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ARKANSAS COURT OF APPEALS

DIVISION I
No. CR-23-14

CAMERON DEAN WRAY APPELLANT	**Opinion Delivered** October 25, 2023
V.	APPEAL FROM THE POINSETT COUNTY CIRCUIT COURT [NO. 56CR-20-189]
STATE OF ARKANSAS APPELLEE	HONORABLE CINDY THYER, JUDGE
	AFFIRMED

BRANDON J. HARRISON, Chief Judge

A Poinsett County jury convicted Cameron Wray of one count of aggravated robbery and one count of second-degree murder. The jury sentenced him to ten years' imprisonment for aggravated robbery and six years for the murder. Wray argues that too little evidence supports his convictions, and that some shoeprint evidence should not have been admitted. Finally, he argues we should reverse because the prosecution violated its disclosure obligations under *Brady v. Maryland*, 373 U.S. 83 (1963). We affirm.

The crimes began early on 15 April 2020. Wray had met up with Jordan Ratton, a friend since childhood, and the pair spent the day driving around in Ratton's truck. They began drinking Jim Beam and beer around 11:00 a.m. It was a Wednesday. Wray was eighteen years old. Neither was of age to drink.

As the pair drove around Marked Tree, Ratton told Wray around 4:00 p.m. that he was going to rob a house that night. Ratton drove by the house, pointed it out, and told

Wray that Mack Rhoads lived there. The back yard of the house abutted the Marked Tree municipal ball fields and was accessible by an unlocked gate. Wray said in a text message to a friend that he was going to "hit a lick," that is, rob a house.

Ratton grew too drunk to drive. Around 9:00 p.m., Wray drove him to the ball field in Marked Tree. He saw Ratton take a roll of black electrical tape out of the console and a tire iron out of the back of the truck. Ratton was dressed all in black, wearing a black ski mask with a skull pattern on the front. It was too dark to see whether there were cars parked at the Rhoads house, but Wray knew the victim might be at home.

Mr. Rhoads, the victim of the brutal murder, was eighty-seven. He was found the next morning when his daughter Tom "TomBoy" Rhoads arrived at his house around 9:00 a.m. to take him to a doctor's appointment. She found him in the state depicted in photographs presented to the jury: dead, in a room splattered with blood, with his hands bound behind his back with black electrical tape, beaten so badly that his skull was fractured in several places, one ear was almost severed, and both his eyes had hemorrhaged.

There aren't many homicides in Marked Tree, so Officer Anthony Parker of the Marked Tree Police Department asked for investigative help from the Arkansas State Police. Agents from the Jonesboro office of the Federal Bureau of Investigation responded to oversee the collection of evidence. That evidence included muddy shoeprints on the floor inside and on the front door outside the Rhoads home that FBI analyst Michael Gorn would testify (over Wray's objection) were made by Crocs brand shoes, consistent with a size 10. Outside, a sawhorse had been moved under a window whose screen was cut. No murder

weapon was found at the scene. No hair, fiber, fingerprints, or DNA evidence linking Ratton or Wray (or anyone else) to the scene was ever presented.

State Police investigators interviewed Wray a first time on May 12. He admitted spending the day with Ratton and parking near the Rhoads house. Wray claimed that after Ratton left in the ski mask, he had waited in the truck. Ratton returned after about thirty minutes wearing bloody gloves and told Wray the victim was dead. When Wray asked why he had killed Rhoads, Ratton responded, "[I]t was either him or me." The crime netted two handguns and five bottles of booze.

According to Wray, Ratton then climbed into the bed of the pickup and told Wray to drive to a spot on the St. Francis River where the two had swum. Ratton removed all his clothes and shoes—Crocs, Wray would testify—and burned them with gasoline he had brought. Ratton changed into new clothes he had also brought.

Wray's accounts of the crime were consistent on those points. On others, the accounts differed about facts relevant to Wray's degree of direct involvement. For example, in his first interview with State Police investigators, Wray said that Ratton had wanted him to go into the Rhoads house. Later, Wray told them Ratton had not wanted that. Wray also told officers "several" times that the stolen guns had been thrown into the St. Francis River. In one recital, Wray said that he and Ratton had thrown them there the night Rhoads was murdered. A thirty-person search team with divers could not find them. Further, forensics turned up a Facebook message (and photograph) on Wray's cell phone, taken in his bedroom, offering to sell the guns for one hundred dollars each.

