IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-939

Filed: 17 April 2018

Perquimans County, Nos. 14CRS050177-78

STATE OF NORTH CAROLINA

v.

AARON JACKSON, Defendant.

Appeal by Defendant from judgments entered 13 July 2016 by Judge Jerry R. Tillett in Perquimans County Superior Court. Heard in the Court of Appeals 8 March 2018.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Lauren M. Clemmons, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Katherine Jane Allen, for defendant-appellant.

HUNTER, JR., Robert N., Judge.

Aaron Jackson ("Defendant") appeals from jury verdicts convicting him of three counts of second degree sexual offense. Following the verdicts, the trial court sentenced Defendant to three consecutive terms of 73 to 148 months imprisonment and ordered him to register as a sex offender for thirty years. On appeal, Defendant

contends the trial court committed the following errors: (1) denying his motion for a bill of particulars; (2) allowing the State to impermissibly vouch for the credibility of the victim, Rebecca[1]; and (3) admitting irrelevant photographs of Rebecca. We hold Defendant fails to show reversible error.

I. Factual and Procedural Background

On 12 June 2014, a Perquimans County Grand Jury indicted Defendant for five counts of second degree sexual offense. On 17 December 2014, Defendant filed a motion for a bill of particulars. In his motion, Defendant stated he could not adequately prepare a defense without the following information:

> 1. The exact times and dates of each alleged act constituting any portion of the charged crimes;
> 2. The exact acts alleged to constitute the charged crimes;
> 3. The places at which any acts allegedly committed in furtherance of the charged crime[s] are alleged to have occurred, specifically;
>
> > a. A short and plain factual statement of the manner, mode, means or method by which the defendant is alleged to have engaged in the second degree sexual offense as well as the names of any witnesses to the alleged acts;
> > b. A short plain factual statement identifying the complete proper name, alleged birth date and county and state place of birth of the complaining witness.

[1] We use this pseudonym to protect the victim's identity and for ease of reading. Additionally, we use pseudonyms for all of Rebecca's and Defendant's family members and the pastor to whom one of the brothers confessed.

On 25 January 2016, another Perquimans County Grand Jury indicted Defendant for five counts of incest.

On 18 April 2016, the court held a hearing on Defendant's motion.[2] Defendant argued he needed to know "specifically what happened and when it happened." He only knew the acts allegedly occurred after his sixteenth birthday, but did not know exact dates. Additionally, Defendant cited to the indictments, which alleged Defendant used force during the sexual offenses. Defendant argued he could not defend against the charges, as he did not know the type of force the State alleged he used.

The State opposed the motion on several grounds. First, alleging a range of time was typical in cases with juvenile victims. Second, Defendant only asserted a general statement of prejudice, but did not actually state how the lack of information impaired his defense. Third, short form indictments are sufficient in sexual assault cases. The State further asserted it provided Defendant with all discovery, specifically Rebecca's statements. While discussing the State's intentions to interview Rebecca again, the trial court instructed the State to supplement discovery obligations to Defendant. The State also asserted the information Defendant requested was not available.

[2] Defendant no longer requested the information in (3)(b).

After reviewing the discovery the State gave to Defendant, the trial court stated Defendant received all information the State had in its possession. The trial court denied Defendant's motion for a bill of particulars. The trial court determined the State did not possess "any information which would be cured or bolstered by a bill of particulars[,]" and Defendant failed to show the lack of information significantly impaired his defense. The trial court ordered the State to "adhere[ ] to its duty of discovery."

On or about 8 July 2016, the State filed notice of dismissal of two of the incest charges. On 11 July 2016, the court called Defendant's case for trial. The State dismissed another two of the incest charges, leaving five charges of second degree sexual offense and one charge of incest.

The State first called Rebecca. Eighteen years old at the time of trial, Rebecca lived in Colorado with her half-brother, David, and his wife. Rebecca came from a large, religious family. She had ten siblings, and Defendant was one of her older brothers.[3] The family lived in an old two-story farmhouse. Although the children were technically home-schooled, Rebecca's mother did not often teach the children.

Six of Rebecca's brothers sexually assaulted her during her childhood: Edgar, Michael, Max, Nick, Defendant, and Bill.[4] Edgar, Michael, Max, Nick, and Bill all

[3] Two of the ten siblings were Rebecca's half-siblings.

[4] Rebecca testified about each brother's assaults, but those instances are not at issue on appeal. We include some of Bill's and Nick's assaults on Rebecca, as those two brothers often worked in a group with Defendant.

pled guilty to various sexual crimes, stemming from Rebecca's allegations against each.

