

DA 20-0475

IN THE SUPREME COURT OF THE STATE OF MONTANA

2022 MT 45N

STATE OF MONTANA,

Plaintiff and Appellee,

v.

JOSEPH ALTON HAFLICH,

Defendant and Appellant.

APPEAL FROM: District Court of the Nineteenth Judicial District,
In and For the County of Lincoln, Cause No. DC-19-124
Honorable Matthew J. Cuffe, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Chad Wright, Appellate Defender, Moses Okeyo, Assistant Appellate
Defender, Helena, Montana

For Appellee:

Austin Knudsen, Montana Attorney General, Mardell Ployhar, Assistant
Attorney General, Helena, Montana

Marcia Boris, Lincoln County Attorney, Jeffrey Zwang, Deputy County
Attorney, Libby, Montana

Submitted on Briefs: February 16, 2022

Decided: March 1, 2022

Filed:


Clerk

Justice James Jeremiah Shea delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion, shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Joseph Haflich appeals the July 28, 2020 Judgment and Sentence of the Nineteenth Judicial District Court, Lincoln County, convicting him of felony partner or family member assault (PFMA), as well as the court's February 24, 2020 Opinion and Order denying his motion to suppress all evidence related to his arrest. We affirm.

¶3 Around 7:02 a.m. on October 5, 2019, law enforcement responded to the emergency room at Cabinet Peaks Medical Center, in Libby, to investigate the report of an assault. Two officers interviewed Haflich's live-in girlfriend, J.R., who reported that Haflich had returned home angry and intoxicated, dragged her out of bed, punched her, spit at her, and stomped on her head while she lay trapped in a corner on the floor of their trailer. J.R. claimed she had to remove a board that was covering the window on the back door of the trailer to escape because Haflich had locked and barricaded her inside.

¶4 At 9:00 a.m., officers went to Haflich's trailer to continue their investigation. They knocked and yelled loudly, but received no response. Around 9:45 a.m., officers learned that J.R. had been released from the hospital. They found her walking home and asked permission to enter the residence. The police report states, "[J.R.] was asked if she would

let us into her home to look for Joseph, and she agreed to do so, but she did not want to be there with Joseph.” J.R. told officers that her plan was to stay at a neighbor’s house.

¶5 Officers entered the trailer through the same window that J.R. had used to escape. Weapons drawn, officers found Haflich in bed with a blanket over his head. Officers holstered their weapons and asked Haflich if something happened last night. Haflich denied that anything had happened, replying, “Nope, the fuck if I know. What are you talking about?” Officers explained that they had received reports that something happened last night and they wanted to get his side of the story. Haflich stated, “You’re looking at it. This is it. I’m not doing shit. Sleeping.” Officers arrested Haflich and transported him to the Lincoln County Jail.

¶6 The State charged Haflich with PFMA, third or subsequent offense, a felony, in violation of § 45-5-206, MCA. Prior to trial, Haflich filed a motion to suppress and dismiss the charge, alleging: (1) that law enforcement had unlawfully entered his home and arrested him without a warrant and without satisfying a valid warrant exception, and (2) that officers failed to advise him of his rights as required under *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602 (1966), before questioning him. The State agreed that Haflich’s in-custody statements should be suppressed pursuant to *Miranda*, but argued that even if the arrest was unlawful, there were no grounds to suppress the other evidence, such as J.R.’s medical records and photographs of J.R.’s injuries, which were gathered outside the home and not products of his arrest.

¶7 The District Court granted Haflich’s motion to suppress all in-custody statements but denied the remainder of the motion. The District Court held that law enforcement’s entry was lawful because J.R. had common authority over the shared residence and had given officers permission to enter. The District Court held that the arrest was also lawful under § 46-6-311(1), MCA, which authorizes a warrantless arrest when officers have probable cause and there are “existing circumstances [that] require immediate arrest.” Additionally, the District Court held that Haflich’s arrest was permitted under the exigent circumstances exception in § 46-6-311(2)(a), MCA, which specifically authorizes arrests related to allegations of PFMA when there is imminent danger to the victim. The District Court reasoned, “Law enforcement had probable cause to believe the offense of [PFMA] had occurred. [J.R.], the alleged victim, could not return to her home as long as the individual who allegedly spent the night beating her was still there.”

¶8 At trial, the responding officers testified about their conversations with J.R. at the hospital and on her way back to the trailer, and to her injuries. The State admitted a nine-minute portion of a police body camera video of a distraught J.R. recounting her story to officers at the hospital. Haflich objected, arguing the video was hearsay because J.R. had not yet testified. The District Court overruled the objection after confirming that J.R. was going to testify, and admitted the video “for the sole purpose of it being a true and accurate depiction of his encounter.” The State admitted photographs of J.R.’s injuries that were taken by officers outside the residence after Haflich’s arrest.

¶9 J.R. testified about the night's events and stated that, even though her "head felt like it was going to explode," she was reluctant to go to the hospital because she did not want Haflich to get into trouble. J.R.'s neighbor testified that she had seen Haflich earlier that evening, and that he was drinking and yelling and called the neighbor a racist name. J.R.'s neighbor testified that J.R. came over around 4:00 a.m., "very distraught," and told her that she had to get away from Haflich because he had been stomping and hitting her. J.R.'s neighbor testified that J.R. appeared to be in pain and was rubbing her head, and that she felt a large lump on J.R.'s head before she walked her to the hospital.

¶10 Haflich testified that he went out drinking that night and came home around midnight, waking J.R. up by listening to music. Haflich testified that he and J.R. argued because J.R. was upset that Haflich had been out with another woman. Haflich denied assaulting J.R., stating that he left the trailer again around 1:00 a.m. to go to a neighbor's house and returned around sunrise but that J.R. was not home. Haflich accused J.R. of making everything up and dismissed her injuries, stating that "she hurts herself a lot."