The guns never did turn up in the St. Francis River. More than a year after the murder, however, while acting on information from Ratton, officers found them in a ditch. The guns were too badly rusted to be of forensic use. The same day, officers recovered a tire iron from a spot in the Little River where Ratton told them he had discarded it. No forensic evidence could be recovered from it, either. At trial, Wray would insist he hadn't lied about guns being thrown in the river. He speculated that Ratton must have gone back and dug them out of the river bottom with his toes. The river was nine feet deep there.

Wray and Ratton were charged separately with aggravated robbery, Ark. Code Ann. § 5-12-103 (Repl. 2013), and capital murder, Ark. Code Ann. § 5-10-101 (Supp. 2023). In August 2021, Ratton pleaded guilty to first-degree murder in exchange for a negotiated sentence of ten years for aggravated robbery and twenty years for first-degree murder. Wray went to trial in July 2022.

At trial, the State pursued both direct- and accomplice-liability theories. In opening statement, deputy prosecutor Martin Lilly promised what might have become the centerpiece of the proof under both theories: Ratton would testify he and Wray both broke into Mr. Rhoads's home, "burglarize[d] the home," and both men beat Mack Rhoads to death. But when the day came, Ratton refused to take the stand. Wray, the only other surviving witness, testified that he never left the truck. The only evidence the State could offer to contradict him was Gorn's testimony that some shoeprints found inside Rhoads's house might (or might not) have been made by Crocs that were recovered from Wray's closet.

At the close of the State's proof, Wray's counsel moved for a directed verdict, focusing on the missing proof about what happened inside the Rhoads house. He argued the State's evidence was insufficient even if Wray was liable for Ratton's conduct, because the proof did not establish what Ratton did and when. As Wray puts it in his brief, "The [S]tate produced evidence that Mack Rhoads was murdered in his home, but did not offer evidence that he was robbed before he was murdered." The jury could only speculate, for example, that Ratton had used force with the purpose of committing theft—the robbery part of "aggravated robbery"—instead of burglarizing Rhoads's house after murdering him as intended. Wray's counsel renewed the directed-verdict motions at the close of the defense case. The circuit court denied all the motions.

The jury was instructed, without objection from Wray's counsel, on capital murder, first-degree murder, second-degree murder, and aggravated robbery. After deliberating for about three hours, the jury convicted him of aggravated robbery and second-degree murder. So Wray appealed.

I. *Sufficiency of Evidence*

Because challenges to the sufficiency of the evidence raise double-jeopardy concerns, we address those first. Wray's arguments are essentially the same for both the aggravated-robbery and second-degree-murder convictions: the jury never sufficiently learned what transpired inside Mack Rhoads's house, and the evidence that Wray was there with Ratton was either too thin (if we count Gorn's "inconclusive" testimony about the shoeprints) or altogether absent (if we don't). The State argues there was sufficient evidence that Wray was an accomplice to both crimes. We agree with it.

The test for sufficiency of the evidence is whether substantial evidence, direct or circumstantial, supports the verdict. *E.g.*, *Clark v. State*, 2021 Ark. App. 252, at 5. Substantial evidence "is evidence forceful enough to compel a conclusion one way or the other beyond suspicion or conjecture." *Kolb v. State*, 2021 Ark. 58, at 3. We view the evidence, and all reasonable inferences from it, in the light most favorable to the State, without weighing it against conflicting evidence that may be favorable to the defendant. *Id.* When a defendant chooses (as Wray did) not to stand on a directed-verdict motion, and produces more evidence after the State rests, we determine sufficiency from the record at the end of the case, including what was adduced in the defendant's case-in-chief. *Bell v. State*, 371 Ark. 375, 380, 266 S.W.3d 696, 701 (2007); *Crawford v. State*, 309 Ark. 54, 55, 827 S.W.2d 134, 135 (1994).

The credibility of the witnesses is for the jury alone to determine. *Burns v. State*, 2023 Ark. App. 309, at 3, 668 S.W.3d 566, 569. The jury may believe all or part of any witness's testimony and may resolve inconsistencies or conflicts in the evidence. *Id.* at 3–4, 668 S.W.3d at 569. The jury can rely on direct evidence, circumstantial evidence, or both to convict, but circumstantial evidence alone will not sustain a conviction unless it is "consistent with the defendant's guilt and inconsistent with any other reasonable conclusion." *Id.* at 3, 668 S.W.3d at 569. Whether the evidence excludes every other reasonable conclusion is a question of fact for the jury. *Id.* And the jury can draw any reasonable inference from circumstantial evidence to the same extent it can from direct evidence. *E.g.*, *Swanigan v. State*, 2019 Ark. App. 296, at 13, 577 S.W.3d 737, 746–47.

