

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
November 28, 2017

v

SADE LATOYA-MARIE SALTERS, also known
as SADE LATOYA SALTERS, also known as
SADE MARIE SALTERS,

No. 334159
Washtenaw Circuit Court
LC No. 16-000014-FH

Defendant-Appellant.

Before: M.J. KELLY, P.J., and RONAYNE KRAUSE and BOONSTRA, JJ.

RONAYNE KRAUSE, J. (*concurring*).

I agree with my colleagues on all but one issue in this case. Specifically, I agree with all aspects of the majority opinion other than their finding that the prosecutor’s cross examination of defendant regarding warrants that may have been out for her arrest was not error. I do however believe that it was harmless error.

As the majority has stated, “A trial court’s decision to admit or exclude evidence is reviewed for an abuse of discretion.” *People v Burns*, 494 Mich 104, 110; 832 NW2d 738 (2013). An abuse of discretion occurs when the trial court chooses an outcome that is outside the range of principled outcomes. *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003).

MRE 402 provides that “[a]ll relevant evidence is admissible, except as otherwise provided” Evidence is relevant if it has a tendency “to make the existence of any factual consequence to the determination of the action more probable or less probable than it would be without the evidence.” MRE 401. Relevant evidence is evidence that is materially related to a fact of consequence to the action and that has probative force. *People v Mills*, 450 Mich 61, 66-68; 537 NW2d 909 (1995). A material fact “need not be an element of a crime or cause of action or defense but it must at least be ‘in issue’ in the sense that it is within the range of litigated matters in controversy.” *Id.* (quotation marks and citation omitted). “Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice” MRE 403.

The admission of other acts evidence is limited by MRE 404(b) to avoid the danger of conviction based on a defendant’s history of other misconduct rather than on the evidence of his

conduct in the case in issue. *People v Starr*, 457 Mich 490, 495; 577 NW2d 673 (1998). MRE 404(b)(1) provides as follows:

Evidence of other crimes, wrongs, or action is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, scheme, plan, or system in doing an act, knowledge, identity, or absence of mistake or accident when the same is material, whether such crimes, wrongs, or acts are contemporaneous with, or prior or subsequent to the conduct at issue in the case.

Evidence of other crimes or acts is admissible under MRE 404(b) if such evidence: (1) is offered for a proper purpose and not to prove the defendant's character or propensity to commit the crime; (2) is relevant to an issue or fact of consequence at trial; and (3) the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice. *People v VanderVliet*, 444 Mich 52, 74-75; 508 NW2d 114 (1993), amended on other grounds 445 Mich 1205 (1994). Although evidence of motive in a prosecution is always relevant, *People v Pinkney*, 316 Mich App 450, 468; 891 NW2d 891 (2016), for evidence to be properly admitted as motive evidence, it must be validly connected to the charged crimes, see *People v Williams*, 134 Mich App 639, 641; 351 NW2d 878 (1984).

During trial, defendant testified that she was unaware that there was a case against her concerning the charged incident until May 31, 2015. She stated that she found out about the investigation after the arrest warrant was issued. During cross examination, the prosecution sought to determine when defendant stopped residing at 729 Moss. In response, defendant explained that she moved in May 2015 before she went to jail. The prosecutor then asked defendant whether she went to jail because of outstanding warrants for disorderly conduct and retail fraud. The prosecutor argued that the outstanding warrants gave defendant a motive to flee from the police.

In the instant case, although defendant may have possibly opened the door a bit by testifying that she went to jail, the admission of extrinsic evidence that she had outstanding warrants for disorderly conduct and retail fraud was in error. In essence it was slamming the door wide open and this was error. Defendant denied seeing Brize on the day of the incident and also denied that she was the driver of the vehicle. Because defendant denied having any knowledge of her outstanding warrants at the time of the offense, they could not have been her motive to flee the police.

However, any error was harmless in light of the overwhelming evidence presented at trial. See *People v Swint*, 225 Mich App 353, 379; 572 NW2d 666 (1997). A defendant's

right to fair trial by jury required that preserved error be reviewed in terms of its effect on the factfinder. Thus, reversal is only required if the error was prejudicial. That inquiry focuses on the nature of the error and assesses its effect in light of the weight and strength of the untainted evidence. *Id.* (citations and quotation marks omitted).

Here, Brize testified that defendant informed her that she had gone to Walmart with the Tiburon and that she did not stop when police attempted to pull her over. Brize testified that defendant was wearing a white hat and a red sweat suit. Various officers testified about the efforts to stop the Tiburon. Deputy Wiese testified that he tried to initiate a traffic stop when the Tiburon ran a red light but the driver refused to stop. After several miles of chasing the Tiburon, Deputy Wiese pulled up alongside the vehicle around the well-lit Metro Airport area and was able to get a good look at defendant for approximately 20 seconds. He stated that the driver was wearing a red-and-white-striped hat and a red jacket with a white stripe on the jacket. Deputy Wiese also testified that after he terminated the chase, he pulled up defendant's picture on his computer and was 100 percent sure that she was the driver of the Tiburon. Trooper Ryan Kirkpatrick testified that he pulled alongside the Tiburon during the chase and looked over at defendant. He stated that when he pulled up defendant's picture on his computer, he was able to identify her as the driver of the vehicle. Sergeant David Egeler also testified that when he pulled up alongside the Tiburon on I-94, he was able to get a look at the driver of the Tiburon and identified defendant as the driver of the vehicle.

Reviewing the evidence as a whole, I conclude that any actual prejudicial effect of the error was minimal in light of the overwhelming evidence against defendant.

I therefore concur in the result of the majority's opinion, but do find error.

/s/ Amy Ronayne Krause