. Hart then showed him where she kept her money. Young took $1,090 and her iPad and left the hotel room. Hart immediately called the front desk of the hotel to report the incident, and the front desk notified the police.

Two days later, Hart received a text message from Young saying that he would return her things if she did not contact the police. Hart replied, "I could care less I'm not from Alaska I just want my things [b]ack." Young did not respond. A few days

[1] AS 11.41.500(a)(1), AS 11.56.827, and AS 11.56.510(a)(2)(A), respectively.

later, Hart texted Young to ask whether he was going to return her things, but again received no reply.

Meanwhile, the officer investigating the robbery, who had yet to identify Young as a suspect, learned that the robber had contacted Hart with a phone number associated with a person named Christian Young. About a week after the incident, the officer presented Hart with a photo lineup that included an image of Young, and Hart identified Young as the robber. Young was eventually arrested three months after the robbery occurred.

After Young was arrested, Hart received a phone call from Chante Garcia, the mother of Young's children, who said she had Hart's things and would return them if Hart "dropped the charges." Garcia told Hart that she would first give her $1,500 and the iPad, and that she would provide another $1,500 after Young was released from custody. Garcia then wired $1,500 to Hart's bank account and returned Hart's iPad.

The State initially charged Young and Garcia with interference with an official proceeding. Young was also charged with first-degree robbery and first-degree impersonating a public servant. Garcia reached an agreement with the State to testify against Young in exchange for having the charge against her dropped. Young's case proceeded to a jury trial.

At trial, Garcia testified that after Young was arrested, Young asked her to return Hart's iPad, pay Hart $1,500, ask Hart not to talk to the police, and pay Hart another $1,500 after Young was released from custody. Garcia testified that she complied with Young's request and wired Hart the initial payment of $1,500. Garcia explained that she complied with the request because she wanted Young to be home for the birth of their child, and because she was afraid Young might get someone to hurt her if she did not cooperate.

Young also testified at trial. He told the jury that he contacted Hart through "backpage.com" and then met in her hotel room. According to Young, Hart's phone rang while they were discussing the amount that Hart would be paid, so Hart went into the bathroom to take the call. Young claimed that he then took Hart's iPad and the money she had on the nightstand and walked out of the room. He denied pulling out a gun, a badge, or handcuffs.

Young testified that the next day, he went through Hart's iPad and noticed that it had family photos on it, which made him feel bad. He then located Hart's contact information and tried to contact her to return the iPad and the money to her. Young testified that he did not get a "direct response" from Hart, so he did not return the items at that time.

After Young was arrested, he contacted Garcia and asked her to look in his storage unit for Hart's iPad. After Garcia located the iPad, Young suggested that, in addition to returning the iPad, Garcia should also give Hart $3,000. According to Young, he chose this amount because he wanted it to sound as "appealing as possible" to Hart so he would "not be charged with a robbery."

Young explained that once he had returned the iPad and given Hart the money, he expected "that everything [would be] good" because he was "replacing exactly and more than was taken from [Hart]." Young insisted that he did not have "malicious intent" when he contacted Hart, but just wanted to get out of jail so that he could be present for the birth of his child.

On cross-examination, Young admitted that he had texted Hart and offered to give everything back if the police were not involved. Young also agreed that it was his idea — not Garcia's — to approach Hart and offer her $3,000. He explained that the first $1,500 was given to reimburse Hart for the money he took from her, plus "a little extra," and that the other $1,500 was "contingent on her just not going along with the

prosecution." Young agreed with the prosecutor that "not going along" meant not cooperating with the prosecution, not answering subpoenas, and not answering the phone when investigators called. Young insisted he did not know that proposing such an agreement was illegal.

Before the jury began its deliberations, Young moved for a judgment of acquittal on the charge of impersonating a public servant, and the trial court denied his motion. The jury ultimately convicted Young of all three charges against him. He now appeals, challenging his convictions for interfering with an official proceeding and first-degree impersonating a public servant.

Why we reject Young's challenge to his conviction for interfering with an official proceeding

Young first challenges his conviction for interfering with an official proceeding under AS 11.56.510(a)(2)(A), which requires the State to prove, *inter alia*, that Young conferred, offered to confer, or agreed to confer a benefit upon Hart.[2]

On appeal, Young claims that the State failed to prove — and indeed, never argued — that he personally conferred, offered to confer, or agreed to confer a benefit upon Hart. Rather, Young contends that because he asked Garcia to confer the benefit upon Hart, Garcia was acting as the principal (*i.e.*, the person who committed the underlying crime) and Young could only be convicted as an accomplice under AS 11.16.110 — the statutory provision defining when a defendant can be convicted based on the conduct of another. In relevant part, AS 11.16.110 provides that a person is "legally accountable for the conduct of another constituting an offense if . . . with

[2] AS 11.56.510(a)(2).

intent to promote or facilitate the commission of the offense, the person . . . solicits the other to commit the offense."[3]

Young never raised this issue in the trial court, but on appeal he maintains that the State's failure to charge him as an accomplice requires reversal of his conviction based on three alternative theories: (1) the evidence presented was insufficient to support his conviction as a principal; (2) the failure to instruct the jury on the elements of accomplice liability was plain error; or (3) the failure to instruct the jury on the elements of accomplice liability was structural error.