We simply determine whether the jury resorted to speculation and conjecture in reaching its verdict. *Williams v. State*, 2015 Ark. 316, at 6, 468 S.W.3d 776, 779.

The State contends there was sufficient evidence to convict Wray as an accomplice to both offenses (aggravated robbery and second-degree murder). A person becomes a party to an offense and is criminally liable for the conduct of another person if the "person is an accomplice of another person in the commission of an offense[.]" Ark. Code Ann. § 5-2-402(2) (Repl. 2013). "A person is an accomplice of another person in the commission of an offense if, with the purpose of promoting or facilitating the commission of an offense, the person: . . . [a]ids, agrees to aid, or attempts to aid the other person in planning or committing the offense." Ark. Code Ann. § 5-2-403(a)(2) (Repl. 2013). There is no distinction between the criminal liability of a principal and an accomplice, so when two or more people assist one another in a crime, each is an accomplice and criminally liable for the conduct of both. *Wilson v. State*, 2016 Ark. App. 218, at 6, 489 S.W.3d 716, 719–20.

Then there are the elements of the offenses themselves. A person commits aggravated robbery if he commits robbery and (1) is armed with a deadly weapon, (2) represents by word or conduct that he is armed with a deadly weapon, or (3) inflicts or attempts to inflict death or serious physical injury on another person. Ark. Code Ann. § 5-12-103(a). Robbery is the use of physical force on another person with the purpose of committing theft. Ark. Code Ann. § 5-12-102(a) (Repl. 2013). And theft is purposely taking control of another person's property. Ark. Code Ann. § 5-36-103(a)(1) (Supp. 2019).

A person commits second-degree murder by knowingly causing the death of a person under circumstances manifesting extreme indifference to the value of human life, or, with

the purpose of causing serious physical injury to another person, causes the death of any person. Ark. Code Ann. § 5-10-103(a) (Repl. 2013). The nature, extent, and location of wounds can indicate intent; and our supreme court has held that killing someone by beating him repeatedly with a blunt instrument is substantial evidence for second-degree murder under either prong of the statute. *See Wyles v. State*, 368 Ark. 646, 651–52, 249 S.W.3d 782, 786 (2007) (proof that victim "sustained several serious injuries . . . that were inflicted using a considerable amount of force" on "vital areas of her body" supported a reasonable inference that defendant "acted either under circumstances manifesting extreme indifference to the value of human life or with the purpose of causing serious physical injury" to the victim); *see also Anderson v. State*, 312 Ark. 606, 610, 852 S.W.2d 309, 311 (1993) (holding that repeatedly kicking or stomping victim in the head exhibited purposeful action to inflict serious physical injury required for second-degree murder).

A person acts knowingly with respect to a result of his conduct when he is aware that it was practically certain that his or her conduct will cause the result. Ark. Code Ann. § 5-2-202(2)(B) (Repl. 2013). A person acts purposely with respect to his conduct or a result of his conduct if it was his conscious object to engage in conduct of that nature or to cause that result. *See* Ark. Code Ann. § 5-2-202(1). Because it's hard to divine a defendant's intent or state of mind, we presume a person intends the natural and probable consequences of his actions. *E.g.*, *Burns*, 2023 Ark. App. 309, at 4, 668 S.W.3d at 570. That is William James's "horse sense" at work. Simply put, the jury can use its common knowledge and experiences to infer intent from the circumstances. *See id.*

Sufficient circumstances point toward guilt in this case. First, lying about a crime can indicate consciousness of guilt; and the jury may consider a defendant's attempt to cover up his connection to a crime as proof of a purposeful mental state. *Atwood v. State*, 2020 Ark. 283, at 12. Similarly, efforts to conceal a crime and evade detection, along with false, improbable, or contradictory statements to explain suspicious circumstances may be considered as evidence of guilt. *E.g.*, *Armstrong v. State*, 2020 Ark. 309, at 7, 607 S.W.3d 491, 497; *see also, e.g.*, *Rollf v. State*, 2015 Ark. App. 520, at 10, 472 S.W.3d 490, 496 (holding that defendant's efforts to conceal the crime by, among other things, hiding the murder weapon and burning her bloody clothes, indicated purposeful mental state).

