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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-529

Filed: 15 March 2016

Chatham County, No. 13 JB 12

IN THE MATTER OF: A.L., JR.

Appeal by Juvenile from orders entered 20 January 2015 and 26 January 2015 by Judge Joe Buckner in District Court, Chatham County. Heard in the Court of Appeals 19 October 2015.

Attorney General Roy Cooper, by Assistant Attorney General Tammera S. Hill, for the State.

Richard Croutharmel for Juvenile–Appellant.

McGEE, Chief Judge.

Juvenile A.L.¹ appeals from orders adjudicating him delinquent for committing the Class 2 misdemeanor offense of simple assault in violation of N.C. Gen. Stat. § 14-33(a) and sentencing him to a Level 2 disposition of one year of probation, subject to various conditions. We affirm.

The evidence tended to show that A.L., his father (“Father”), and his older brother were at home on the evening of 6 January 2015. Father testified that, at

¹ We refer to the appellant as “Juvenile” or by the initials “A.L.” throughout the opinion in order to protect his identity.

approximately 11:00 p.m., he turned off the wireless router and told A.L. to go to bed. Shortly thereafter, Father was lying in bed when he heard A.L. open Father's door and attempt to turn the router back on. Father again told A.L. to "[j]ust go to bed," and then "closed the door . . . like, kind of, in [A.L.'s] face[.]" A.L. then "got in [Father's] face, saying, like cussing words." Father pushed A.L. saying: "You don't do that. I mean, you aren't supposed to hit your father or nothing like that," at which point A.L. struck Father near Father's left eye, causing "a laceration, bruising, and swelling."

Three juvenile petitions were filed against A.L. the following day alleging the offenses of misdemeanor simple assault in violation of N.C. Gen. Stat. § 14-33(a), communicating threats in violation of N.C. Gen. Stat. § 14-277.1, and misdemeanor larceny in violation of N.C. Gen. Stat. § 14-72(a).

An adjudication hearing on the petitions was held on 15 January 2015. During the State's presentation of its evidence at the hearing, Juvenile's counsel sought to introduce evidence regarding Father's purportedly violent character by asking Father on cross-examination about a prior incident of alleged violence between Father and A.L.'s mother. The State objected to the question and the trial court sustained the objection.

A.L. moved to dismiss the charge of communicating threats at the close of the State's evidence, which the trial court granted. At the close of all of the evidence, the

trial court found A.L. responsible for committing simple assault. Pursuant to a plea agreement, the State subsequently dismissed the remaining larceny charge, and A.L. admitted to violating his probation, which stemmed from a prior adjudication and disposition of delinquency in 2014. The trial court held a disposition hearing immediately after the adjudication hearing and sentenced A.L. to twelve months' probation. Juvenile appeals.

I.

A.L. first contends the trial court erred by denying his counsel's attempt to cross-examine Father regarding Father's purported reputation for violence. Specifically, A.L. argues that it was error to exclude evidence of Father's purported reputation for violence because the evidence was relevant to A.L.'s assertion of self-defense. We disagree.

Evidence pertaining to a victim's reputation for violence "[is] not relevant unless there [is] evidence tending to show that the assault was committed in self defense." *State v. Tann*, 57 N.C. App. 527, 531, 291 S.E.2d 824, 827 (1982). When a defendant in an assault case pleads self-defense and offers evidence of self-defense, he may *then* offer evidence tending to show his assailant's reputation for violence. *See id.* It is within the trial court's authority to limit the scope of cross-examination until the defense presents evidence of self-defense, so long as the court does "not preclude questioning regarding the subject at a later time." *Id.* at 531–32, 291 S.E.2d

at 827.

In the present case, after the State's direct examination of Father, Juvenile's counsel attempted to elicit testimony from Father on cross-examination concerning a purported 2008 assault by Father against A.L.'s mother, which prompted the following colloquy between counsel and the trial court:

Q: Okay. In 2008, there was an incident in which you hit [A.L.'s] mother —

[THE STATE]: Objection, Your Honor. Relevance.

THE COURT: I think for purposes of this charge, it's not relevant.