Defendant, Bill, and Nick were "their own little pack[,]" with Nick as the ringleader. Starting at age six, the three brothers made Rebecca watch pornography with them. The boys made Rebecca dance similar to the way women danced in the pornography. They also inserted the ends of hairbrushes, handles, pencils, and their fingers in Rebecca's vagina.

Rebecca told her parents of the assaults, but they "didn't seem to care." Rebecca's parents instructed her not to tell others outside the family, or she would "destroy [their] family."

Around eight years old, Rebecca, forced by Defendant, Bill, and Nick, engaged in vaginal intercourse with her younger brother, Chad. Although the first few times with Chad were forced, Rebecca began to instigate the intercourse when the other brothers were around "because that's the only way [she] knew how to get them to stop wanting it." She instigated the intercourse with Chad three times.

The brothers temporarily stopped assaulting Rebecca after she was baptized at age eleven. However, they resumed the assaults shortly after Rebecca turned twelve, but now acted individually. Specifically, Defendant would lie on top of Rebecca, remove her clothing, and rub against her. Defendant also asserted "[a]nything long and skinny that he could find" in Rebecca's vagina, including his

fingers, hairbrushes, and pencils. These assaults occurred "[a]t least once a week if not more." Defendant vaginally penetrated Rebecca at least two times after she turned twelve. Rebecca sometimes told Defendant "no." In response, Defendant would "be rough when he stuck things in [her], rougher than he was in general." Defendant would also tell Rebecca she "wanted it" or that if she told anyone of the assaults, they would believe him. She believed his threats, "because [Defendant] could talk his way out of anything growing up." Eventually, Rebecca "stopped fighting it[.]" After every assault, Defendant asked Rebecca for forgiveness.

Investigators first visited the family home in January 2013. Following instructions, Rebecca hid from investigators. Rebecca did not tell investigators of the incidents because:

> [she] had been told all growing up that if [she] told people outside the house what was going on, it would destroy the family.
>
> …
>
> And if [she] told anybody, then that means that [she] didn't forgive the boys, and if [she] didn't forgive the boys, [she]'d go to hell. [She] didn't really want to go to hell.

After the investigators visited, her parents first sent her to an uncle's home in Elizabeth City, North Carolina. Then her parents moved her to another's uncle's home in Virginia, then to a camp in Texas, and eventually to David's home in Colorado.

Near the end of Rebecca's testimony, the State moved to admit three photographs of Rebecca. The first photograph was of Rebecca, either age four or five (Exhibit 3). Defendant objected, arguing the photograph was irrelevant. The trial court overruled the objection and admitted the photograph. The second and third photographs showed Rebecca, between the ages of eight and ten (Exhibits 4 and 5). Defendant did not object, and the trial court admitted the photographs.

The State next called Doug, a pastor. Doug first met Defendant and Rebecca's family in 2007. Around February 2012, Edgar made a "profession of faith[.]" In this profession, Edgar told Doug he wanted to tell him "some things," but first needed permission from his father. After receiving permission, on or about 18 December 2012, Edgar told Doug of his sexual molestation of Rebecca and about his other brothers' assaults of Rebecca, including Defendant's. Specifically, Edgar told Doug about how Defendant and Bill forced Rebecca to disrobe and masturbated in front of her, during the summer of 2011. The next day, Doug contacted the Perquimans County Sheriff's Office.

The State next called Max, one of Rebecca and Defendant's brothers.[5] In February 2014, Max called Shelton White,[6] an investigator with the sheriff's office,

[5] The State also called Thomas Reid, a deputy with the Perquimans County Sheriff's Office. On or about 19 December 2012, Doug called Deputy Reid to report "some sexual acts that had happened in our county." Deputy Reid turned over the information to Shelton White, an investigator with the Perquimans County Sheriff's Office.

[6] Although several witnesses and counsel referred to Shelton White as "Shelby White", our review of the record shows the investigator's name is Shelton White, and we refer to him as such.

to report himself for sexual acts against Rebecca. Max also told investigators of "things that were concerning" to him about Defendant and Bill. Specifically, Max expressed concern "as far as masturbation" and thought Defendant and Bill experienced the same "trouble" as him. Max also found an unused condom in a part of the property where Defendant usually worked.

The State called Shelton White, an investigator for the Perquimans County Sheriff's Office. In December 2012, White first "tried to make contact with the household to speak to the parents of [Rebecca]." However, Rebecca's mother said she would feel more comfortable if her husband was present.