Our approach to accomplice liability is similarly pragmatic. Snitches get stitches, they say. Omertà. Perhaps that is why Ratton refused to testify; we do not know, but Jordan Ratton is not the first criminal to refuse to testify against an alleged co-criminal. And though Wray himself could have "taken the Fifth," he did not. So what he said about hitting a lick and all else can be and was used against him in a court of law.

Still, accomplice liability requires more than just being present at the crime scene. *E.g.*, *Taylor v. State*, 2017 Ark. App. 331, at 8, 522 S.W.3d 844, 850. Indeed, the jury was instructed that if Wray was "only present while a crime was being committed and did not have a legal duty to act," he was not an accomplice. AMI Crim. 2d 404. But accomplice liability can be proved with circumstantial evidence including the defendant's presence in the proximity of a crime, opportunity to commit it, and association with a participant in the crime in a manner that suggests joint participation. *Ross v. State*, 346 Ark. 225, 231, 57 S.W.3d 152, 157 (2001); *see also Jackson v. State*, 2018 Ark. App. 330, 552 S.W.3d 55.

The evidence that Wray was an accomplice in that analysis could hardly be stronger, even if we assume he stayed in the truck. Wray's testimony established that Ratton brought a skull-face ski mask (in April, in Arkansas), gloves, a change of clothes, and a can of gasoline to their day-drinking excursion. Ratton knew where Mack Rhoads lived. Hours after Ratton said he was going to rob Mr. Rhoads—and after Ratton himself had become too drunk to drive—Wray drove him back to the ball fields and parked. They had spent about ten hours alone that day. At some point, as we have said, Wray messaged a friend that he was going to "hit a lick." He waited at the ball fields during the home invasion, drove away with Ratton afterward, and helped him destroy evidence of a homicide. The meager proceeds from the robbery were, to state the obvious, a grossly insulting "trade" for a human life, and Wray did not shrink from accepting (and trying to sell) his share. Proximity, opportunity, association—it's all there. And the same evidence supports both convictions. We now apply the evidence to the statutes.

First, the aggravated robbery. Wray watched Ratton don the ski mask (in April, in Arkansas) and gloves and take a roll of black electrical tape and a tire iron from the truck as he walked toward the victim's home. So he was not there to change tires. The victim's hands were bound with the tape when his daughter found him dead. The obvious inference is that the victim was alive, and capable of resisting, for a time after Ratton entered the house. Ratton returned with the victim's property and shared it with Wray. And Wray's counsel introduced Ratton's guilty plea to first-degree murder. All told, the jury could have easily concluded, without speculating, that Wray intended to aid Ratton in the use of

physical force on another person with the purpose of committing theft, and Ratton did inflict serious physical injury and death. *See* Ark. Code Ann. § 5-12-103(a).

We also find sufficient evidence that Wray was an accomplice to second-degree murder, *even if* he stayed in the truck. The facts in *Banks v. State*, 315 Ark. 666, 869 S.W.2d 700 (1994), where our supreme court affirmed a second-degree-murder conviction as an accomplice to a principal who committed first-degree murder, offer a helpful parallel. In *Banks*, the appellants were a husband (Banks) and wife (Faulkner) who had returned to Faulkner's former apartment complex to check her mail. *Id.* at 668, 869 S.W.2d at 702. While there, she saw another resident who had stolen property from her, pushed her sister into a swimming pool, and threatened them with a pistol. *Id.* Faulkner told Banks the story, which infuriated him. After a trip to the liquor store, Faulkner, her sister, and Banks returned to the complex and confronted the man at the door to his apartment. Banks retrieved a shotgun and told the women to go back to the truck. He then shot and killed the victim. *Id.* at 669, 869 S.W.2d at 702.

Banks was convicted of first-degree murder. *Id.* at 670, 869 S.W.2d at 703. Faulkner was convicted as an accomplice to second-degree murder. *Id.* at 672, 869 S.W.2d at 704. Our supreme court affirmed that sufficient evidence supported both convictions. The discussion of Faulkner's conviction applies almost as well to the facts here:

> There is ample evidence to support her conviction as an accomplice. In her testimony at trial, she admits telling Banks that [the victim] had previously threatened her and stolen a shirt from her. She also stated that she identified the victim to Banks. She accompanied Banks when he followed Williams in the truck and when he returned to the victim's apartment. She also went to the door of Williams's apartment with Banks, and the victim shouted obscenities at her. She watched as Banks took the shotgun from the truck.

