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NO. COA10-930  
NORTH CAROLINA COURT OF APPEALS

Filed: 16 August 2011

STATE OF NORTH CAROLINA

v.

Union County  
No. 08CRS056473

DAN WARREN EDWARDS,  
Defendant.

Appeal by defendant from judgment entered on or about 28 January 2010 by Judge D. Jack Hooks, Jr. in Superior Court, Union County. Heard in the Court of Appeals 12 January 2011.

*Attorney General Roy A. Cooper, III., by Assistant Solicitor General John F. Maddrey, for the State.*

*Glenn Gerding, for defendant-appellant.*

STROUD, Judge.

Defendant appeals his conviction of first-degree murder. For the following reasons, we find no error.

I. Background

The State's evidence tended to show that on 11 November 2008 defendant provided the following signed statement to the State Bureau of Investigation and the Waxhaw Police Department:

I, Danny Warren Edwards, make this statement willingly and voluntarily to SBI Agent Brandon D. Blackman and Waxhaw Police Detective Bobby Haulk. I have been told that I am not in custody and I drove to the Waxhaw Police Department on my own after I was requested to do so by Agent Blackman and Detective Haulk. The following statement is my own words and has been reduced to writing by Agent Blackman.

On Wednesday, October 29th, 2008, my wife Logan Edwards left our house and went somewhere with a girl named Page. I don't know who Page is and have never met her. She was gone before I got home and I got home around six p.m. She called me and told me she was going out with Page and would be home later. She got home around nine p.m. or a little after. I was still awake when she got home. She made the comment that she figured I would be in the bed. I told her I wanted to wait up for her to see what she looked like. She looked really nice.

While she was gone, I went over to the computer and she had left the internet on. I looked and saw that she had a Match.com webpage. Her profile was up, which showed pictures of her. I scanned through it and saw all the hits she had and all the emails she had received, but I could not see any of the emails she had sent. The emails that she had received were from various men and I did not know any of them. This was the first time I knew about the dating website. I just got the credit card bill yesterday and it showed where she purchased a subscription on Sunday, October 26th, 2008. It cost something like forty-eight dollars. I did not confront her about it on Wednesday, but I was completely shocked and hurt.

On October 31, 2008, which was Halloween, I got home from work a little before five p.m., and Logan and I had

dinner. She'd just had mouth surgery and I had to help her with mashing up her food so she could eat. Around six thirty p.m., the trick or treaters started coming to the house and we both gave out candy together. All through the evening, she kept getting cell phone calls that she would not pick up. She would just look at the phone and then put it in her pocket. I kept asking her who was calling and she told me it was none of my business. I told her it was my business because I was her husband.

I went and took a shower and put on clothes. She asked me where I was going and I said I didn't know where I was going or what I was doing. That was about the time I told her I knew about Match.com. She got really mad about me looking at it and ran to the computer to make sure I had not changed her profile. She logged onto the website to make sure I had not changed anything. I think she logged off around eight thirty p.m. or nine p.m. I told her that everything that was on the profile was a lie and that she was married and not divorced. We got into a heated argument where we yelled a bunch and she laughed at me. She made the comment that some of the men on that website made enough money to take care of her the way she needed to be taken care of. I asked her how she was going to build a relationship on lies and asked her what she -- what she -- or excuse me, asked her what was she going to do when they found out she was a married woman. We were in the master bedroom that is downstairs when this argument started.

After we started yelling at each other, I grabbed her and threw her on the bed. I took a pillow that had a yellow pillowcase on it and put it over her face and smothered her to death. I didn't check her pulse because I could tell she wasn't breathing and I knew I had killed her.

After this, I grabbed her red luggage bag and put a few things in it. I do not remember what I put in the bag. I was walking around in a daze and do not remember. I put her body in her white 2008 Mazda Tribute. The whole backseat was put down and I laid her back there. I didn't cover her up or anything like that. I started driving. I just know I was leaving, but I didn't exactly know where I was going. I went to 521 South and drove through Lancaster, Kershaw and Camden. I got on 601 South in Kershaw and went through Westville, South Carolina. Once I got to Camden, I kept going on 601 South and stopped at the Congaree River and stopped on the only bridge that crosses the river. I stopped right in the middle of the bridge and got Logan's body out of the car and dropped it off the side of the bridge. She was wearing a white t-shirt, a green warm-up jacket, navy blue warm-up pants and white socks and white tennis shoes. She didn't have her diamond ring on, and I didn't think she had any jewelry on -- excuse me, and I don't think she had any jewelry on.

