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NO. COA13-432  
NORTH CAROLINA COURT OF APPEALS

Filed: 19 November 2013

IN THE MATTER OF:

M.F.

Mecklenburg County  
No. 12 JB 148

Appeal by juvenile from adjudication and disposition orders entered 19 November 2012 by Judge Louis A. Trosch in District Court, Mecklenburg County. Heard in the Court of Appeals 5 November 2013.

*Attorney General Roy A. Cooper, III, by Assistant Attorney General Anita LeVeaux, for the State.*

*Winifred H. Dillon, for juvenile-appellant.*

STROUD, Judge.

M.F. ("Juvenile"), who was born on 1 December 1998, appeals from an order adjudicating him delinquent for commission of the offenses of first degree sexual offense and crime against nature and an order imposing a Level 2 disposition. We affirm.

The evidence of the State tends to show that Juvenile's parents operated a child care center in Mecklenburg County and that the complainant (hereinafter referenced by the pseudonym of

"Billy") was one of the children under their care. Beginning in December 2011, Billy's mother's job schedule changed and made her unable to pick up Billy until about 10:00 p.m., after all of the other children had gone home. Billy, who was age seven and in the second grade of school at the time of the hearing, testified that after the children completed their homework, they were allowed to go upstairs to a play room. More than once, Juvenile came into the play room while Billy was there alone, directed Billy to lower his pants, rubbed his private part between Billy's legs, and inserted his private part into Billy's mouth. On the morning of 14 February 2012, Billy remarked to his mother that his breath smelled bad because Juvenile had been putting his penis into Billy's mouth. Billy's mother and Billy confronted Juvenile's parents, who denied that their son committed the acts because Juvenile was "a straight A student." Billy's mother reported the matter to the police the next day.

Juvenile solely contends the court erred in granting the prosecution's motion *in limine* to exclude for lack of relevance evidence of statements made with reference to Billy's "displaying unspecified sexualized behavior, making sexual advances to other boys, making unspecified sexualized comments, being a homosexual, playing with girls' toys and receiving

therapy for said behavior.” The court “provisionally granted” the motion and required Juvenile to first explain the relevance of any such testimony Juvenile sought to elicit.

“A motion *in limine* seeks pretrial determination of the admissibility of evidence proposed to be introduced at trial[.]” *State v. Maney*, 151 N.C. App. 486, 491, 565 S.E.2d 743, 746 (2002) (citation and quotation marks omitted). “[A] party objecting to the grant of a motion in limine must attempt to offer the evidence at trial to properly preserve the objection for appellate review.” *State v. Reaves*, 196 N.C. App. 683, 687, 676 S.E.2d 74, 77, *disc. review denied*, 363 N.C. 587, 683 S.E.2d 705 (2009). Even if the issue is properly preserved, “[t]he trial court has wide discretion in ruling on motions *in limine* and will not be reversed absent an abuse of discretion.” *State v. Rainey*, 198 N.C. App. 427, 431, 680 S.E.2d 760, 765 (citation and quotation marks omitted), *disc. review denied and appeal dismissed*, 363 N.C. 661, 686 S.E.2d 903 (2009).

Juvenile does not cite in his brief, nor can we find, any instance where Juvenile unsuccessfully sought to admit the excluded evidence at the hearing. Juvenile has thus failed to preserve the issue for appellate review and has not shown the court abused its discretion.

We hold Juvenile received a fair hearing, free from prejudicial error. The orders are affirmed.

AFFIRMED.

Judges CALABRIA and STEELMAN concur.

Report per Rule 30(e).