¶11 Three hours into deliberation, the jury presented seven questions to the court, including a request to rewatch the body camera video "from start to finish." The District Court declined to answer six of the jury's questions because it reasoned the questions called for new evidence not presented at trial. The court allowed the jury to rewatch only the portion of the video that had already been admitted into evidence. Neither party objected to the jury rewatching the video. The jury adjourned for the evening and rewatched the video the next day. The jury then deliberated for an additional 35 minutes before returning

a guilty verdict. The District Court sentenced Haflich to the Montana State Prison for five years with no time suspended and no eligibility for parole.

¶12 We review a district court’s denial of a motion to suppress to determine whether its findings of fact are clearly erroneous and whether its conclusions of law are correct. *State v. Van Kirk*, 2001 MT 184, ¶ 10, 306 Mont. 215, 32 P.3d 735. We generally review a district court’s evidentiary rulings for an abuse of discretion; however, to the extent that a discretionary ruling is based on a conclusion of law, this Court’s review is de novo. *State v. Smith*, 2021 MT 148, ¶ 14, 404 Mont. 245, 488 P.3d 531.

¶13 Haflich argues the District Court erred by admitting the body camera video of the officers’ emergency room interview with J.R., and compounded the issue by allowing the jury to rewatch the video during deliberations. Haflich contends that he was unfairly prejudiced because this placed undue emphasis on J.R.’s statements. The State concedes that J.R.’s interview with law enforcement was not admissible under any hearsay exception, but the State argues the District Court’s error was harmless because the video was merely cumulative of other strong evidence presented at trial, and ultimately did not have any impact on Haflich’s conviction.

¶14 A criminal conviction “may not be reversed by reason of any error committed by the trial court against the convicted person unless the record shows that the error was prejudicial.” Section 46-20-701(1), MCA; *Van Kirk*, ¶ 29. “Inadmissible evidence is not prejudicial so long as the jury was presented with admissible evidence proving the same facts as the tainted evidence.” *Smith*, ¶ 34. To prove an evidentiary error was harmless,

“the State must demonstrate that there is no reasonable possibility that the inadmissible evidence might have contributed to the conviction.” *Van Kirk*, ¶ 47. This requires the State to show “the fact-finder was presented with admissible evidence that proved the same facts as the tainted evidence and, qualitatively, by comparison, the tainted evidence would not have contributed to the conviction.” *Van Kirk*, ¶ 47.

¶15 Haflich’s PFMA conviction required the State to prove that Haflich purposely or knowingly caused pain and/or bodily injury to J.R. Sections 45-5-206 and 45-2-101(5), MCA. Cumulative to the body camera video, the jury heard J.R. testify at trial regarding Haflich’s alleged violent acts, her pain and injuries, and the fact that they were in an intimate relationship at the time. Other witnesses and photographic evidence corroborated every material piece of J.R.’s story, including her obvious distress, numerous physical injuries, the boarded-up trailer, and the broken window on the back door from which J.R. escaped. At trial, Haflich did not deny that J.R. was injured, but instead claimed that “she hurts herself a lot” with no further explanation. Contrary to Haflich’s assertion on appeal, there is no evidence that this case presented “a close credibility contest” to which the inadmissible video interview “tipped the scales.” The jury’s questions to the court and its second day of deliberation are not facts that support Haflich’s claim “the jury was deadlocked.” The jury deliberated for a total of roughly four hours, which just happened to span through the end of one day and into the next. Given the amount and strength of the cumulative evidence, there is no reasonable possibility that the inadmissible body camera video contributed to Haflich’s conviction.

¶16 Addressing Haflich’s second issue on appeal, assuming for the sake of argument that officers’ entry into the residence and Haflich’s subsequent arrest violated his constitutional rights, Haflich fails to establish that any actual evidence was obtained as a result of the unlawful entry and arrest. “The ‘fruit of the poisonous tree’ doctrine forbids the use of evidence which is discovered as a result of the exploitation of an initial illegal act by the police.” *State v. Lacey*, 2009 MT 62, ¶ 32, 349 Mont. 371, 204 P.3d 1192. “[D]erivative evidence is admissible if it is (1) attenuated from the constitutional violation so as to remove its primary taint; (2) obtained from an independent source; or (3) determined to be evidence which would have been inevitably discovered apart from the constitutional violation.” *State v. New*, 276 Mont. 529, 536, 917 P.2d 919, 923 (1996) (citing *State v. Pearson*, 217 Mont. 363, 366, 704 P.2d 1056, 1058-59 (1985)).

¶17 Haflich argues that the photographs officers took of J.R. after his arrest “and other statements” must be suppressed. This contention is meritless. There is no connection between the evidence that Haflich seeks to suppress and any alleged illegal conduct of law enforcement. Haflich fails to point to any specific statements that should be suppressed. The photographs of J.R.’s injuries were taken outside the residence, and could have been taken anywhere and at any point in time in the aftermath of Haflich’s assault of J.R., as law enforcement was aware of J.R.’s injuries as early as their first contact with her at the emergency room, just hours after the assault. Any nexus that this evidence has to Haflich’s arrest is too attenuated to be considered “fruit of the poisonous tree.” Haflich

fails to provide this Court with any grounds to overturn the District Court's denial of his motion to suppress.

¶18 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review. The District Court's error regarding the admission of the body camera video was harmless because there is no reasonable possibility that the video contributed to Haflich's conviction. The District Court did not err by denying Haflich's motion to suppress. We affirm.

/S/ JAMES JEREMIAH SHEA

We Concur:

/S/ MIKE McGRATH
/S/ INGRID GUSTAFSON
/S/ BETH BAKER
/S/ JIM RICE