I didn't see any cars on that bridge when I stopped. I did not specifically pick that spot; it was just where I ended up. I got back in the Mazda and drove over the bridge, took a left on Highway 267 South and went towards Santee. I had stayed at the Quality Inn Hotel that is on Highway 6 that is just beside I-95. I had been on golf outings and stayed at that hotel. If you drive into the hotel off of 6, her car is parked on the right-hand side of the parking lot. The car is pulled in and I did not take the tags off of it. I don't know where the keys to the car are at, because along the way to Santee, I threw her keys out the window, and once I parked the car, I locked it.

I walked down to the rest area on

Interstate 95 at Exit 98. I found a truck driver who said he was going to -- he was going I-95 North. I asked him if I could ride to Florence and he said yes. I don't know who he is or what trucking company he worked for. I don't know his name and we didn't talk much. He dropped me off at Highway 52 in Florence.

I walked from I-95 to Highway 52 to a Pilot truck stop. I think it was a Pilot. A fellow was fueling his truck and I asked him if I could get a ride to Wadesboro and told him I was trying to get to Monroe. He said he was going to Charlotte and said he would just drop me off in Monroe. He was driving a red Peterbilt truck with any empty flatbed. He was an independent driver, and I do not know his name.

He dropped me off on 601 and 74 on Skyway Drive. I walked from there to Franklin Street and a guy came by in an old green Dodge car. I thumbed him down and he stopped. He was about half drunk. He rode me to Waxhaw by Highway 75. He dropped me off right at the railroad tracks in downtown Waxhaw and I walked back to my house. I think I got home around six fifteen a.m. or six thirty a.m. on Saturday, November 1, 2008.

When I got home I threw up, took a show[er] and ate some breakfast. I walked around the house and got in my truck and went to work. Nobody was at work when I got there. I stayed about an hour and did some paperwork. I washed the sheets that were on the bed, including the pillowcases on Sunday. I washed them because Logan and I wash them every week. I decided to call Waxhaw Police Department and file a missing person's report. I was trying to figure out how to escape my sin. If I could do anything to take it back, I would, but it is already done. I wish I could take back that two minutes of rage.

Ms. Edwards's body was found in the Congaree River; her "cause of death was asphyxiation due to suffocation, slash strangulation."

On or about 7 January 2009, defendant was indicted for first degree murder. Defendant was convicted of first degree murder and sentenced to life imprisonment without parole. Defendant appeals.

## II. Motion to Dismiss

Defendant first contends that "the trial court erred when it denied Mr. Edwards' motion to dismiss the charge and entered judgment on the verdict of first degree murder." (Original in all caps.) Defendant specifically argues that "the State failed to submit substantial evidence that Mr. Edwards acted with premeditation and deliberation, and the specific intent to kill."

The standard of review for a motion to dismiss is well known. A defendant's motion to dismiss should be denied if there is substantial evidence of: (1) each essential element of the offense charged, and (2) of defendant's being the perpetrator of the charged offense. Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion. The Court must consider the evidence in the light most favorable to the State and the State is entitled to every reasonable inference to be drawn from that

evidence.

*State v. Johnson*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 693 S.E.2d 145, 148 (2010) (citations and quotation marks omitted).

"The elements required for conviction of first degree murder are (1) the unlawful killing of another human being; (2) with malice; and (3) with premeditation and deliberation." *State v. Haynesworth*, 146 N.C. App. 523, 531, 553 S.E.2d 103, 109 (2001). "Our Supreme Court has observed that specific intent to kill is an essential element of first degree murder, but it is also a necessary constituent of the elements of premeditation and deliberation. As a result, proof of premeditation and deliberation is also proof of intent to kill." *State v. Kirby*, 187 N.C. App. 367, 374, 653 S.E.2d 174, 179 (2007) (citation, quotation marks, and brackets omitted), *disc. review denied and appeal dismissed*, 362 N.C. 241, 660 S.E.2d 493 (2008).

