IN THE SUPREME COURT OF THE STATE OF DELAWARE

KLEON PULLER,	§	
	§	No. 331, 2001
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr.A. No. IN99-04-0582
Plaintiff Below,	§	
Appellee.	§	

Submitted: January 8, 2002
Decided: April 5, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **BERGER**, Justices.

O R D E R

This 5th day of April, 2002, on consideration of the briefs of the parties, it appears to the Court that:

1) Kleon Puller appeals from his conviction, following a jury trial, of attempted first degree murder, possession of a deadly weapon during the commission of a felony, and endangering the welfare of a child. He argues that his convictions should be reversed because the trial court admitted into evidence a highly prejudicial videotape of the crime scene.

2) On February 5, 1999, Puller shot his girlfriend, Tasha Peebles with a .357 Magnum. The shot blew off a large part of Peebles' face, including both of her eyes. Peebles survived, but is blind, severely disfigured, and brain damaged.

3) Puller testified at the trial. He admitted shooting Peebles, but claimed that it was an accident; that he was only trying to scare her; and that he did not think the gun was loaded. To disprove Puller's contention, the State relied on eyewitnesses, medical testimony about the nature of Peebles' wounds, and a videotape of the crime scene. The videotape showed where the police found Peebles, the bloody chair she had been sitting in, and body tissue splattered against the wall.

4) Puller did not object to the introduction of the videotape. On appeal, he argues that it should have been excluded pursuant to D.R.E. 403, because its prejudicial effect far exceeded its probative value. Puller contends that the videotape was cumulative of other evidence and highly inflammatory because it showed the victim's eyeball and eyebrow stuck to the wall.

5) Because Puller did not raise this issue in the trial court, we review for plain error, which means an error "so clearly prejudicial to substantial rights as to jeopardize the fairness and integrity of the trial process."[1]

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[1] *Wainwright v. State*, 504 A.2d 1096,1100 (Del. 1986).

6) The trial court has broad discretion to admit videotapes of crime scenes, and the fact that evidence is gruesome does not render it inadmissible.[2] Here, although the videotape was graphic, the nature of the crime was such that almost all of the evidence was unpleasant for the jury to view. Accordingly, we conclude that the admission of the videotape, if erroneous, was not so prejudicial as to constitute plain error.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

[2] *Kelpering v. State*, 699 A.2d 317, 319-20 (Del. 1997).