NO. COA12-1532
NORTH CAROLINA COURT OF APPEALS

Filed: 3 September 2013

STATE OF NORTH CAROLINA

v. Guilford County
Nos. 11 CRS 93955
DERWIN GERRARD HARRIS 12 CRS 24011-12

Appeal by defendant from judgments entered 7 June 2012 by Judge Edwin G. Wilson, Jr., in Guilford County Superior Court. Heard in the Court of Appeals 19 August 2013.

Attorney General Roy Cooper, by Assistant Attorney General Rufus C. Allen, for the State.

Brock, Payne & Meece, P.A., by C. Scott Holmes for Defendant.

DILLON, Judge.

Defendant appeals from judgments entered based upon his convictions for three counts of robbery with a dangerous weapon and one count of first degree burglary. We find no error.

On 3 January 2012, Defendant was charged in bills of indictment with three counts of robbery with a dangerous weapon, one count of first degree burglary, and one count of conspiracy

to commit robbery with a dangerous weapon. The evidence presented at trial shows that around midnight on 22 November 2011, Defendant and an accomplice knocked on the door of an apartment and barged in after one of the residents answered. The two men proceeded to ransack the apartment in search of valuables and robbed two of the residents. A third resident hid in the bathroom and called 911. The two intruders discovered the third resident and hit him in the head. Law enforcement officers arrived while the intruders were still in the apartment and arrested them.

Defendant testified in his own defense. Defendant claimed that a month before the apartment invasion, he ran into a member of his former gang. The gang member told Defendant that in order to get out of the gang, he had to pay a sum of money or complete a final "mission." Defendant claims that he was fearful of what might happen if he did not cooperate. On the day of the mission, Defendant picked up another gang member, who told Defendant that they were going to buy some drugs. The gang member then pulled a mask and a gun out of a bag and told Defendant that they were actually going to "[r]ob the dope man." Defendant claimed that he was unwilling to participate, but nevertheless accompanied the gang member on the robbery attempt.

A jury found Defendant guilty of all charges except the conspiracy charge. The trial court thereafter sentenced Defendant to two consecutive terms of 60 to 81 months imprisonment. Defendant appeals.

On appeal, Defendant argues that the trial court erred in limiting his cross examination of two of the officers who responded to the robbery. The defense questioned the officers regarding their knowledge of (1) crimes relating to gang activity and (2) the intent element of crimes:

> Q. Are you familiar with the laws that deal with gang activities that punish individuals for recruiting people to gangs or intimidating, threatening individuals trying to withdraw from gangs?
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> Q. . . . [A]s part of your training you learned that state of mind is Chapter One, isn't it?
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> . . .
>
> Q. . . . [Y]ou understand that the mental aspect is the first part to any crime? You – you did learn that in school, didn't you?

The trial court sustained the State's objections to these questions.

"On appeal, the trial court's decision to limit cross-examination is reviewed for abuse of discretion, and 'rulings in

controlling cross examination will not be disturbed unless it is shown that the verdict was improperly influenced.'" *State v. Jacobs*, 172 N.C. App. 220, 228-229, 616 S.E.2d 306, 312 (2005) (citation omitted). Defendant asserts that the trial court abused its discretion in sustaining the State's objections. We conclude that any error on the part of the trial court was harmless.

"Evidentiary errors are harmless unless a defendant proves that absent the error a different result would have been reached at trial." *State v. Ferguson*, 145 N.C. App. 302, 307, 549 S.E.2d 889, 893 (2001). Defendant raised the defense of duress at trial. To the extent that these questions were intended to show that Defendant acted under duress, he cannot show prejudice. Defendant presented his own evidence regarding duress, the jury was instructed on the defense, and the jury even acquitted Defendant of the conspiracy charge. Furthermore, the record contains overwhelming evidence of Defendant's guilt. Therefore, we do not believe that the result would have been different had the testimony in question come into evidence.

NO ERROR.

Judges GEER and ERVIN concur.

Report per Rule 30(e).