Young's underlying argument raises a difficult question of statutory interpretation. When a defendant asks another person to provide a benefit to a witness in exchange for withholding testimony, and that person does so, has the defendant himself conferred (or offered to confer, or agreed to confer) a benefit, making him guilty as a principal? Or has the defendant solicited an intermediary person to confer the benefit, making the defendant guilty as an accomplice?[4]

We conclude, however, that we need not resolve that question here because, given the facts of this case and how it was presented to the jury, the jury necessarily found beyond a reasonable doubt every fact needed to hold Young liable as an accomplice under AS 11.16.110. This means that Young would not be entitled to

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[3] AS 11.16.110(2)(A).

[4] We note that Young's appellate briefing is insufficient to resolve this question. Young acknowledges that the language of Alaska's interfering with official proceedings statute is "theoretically subject to two meanings," but he does not meaningfully address the language, legislative history, or purpose of that statute, or Alaska's accomplice liability statute. *State v. Fyfe*, 370 P.3d 1092, 1095 (Alaska 2016) ("[W]e interpret the statute according to reason, practicality, and common sense, considering the meaning of the statute's language, its legislative history, and its purpose." (quoting *State, Div. of Workers' Comp. v. Titan Enters., LLC*, 338 P.3d 316, 320 (Alaska 2014))).

reversal of his conviction *even if* we agreed that he should have been charged as an accomplice.

To prove that Young committed the crime of interfering with an official proceeding, the State was required to prove that (1) Young conferred, offered to confer, or agreed to confer a benefit upon a witness, and (2) he did so with the intent to improperly influence that witness.[5] At trial, Young testified that he had asked Garcia to return Hart's iPad and to give Hart $3,000, and explained that payment of the final $1,500 was to be contingent on Hart "not going along with the prosecution." Young did not dispute any element of the offense of interfering with an official proceeding. Rather, he testified that he did not act with "malicious intent" and that he did not know that his conduct was unlawful. When the case was submitted to the jury, the jury was instructed that the interference charge related to Young's alleged conduct "in requesting Ms. Garcia contact Ms. Hart . . . and the texts and conversations that followed." It was also instructed that the charge *did not* relate to "the text [Young] admitted to sending to Ms. Hart himself."

In this context, when the jury found Young guilty of interfering with an official proceeding, it necessarily concluded that Young solicited Garcia to confer a benefit upon Hart, and that Young did so with the intent to improperly influence Hart. In other words, the jury necessarily found every element required to hold Young accountable for Garcia's conduct as an accomplice.[6] And because Alaska law does not

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[5] AS 11.56.510(a)(2)(A).

[6] *See* AS 11.16.110 & AS 11.56.510. Young might argue that in order to find him guilty under subsection (2) of Alaska's accomplice liability statute, the jury was required to make the additional finding that Garcia herself was criminally culpable. But even assuming Garcia was not culpable, Young would still be guilty as an accomplice under a different subsection of AS 11.16.110 — subsection (3) — which provides that a person is legally
(continued...)

distinguish between the criminal liability of principals and accomplices, Young has not shown that any error in instructing the jury requires reversal of his conviction.[7]

This result is consistent with the three doctrinal frameworks on which Young relies in this appeal — insufficient evidence, plain error, and structural error.

Young claims that the evidence was insufficient to establish that he committed the crime of interfering with an official proceeding. But as we have just explained, the evidence was sufficient to prove that Young was guilty of the crime based on his culpability for Garcia's conduct under AS 11.16.110. The problem, to the extent one exists, is not that the evidence was insufficient, but rather, that the jury was not specifically instructed as to the elements of AS 11.16.110.

Young next claims that the failure to instruct the jury on the elements of accomplice liability was plain error. To establish plain error, Young must establish, *inter alia*, that he was prejudiced.[8] But as we have just explained, the jury necessarily found, beyond a reasonable doubt, every fact necessary to convict Young under that statute based on the conduct of Garcia. We therefore conclude that Young was not prejudiced by the failure to explicitly instruct the jury on the elements of accomplice liability under AS 11.16.110.

Finally, Young argues that the failure to instruct the jury on the elements of AS 11.16.110 requires automatic reversal as structural error under *Jordan v. State,*

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[6] (...continued)
accountable for the conduct of another if "acting with the culpable mental state that is sufficient for the commission of the offense, the person causes an innocent person or a person who lacks criminal responsibility to engage in the proscribed conduct."