In *State v. Richmond*, this Court determined that

premeditation and deliberation are processes of the mind, they are not ordinarily subject to direct proof but generally must be proved if at all by circumstantial evidence. The brutal manner of the killing and the nature of the victim's wounds are circumstances from which the jury can infer premeditation and deliberation. The jury may infer premeditation and deliberation from the circumstances of a killing, including the fact that death was by strangulation.

347 N.C. 412, 434, 495 S.E.2d 677, 689, *cert. denied*, 525 U.S. 843, 142 L.Ed. 2d 88 (1998) (citation and quotation marks omitted).

Other circumstances to consider include:

(1) a lack of provocation by the victim, (2) conduct and statements of the defendant before and after the killing, (3) threats and declarations made against the victim by defendant, (4) ill will or previous difficulty between the parties, (5) the dealing of lethal blows after the victim has been felled or rendered helpless, (6) evidence that the killing was accomplished in a brutal manner, and (7) the nature and number of the victim's wounds.

*State v. Gibson*, 342 N.C. 142, 151, 463 S.E.2d 193, 199 (1995).

Here, there was substantial evidence of premeditation and deliberation, including, "a lack of provocation by the victim[;]" *see generally State v. Montague*, 298 N.C. 752, 756-57, 259 S.E.2d 899, 903 (1979) ("In order for a homicide to be reduced from second-degree murder to voluntary manslaughter on the theory that a defendant acted under the influence of sudden passion, the heat of passion suddenly aroused by provocation must be of such nature as the law would deem adequate to temporarily dethrone reason and displace malice. Mere words however abusive are not sufficient provocation to reduce second-degree murder to manslaughter. Legal provocation must be under



circumstances amounting to an assault or threatened assault."); defendant's elaborate cover-up after Ms. Edwards's murder which included dumping Ms. Edwards's body in a river, leaving her vehicle at a hotel and throwing away the car keys, and filing a missing person's report of Ms. Edwards; see *State v. Hunt*, 330 N.C. 425, 428, 410 S.E.2d 478, 481 (1991) ("The defendant still possessed the cool and deliberate presence of mind when he disposed of the murder weapon, and lied to the deceased's wife about the deceased's whereabouts in an attempt to cover up the crime."); and that Mrs. Edwards's "cause of death was asphyxiation due to suffocation, slash strangulation." See *Richmond*, 347 N.C. at 434, 495 S.E.2d at 689 ("The jury may infer premeditation and deliberation from the circumstances of a killing, including the fact that death was by strangulation."). As there was substantial evidence of premeditation and deliberation the trial court did not err in denying defendant's motion to dismiss. This argument is overruled.

### III. Jury Instructions

Here, after beginning deliberations, the jury requested second degree sentencing information. The trial judge denied the request. Citing N.C. Gen. Stat. § 7A-97, defendant contends that "the trial court erred when it denied the jury's request to

be informed of the possible punishments for a conviction of second degree murder." (Original in all caps.) A denial of a request for a jury instruction is reviewed for an abuse of discretion. *State v. Clegg*, 142 N.C. App. 35, 46, 542 S.E.2d 269, 276, *cert. denied*, 353 N.C. 453, 548 S.E.2d 529 (2001).

In *State v. Hewson*, the jury sent a note to the trial judge requesting "the penalty for second-degree murder[,] " and the trial judge declined to provide the information. 182 N.C. App. 196, 212-13, 642 S.E.2d 459, 470, *disc. review denied*, 361 N.C. 572, 651 S.E.2d 229 (2007). This Court determined that "N.C. Gen. Stat. § 7A-97 does not obligate the trial court to inform the jury of applicable punishments, but rather permits a defendant to do so." *Id.* at 213, 642 S.E.2d at 471. While defendant attempts to distinguish his case from *Hewson* based upon "the strength of the State's case [in *Hewson*] as to the elements of premeditation, deliberation, and specific intent[,] " we do not find this argument persuasive. As "[d]efendant did not choose to exercise his right to inform the jury of the punishment for the possible verdicts[,] " and defendant makes no argument that he was prevented "from making any argument regarding punishment[,] " "the trial court did not err when it refused to answer the inquiry of the jury." *Id.* As such, this

argument is overruled.

IV. Conclusion

For the foregoing reasons, we find no error.

NO ERROR.

Judges CALABRIA and HUNTER, JR., Robert N. concur.

Report per Rule 30(e).