> Faulkner also testified that she fled the scene of the crime with Banks and was there when the shotgun was returned to Banks's brother[.]
>
> Second degree murder is committed when one, with the purpose of causing serious physical injury, causes the death of a person. Ark. Code Ann. § 5-10-103 (Supp. 1991). *Evidence abounded that Banks intended to cause* [*the victim*] *serious physical injury, and Faulkner aided in this effort. The fact that she did not intend to murder* [*the victim*] *and did not know that Banks intended to do so is not an element of the offense.*

Id. at 673, 869 S.W.2d at 704–05 (emphasis added).

There was no direct evidence that Wray himself wished to cause the victim serious physical injury. Wray, for example, did not say as much. But the jury heard evidence from which it could have inferred that he knew Ratton would do so. Here comes important context. Jordan Ratton's parents had some history with the victim. Indeed, when the murder occurred, they were thirteen months into defending a lawsuit Mr. Rhoads and his sister Jane had brought. Jordan worked on his family's farm. The Rattons had been farming for the Rhoadses since at least 2013.[1] Tom Rhoads testified that the land had included two working irrigation wells when that lease began. But the Rattons neglected to use one well, so it went dry. Tom demanded that the Rattons install a new well at their own expense. The Rattons did so at a cost of about $12,000 to $15,000.

In late January 2019, Tom informed them that the lease would not be renewed. Jordan's father Cliff became infuriated and verbally aggressive toward her. Four days later, the Rhoadses alleged, Cliff had a well-drilling company remove the gearhead and augur

[1]Details about the Rhoadses' business relationship and eventual dispute with the Rattons came from the testimony of Tom Rhoads (who had power of attorney over Mr. Rhoads and his sister) and the verified complaint and judgment in the civil suit, which Wray introduced in evidence without objection. Tom confirmed that the complaint was accurate.

from the well and hauled the parts away himself on a trailer. The Rhoadses promptly sued for breach of contract and conversion. Mack Rhoads was the lead plaintiff. His home address is listed in paragraph one of the complaint.

Ratton chose to target Mr. Rhoads's house and identified him by name when he told Wray whom he was going to rob. The jury was allowed to do the math, meaning it could have reasonably inferred that is why Rhoads's house was targeted.

Moreover, it could infer that in the ten hours Ratton spent drinking with Wray in a pickup truck before the murder, his family's issues with Mr. Rhoads would have come up—and Wray would have known the robbery could get out of hand. Wray testified he did not beg off because he was scared of Ratton. He continued, "I've already seen him do violent things before." The brutality with which Rhoads—an eighty-seven-year-old man with his hands bound—was killed might vindicate those fears. But couched in legal terms, the jury had sufficient evidence on which to conclude that Wray "promot[ed] or facilitate[d] the [murder]" and "aid[ed]" or "attempt[ed] to aid" Ratton in the murder. Ark. Code Ann. § 5-2-403(a)(2). Let us not overlook that Wray drove a too-drunk-to-drive Ratton to the scene of the crime, or very near to it, waited on Ratton to reappear after he left donned in black and armed with a deadly weapon, and then helped dispose of evidence upon Ratton's bloody return to the truck.

II. *Shoeprint Evidence*

Next, Wray argues the circuit court should have excluded FBI analyst Gorn's shoeprint testimony under Ark. R. Evid. R. 403, as it argued in a pretrial motion, because its probative value was slight compared to the danger of unfair prejudice. Gorn testified

that some muddy shoeprints recovered inside the victim's bedroom were made by Crocs brand shoes, and were consistent with a size 10. Wray wears a size 10. Police recovered two pairs of size 10 Crocs from his closet at his father's house. (Wray testified they were his father's Crocs.)

FBI expert Gorn was confident that size-12 boots recovered from Ratton's house and truck could not have left the shoeprints. But he could not say they had been made by the Crocs recovered from Wray's house either. First, they were collected six weeks after the murder, and the soles could have experienced further wear. Second, there were possibly overlapping impressions in the shoeprints themselves. He characterized the results of his analysis as "inconclusive." That is, he could not say one way or the other whether those Crocs had made those shoeprints.