[7] *E.g.*, *Machado v. State*, 797 P.2d 677, 686 (Alaska App. 1990).

[8] *See Adams v. State*, 261 P.3d 758, 764 (Alaska 2011) (holding that plain error is "an error that (1) was not the result of intelligent waiver or a tactical decision not to object; (2) was obvious; (3) affected substantial rights; and (4) was prejudicial").

regardless of prejudice.[9] This argument is plausible, but we ultimately conclude it is incorrect.

The Alaska Supreme Court's holding in *Jordan* drew heavily on Justice Scalia's dissent in *Neder v. United States*.[10] In *Neder*, the United States Supreme Court rejected the claim that the failure to instruct the jury on an essential element of a crime was structural error, and instead held that such errors should be reviewed under the traditional test for harmless error.[11]

Justice Scalia dissented, reasoning that because the Sixth Amendment requires a jury — not a panel of appellate judges — to find every element of the crime charged beyond a reasonable doubt, the failure to instruct the jury on an essential element of a crime cannot be remedied by an appellate court concluding that the jury surely would have found that element if it had been properly instructed.[12] Our supreme court adopted this reasoning in *Jordan*.[13]

Justice Scalia, however, provided a crucial caveat. He explained that the failure to instruct the jury on an essential element of a crime can be harmless if "the facts *necessarily found* by the jury . . . support the existence of the element omitted or misdescribed in the instruction."[14] Justice Scalia's underlying point is that, if it can be

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[9] *Jordan v. State*, 420 P.3d 1143, 1155-56 (Alaska 2018) (holding that the failure to instruct the jury on an essential and contested element of the crime is structural error, requiring reversal regardless of prejudice).

[10] *Neder v. United States*, 527 U.S. 1, 30 (1999) (Scalia, J., dissenting).

[11] *Id.* at 8-9, 15 (majority opinion).

[12] *Id.* at 31-32 (Scalia, J., dissenting).

[13] *Jordan*, 420 P.3d at 1155-57.

[14] *Neder*, 527 U.S. at 35 (Scalia, J., dissenting).

said that the jury certainly *did* find (not *would have* found) the omitted element, then there has been no violation of the Sixth Amendment, and thus there is no reason to deviate from the regular rule that harmless errors do not necessitate reversal.

This is a case where application of that limitation to *Jordan*'s structural error rule is appropriate because the facts found by the jury necessarily embraced the elements of AS 11.16.110. We therefore conclude that any error in failing to instruct the jury on AS 11.16.110 was harmless, and the evidence was sufficient to support the jury's verdict.

For all of these reasons, we reject Young's challenges to his conviction for interfering with an official proceeding.

Why we reject Young's challenge to his conviction for first-degree impersonating a public servant

To prove the charge of first-degree impersonating a public servant, the State was required to establish that Young (1) knowingly pretended to be a peace officer, and (2) knowingly purported to exercise the authority of a peace officer in relation to another person.[15]

On appeal, Young claims that the trial court erred when it denied his motion for judgment of acquittal on this charge because the evidence was insufficient to establish that Hart actually believed he was a police officer, and thus there was no nexus between his deception of Hart and his taking of her property.

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[15] *See* AS 11.56.827(a) & AS 11.81.610(b) ("[I]f a provision of law defining an offense does not prescribe a culpable mental state, the culpable mental state that must be proved with respect to . . . conduct is 'knowingly.'"); *Wilson v. State*, 2015 WL 5478126, at *5-6 (Alaska App. Sept. 16, 2015) (unpublished).

But to secure a conviction for this crime, the State is not required to prove that the target of the crime actually believed the defendant was a police officer.[16] Instead, what is required is proof that the defendant pretended to be a police officer and purported to exercise the authority of a police officer in relation to another person.[17] Here, Hart testified that Young entered her hotel room, flashed a police-style badge, pulled out handcuffs and a gun, and told her not to worry because she would not be arrested. These facts support a reasonable conclusion that Young, while pretending to be a police officer, purported to exercise police authority over Hart.[18]

We accordingly conclude that the trial court did not err by denying Young's motion for judgment of acquittal on this count.

Conclusion

The judgment of the superior court is AFFIRMED.

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[16] *Wilson*, 2015 WL 5478126 at *6 ("We note that the first-degree impersonation statute does not require proof of a result.").

[17] AS 11.56.827(a).

[18] *See Jeffries v. State*, 169 P.3d 913, 915-16 (Alaska 2007) (explaining that when reviewing the denial of a motion for judgment of acquittal, appellate courts look at the evidence in the light most favorable to upholding the verdict, and determine if "there is such relevant evidence which is adequate to support a conclusion by a reasonable mind that there was no reasonable doubt as to [the defendant's] guilt" (alteration in original) (quoting *Dorman v. State*, 622 P.2d 448, 453 (Alaska 1981))).