[JUVENILE'S COUNSEL]: Judge, may I be heard on that?

THE COURT: Sure.

[JUVENILE'S COUNSEL]: Your Honor, my client witnessed the event of which I am about to ask [Father]. It goes to my client's understanding of this witness, and this will be a self-defense claim, Your Honor, so it is prior character of violence that my client was aware of.

THE COURT: I am going to sustain the State's objection. Thank you.

Because Juvenile's counsel sought to introduce this evidence concerning allegations of Father's purported reputation for violence before any evidence had been introduced to establish that A.L. had acted in self-defense, the trial court properly sustained the State's objection to the presentation of that evidence at that time. Additionally, since the trial court did "not preclude [Juvenile's counsel from] questioning [Father

regarding his purported reputation for violence] . . . at a later time,” *see Tann*, 57 N.C. App. at 532, 291 S.E.2d at 827, we conclude the trial court did not err by excluding the evidence of Father’s purported reputation for violence offered by Juvenile during the State’s case. This issue is overruled.

II.

A.L. next contends that he received ineffective assistance of counsel at trial because his counsel “eviscerated [A.L.’s] self-defense claim” by failing to present evidence in support of A.L.’s self-defense claim, and that such performance was deficient and resulted in prejudice. We disagree.

A juvenile has a right to counsel in any proceeding in which the juvenile is alleged to be delinquent. *See* N.C. Gen. Stat. § 7B-2000(a) (2015). To establish a claim of ineffective assistance of counsel, a defendant must show that: (1) counsel’s performance was deficient because counsel made serious errors, which effectively deprived the defendant of his Sixth Amendment right to counsel, and (2) counsel’s deficient performance prejudiced the defendant by depriving the defendant of a fair trial. *State v. Braswell*, 312 N.C. 553, 562, 324 S.E.2d 241, 248 (1985). “Deficient performance may be established by showing that counsel’s representation fell below an objective standard of reasonableness.” *State v. Canty*, 224 N.C. App. 514, 517, 736 S.E.2d 532, 535 (2012) (internal quotation marks omitted), *supersedeas and disc. review denied*, 366 N.C. 578, 739 S.E.2d 850 (2013). “Generally, to establish

prejudice, a defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* (internal quotation marks omitted). "[C]ourts rarely grant relief based upon such a claim and further place upon defendant a stringent standard of proof." *State v. Lesane*, 137 N.C. App. 234, 246, 528 S.E.2d 37, 45, *appeal dismissed and disc. review denied*, 352 N.C. 154, 544 S.E.2d 236 (2000). "This stringent standard is required because every practicing attorney knows that a hindsight combing of a criminal record will in nearly every case reveal some possible error in judgment or disclose at least one trial tactic more attractive than those employed at trial." *Id.* (internal quotation marks omitted).

A.L. claims his counsel's performance was deficient because counsel failed to elicit testimony from A.L. regarding his knowledge of Father's purportedly violent character and failed to recall Father to testify about Father's prior alleged violent behavior. However, our review of the record indicates that any deficiency in the Juvenile's counsel's performance was not egregious and did not fall below an objective standard of reasonableness. During the State's case, Juvenile's counsel sought to introduce evidence of Father's alleged assault and offered the following in support of the evidence counsel sought to introduce:

[JUVENILE'S COUNSEL]: I ask that you allow me to admit this magistrate's order for appellate purposes only, as a showing as to what I would have discussed with [Father].

THE COURT: I'm sorry, the what?

[JUVENILE'S COUNSEL]: The magistrate's order that I have, that has a description of what I was going to discuss with [Father] when you sustained the D.A.'s objection. I'd like to put that in the record for preservation purposes.

....

THE COURT: Even if it happened, I don't see how it is relevant.

[JUVENILE'S COUNSEL]: I understand, Judge, I am just asking to put this in for potential appellate purposes.

THE COURT: You know, you proffered it. I've denied the testimony. So I don't know how it comes in.

[JUVENILE'S COUNSEL]: I'm not asking it to come in for evidentiary purposes, just for appellate purposes.