Wray argues that the circuit court abused its discretion by admitting the testimony because an "inconclusive" analysis necessarily has slight probative value. The State argues the footprint evidence was highly probative because it tended to show Wray went with Ratton into Mr. Rhoads's house instead of staying in the truck. *E.g.*, *Turner v. State*, 2014 Ark. App. 428, at 6, 439 S.W.3d 88, 91. And alternatively, any error was slight—Gorn was forthright about what little he was saying—and harmless given the abundant evidence that Wray was liable as an accomplice. We agree on all points. Wray's own statements to law enforcement put him and Ratton within one hundred feet of the house the night of the murder. To be probative, Gorn's testimony did not need to identify Wray's Crocs, of all the shoes in the world, as the Crocs that left the shoeprints. Gorn couldn't rule them out, either, and he *did* rule out two pairs of Ratton's shoes—size 12. As we discussed above,

there was overwhelming evidence from which the jury could infer that Wray was liable as an accomplice even if he stayed in the truck. The jury could (and apparently did) decide how much weight to give this testimony that might have put him closer. *See Lewis v. State*, 2023 Ark. 12, at 18.

III. Brady *Violation*

The last point is a *Brady* argument. It fails, too. During a recess in the State's case, the prosecution informed the court and defense counsel that Ratton refused to testify. Counsel met in chambers to discuss how to handle the refusal. Ratton's lawyer, Lee Short, advised them that Ratton "understands the ramifications [of his refusal to testify] as that was part of his plea agreement. That his plea agreement may be rescinded and he may be taken to trial, based on his statement and the evidence against him." Deputy prosecutor Lilly mused, and his colleague Chrestman confirmed, that they could reinstate the death penalty. In fact, they could do none of that. Lilly and Chrestman confirmed later that Ratton's plea agreement did not condition his plea and sentence recommendation on providing truthful testimony.

However, faced with the plea agreement's silence about cooperation on one hand, and these exchanges between the prosecution and Ratton's counsel on the other, Wray's counsel inferred there had been a secret "off the books" agreement for Ratton to testify. Failing to disclose it, Wray's counsel insisted, violated *Brady*, 373 U.S. 83, and required dismissal of all charges.

The prosecutors responded that the talk about unwinding Ratton's plea was just a bluff: they realized after reviewing Ratton's plea papers that his guilty plea could not be

unwound. But when it became clear that Short had not realized so himself, they chose not to correct him: "The plea paperwork is what it is." And if Ratton or his counsel mistakenly believed the plea could be undone, "that's on them." The circuit court ultimately rejected the *Brady* argument, and we affirm that decision.

A *Brady* violation requires the existence of evidence that (1) is "favorable to [the defendant], either because it is exculpatory or because it can be used to impeach a witness," (2) which was not turned over to the defense by the State, either willfully or accidentally, and (3) resulting prejudice. *Graham v. State*, 2019 Ark. App. 88, at 8, 572 S.W.3d 29, 34 (standard of review). We review a circuit court's ruling that no *Brady* violation occurred for abuse of discretion. *See Duck v. State*, 2018 Ark. 267, at 7, 555 S.W.3d 872, 876.

The circuit court heard from all counsel involved, including Short, and denied Wray's motion. Based on its review of Ratton's plea colloquy, plea documentation, and "the consistent information provided by counsel," the court found that there was no "back-room or secret deal involving the defense attorneys and the State that conditioned Jordan Ratton's plea on his offering testimony" against Wray. Hence, the court ruled, there was no *Brady* violation. We cannot say the circuit court's ruling on that point was an abuse of discretion. *See United States v. Taylor*, 253 F.3d 1115, 1117 (8th Cir. 2001) ("Taylor has shown no prejudice from the Government's failure to produce nonexistent evidence."). Ratton had pleaded guilty eleven months before Wray's trial. The court noted that all counsel (Ratton's, Wray's, and the State's) had been under the impression until the day he was to be called that he would testify, so no one had needed to scrutinize whether the plea

agreement required him to do so. Moreover, we agree with the State that Wray has not demonstrated prejudice from the alleged nondisclosure, because Ratton did not testify.

Affirmed.

KLAPPENBACH and BROWN, JJ., agree.

Benjamin Bristow, for appellant.

Tim Griffin, Att'y Gen., by: *Christian Harris*, Ass't Att'y Gen., for appellee.