NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

BRIAN JOHN PERET,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Case No. 2D19-215

Opinion filed May 1, 2020.

Appeal from the Circuit Court for Pinellas County; Michael F. Andrews, Judge.

Howard L. Dimmig, II, Public Defender, and Susan M. Shanahan, Assistant Public Defender, Bartow, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Cynthia Richards, Assistant Attorney General, Tampa, for Appellee.

KHOUZAM, Chief Judge.

Brian Peret was charged with aggravated battery for running over a woman's arm following an argument in his van. He was acquitted of that charge but convicted of reckless driving with serious bodily injury, a lesser-included offense. He now raises three issues on appeal, one of which is dispositive. We reverse and remand

for a new trial because Peret was improperly prevented from questioning the victim about her alleged bias or motive to lie.

Peret was driving home from a jazz club with Jennifer Lamond, a tenant living at his house, when an argument ensued. The argument escalated until Peret pulled over and removed Lamond from his van. Peret and Lamond gave conflicting testimony about whether he pushed her out of the van or she fell out when he opened the passenger door. Peret then ran over Lamond's arm and went home. He was charged with aggravated battery but argued at trial that he did not intend to hit Lamond, who was apparently lying by the road and not readily visible from Peret's vantage point in the driver's seat. Ultimately, the jury acquitted Peret of aggravated battery but found him guilty of reckless driving with serious bodily injury. See § 316.192(1)(a), Fla. Stat. (2017).

Peret argues that the trial court improperly granted the State's motion in limine prohibiting him from asking questions of Lamond, the victim and State's key witness, to show that she was biased and had motive to lie because he had evicted her as a tenant. More specifically, Peret wanted to establish that Lamond had continued to live with him for months after the alleged battery and that she only wanted to cooperate with prosecutors after he evicted her from his residence. However, the trial court held that this evidence was irrelevant.

We review a trial court's ruling on the admissibility of evidence for an abuse of discretion. R-L Sales, LLC v. Hoce, 276 So. 3d 434, 435 n.3 (Fla. 1st DCA 2019) (citing Dessaure v. State, 891 So. 2d 455, 466 (Fla. 2004)). Furthermore, we will not reverse where an error is harmless. See Knight v. State, 919 So. 2d 628, 634 (Fla.

3d DCA 2006) ("[T]he fact that an error has been committed does not necessarily require reversal on appeal."). The test for harmlessness is "whether there is a reasonable possibility that the error affected the verdict." Smallwood v. State, 113 So. 3d 724, 740 (Fla. 2013) (quoting State v. DiGuilio, 491 So. 2d 1129, 1139 (Fla.1986)). It is the State's burden, "as the beneficiary of the error, to prove beyond a reasonable doubt that the error complained of did not contribute to the verdict." Smallwood, 113 So. 3d at 739 (quoting DiGuilio, 491 So. 2d at 1135).

Any party may attack a witness's credibility by "[s]howing that the witness is biased." § 90.608(2), Fla. Stat. (2018). "A defendant should be afforded wide latitude in demonstrating bias . . . on the part of a witness." Lloyd v. State, 909 So. 2d 580, 581 (Fla. 2d DCA 2005) (quoting Henry v. State, 688 So. 2d 963, 966 (Fla. 1st DCA 1997)). Indeed, "[b]ias or prejudice of a witness has an important bearing on his credibility, and evidence tending to show such bias is relevant." Id. (quoting Webb v. State, 336 So.2d 416, 418 (Fla. 2d DCA 1976)); see Peterson v. State, 24 So. 3d 686, 689 (Fla. 2d DCA 2009) ("It has long been established that evidence of a witness's interest, motives, animus, or status in relation to the proceeding is not collateral or immaterial.").

In Peret's case, Lamond was the only witness at the scene when she was injured and the only person who could contradict Peret's version of events. Lamond contended that Peret pushed her out of his vehicle from the driver's seat and drove off, running over her arm in the process. But Peret claimed that he stopped his van, walked over to the passenger side, and opened Lamond's door. At that point, she fell out of the van and scrambled away from Peret after he tried to break her fall. Clearly, Lamond's version of events is far worse than Peret's and indicative of the "willful or wanton

disregard for the safety of persons or property" required for a reckless driving conviction. See § 316.192(1)(a). It was therefore improper for the trial court to exclude evidence that Lamond continued to live with Peret for months after the incident, only cooperating with prosecutors after he evicted her. This evidence clearly indicates the type of bias or motive to lie contemplated by section 90.608(2). See, e.g., Musson v. State, 184 So. 3d 575, 579 (Fla. 2d DCA 2016) (reversing kidnapping conviction where case "appeared to turn on one or two witnesses' recollection of events" and where "testimony about one witness' alleged bias or motive would be of vital relevance"); Peterson, 24 So. 3d at 689 (reversing robbery conviction where defendant was prohibited from demonstrating bias of key witness who had motive to lie for improved employment prospects); Lloyd, 909 So. 2d at 581 (reversing assault conviction where defendant was not permitted to show bias of State's witness who had assaulted the defendant in an earlier incident). Nor can we say that this error was harmless; Lamond was crucial to the State's case as the only witness to the incident. We therefore reverse and remand for a new trial.

Reversed and remanded.

CASANUEVA and ATKINSON, JJ., Concur.