Juvenile's counsel then attempted to elicit testimony from A.L. that would support a claim of self-defense during A.L.'s testimony on his own behalf:

Q: . . . Can you tell me what happened when you went into your dad's room to turn on the Internet?

A: Exactly what he said.

....

Q: Okay. Why did you punch your dad?

A: I thought he was going to hit me.

Q: Why did you think that?

A: I don't know. Just — I don't know. I just thought he

was.

Thus, in his own testimony, Juvenile conceded that Father gave an accurate account of the incident in his testimony for the State, and did not offer testimony in response to his counsel's questions that may have established a basis for a claim of self-defense. Because we cannot conclude that A.L.'s counsel's performance was so deficient as to fall below an objective standard of reasonableness, we overrule this issue.

III.

Finally, A.L. contends the trial court committed reversible error by failing to include sufficient findings of fact in its adjudication order as to whether A.L. committed the assault alleged in the petition. Again, we disagree.

In a juvenile delinquency proceeding, a trial court is statutorily required to include certain findings in its adjudication order. Specifically, N.C. Gen. Stat. § 7B-2411 requires that:

[i]f the court finds that the allegations in the petition have been proved . . . [beyond a reasonable doubt], the court shall so state in a written order of adjudication, which shall include, but not be limited to, the date of the offense, the misdemeanor or felony classification of the offense, and the date of the adjudication.

N.C. Gen. Stat. § 7B-2411 (2015). However, N.C. Gen. Stat. § 7B-2411 “does not require the trial court to delineate each element of an offense and state in writing the evidence which satisfies each element, and . . . does not specifically require that an adjudication order contain appropriate findings of fact[.]” *In re K.M.M.*, __ N.C. App.

__, __, 774 S.E.2d 430, 432–33 (2015) (internal quotation marks omitted). Further, an adjudication order “satisfies the minimum requirements” of N.C. Gen. Stat. § 7B-2411 if it “provides the date of the offense, . . . [the class and level of the underlying offense], the date of the adjudication, and clearly states that the court considered the evidence and adjudicated [the juvenile] delinquent as to the petition’s allegation of simple assault beyond a reasonable doubt.” *In re K.C.*, 226 N.C. App. 452, 461, 742 S.E.2d 239, 245 (footnote omitted), *supersedeas and disc. review denied*, 367 N.C. 218, __ S.E.2d __ (2013).

Juvenile relies on *In re J.V.J.*, 209 N.C. App. 737, 707 S.E.2d 636 (2011), in support of his argument that the trial court’s findings of fact were insufficient to meet the statutory requirements of N.C. Gen. Stat. § 7B-2411. In *In re J.V.J.*, the trial court made the following written findings in its adjudication order: “Based on the evidence presented[,] [t]he following facts have been proven beyond a reasonable doubt: The court finds that [the juvenile] is responsible.” *Id.* at 740, 707 S.E.2d at 637–38 (first and second alterations in original). This Court held that the trial court failed to include the requisite findings in its adjudication order because the adjudication order in *In re J.V.J.* “fail[ed] to address any of [the petition] allegations as required by [N.C. Gen. Stat. §]7B-2411. Indeed, the adjudication order [did] not even summarily aver that the allegations in the petition [had] been proved.” *Id.* (internal quotation marks omitted). As a result, this Court remanded the case to the

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trial court to make the statutorily mandated findings of fact. *See id.* at 741, 707 S.E.2d at 638. We conclude the present case is distinguishable from *In re J.V.J.*

In the present case, the trial court made the following findings in its written adjudication order: “The following facts have been proven beyond a reasonable doubt: . . . The above juvenile was found responsible to the charge of simple assault during a hearing. The charge of communicating a threat was dismissed by the court, and he admitted to his probation violation.” The adjudication order also indicated that the date of offense was 6 January 2015, that the simple assault charge was a Class 2 misdemeanor, and that the date of adjudication was 15 January 2015. Therefore, we conclude that the written adjudication order satisfied the minimum requirements of N.C. Gen. Stat. § 7B-2411. Accordingly, we overrule this issue on appeal.

AFFIRMED.

Judges ELMORE and INMAN concur.

Report per Rule 30(e).