On or about 15 February 2013, White called Rebecca's father, James. James did not answer White's phone call, but called him back and left a message. White spoke with James on 18 February 2013. White wanted to set up a referral for Rebecca to go to Kids First, a child advocacy center. James said "that was fine" and gave White the requested information. On 27 February 2013, Rebecca went to Kids First. In the interview, Rebecca listed Edgar, Michael, Bill, Defendant, and Nick as the brothers who assaulted her. Rebecca did not list Max. After this interview, White tried to speak with Bill, Defendant, Nick, Rebecca's mother, and Rebecca.[7] However, James "wouldn't cooperate" with White.

[7] During this time, White did speak with Michael.

In early 2014,[8] White learned Rebecca moved to Colorado. In April 2014, White traveled to Colorado to speak with Rebecca. Rebecca's interview lasted eight hours. In the interview, Rebecca stated the assaults by Defendant started when she was either five-and-a-half or six years old. Initially, Defendant, Bill, and Nick worked as a group, forcing her to undress, watch pornography, and dance while unclothed. Additionally, those three brothers digitally penetrated Rebecca, which is "[u]sing an object of some type to penetrate into the vagina." Additionally, the brothers forced her to engage in intercourse with her younger brother, Chad.

The assaults stopped when she was baptized at eleven years old.[9] After her baptism, Defendant resumed the assaults, now acting individually. Specifically, Rebecca stated Defendant "had intercourse with her; that he enjoyed doing digital penetration with his hand, with his fingers; and that they would rub bodies against each other as well." Additionally, Defendant and Rebecca engaged in oral sex, one to two times a week.

Following the trip to Colorado and the interview with Rebecca, White interviewed three of Rebecca's brothers, Edgar, Michael, and Max. All three confessed to "some sexual acts[.]" The State admitted copies of the criminal

[8] White did not testify to the exact date he learned Rebecca moved to Colorado.

[9] White did not testify to Rebecca's age at the time of her baptism. However, Rebecca testified she was eleven years old when baptized.

judgments against five of Rebecca's brothers—Max, Nick, Michael, Edgar, and Bill—without objection from Defendant.

The State rested. Defendant moved to dismiss all the charges. The trial court denied Defendant's motion.

Defendant called Nick. Beginning when Rebecca was around four years old, she would strip and dance for "a couple" of the brothers, including Defendant. This continued for "between three and four years" and typically occurred a little less than once every other week.

Defendant next called Andrea Powell, a victim witness legal assistant with the district attorney's office. In September 2014, Powell traveled to Colorado to interview Rebecca. In the interview, Rebecca stated Defendant did not vaginally or anally penetrate her, and he was clothed while lying on top of her. However, in a subsequent interview, Rebecca asserted Defendant vaginally and digitally penetrated her and lay on top of her and masturbated.

Defendant next called his twin brother, Bill. When Bill and Defendant were either seven or eight years old, Rebecca would strip, laugh, and chase Defendant around. Defendant ran from Rebecca, and Bill never saw the two of them touch.

Defendant called Edgar.[10] In January 2013, Edgar confessed to inappropriate contact with Rebecca. In his confession, Edgar mentioned Nick, Defendant, and Bill; however, Edgar did not have firsthand knowledge of any inappropriate contact between Defendant and Rebecca.

Defendant testified on his own behalf. Around age ten, Defendant and Rebecca went out to a shed in the yard, undressed, and looked at each other. Defendant and Rebecca did this "maybe around 10 times." At one point, Defendant and Rebecca "dry humped" while clothed. Defendant denied touching, kissing, or having vaginal, anal, or digital intercourse with Rebecca. Defendant also denied watching pornography with Rebecca.

Defendant rested and renewed his motion to dismiss. The trial court denied the motion. The jury found Defendant guilty of three counts of second degree sexual offense, not guilty of two counts of second degree sexual offense, and not guilty of incest. The trial court sentenced Defendant to three consecutive terms of 73 to 148 months imprisonment and ordered Defendant to register as a sex offender for thirty years. On 18 July 2016, Defendant filed timely notice of appeal.

II. Analysis

[10] Defendant also called Michael. After Defendant refreshed Michael's memory by showing him an old journal, Michael remembered both he and Rebecca were baptized on 11 March 2008. Michael pled guilty to first degree sexual assault of Rebecca.

We address Defendant's contentions in three parts: (1) the trial court's denial of Defendant's motion for a bill of particulars; (2) the State's cross-examination of Defendant; and (3) the photographs of Rebecca.

A. Bill of Particulars

Defendant first argues the trial court denied his right to a fair trial and the ability to defend himself by denying his motion for a bill of particulars.[11] We disagree.

The grant or denial of a motion for a bill of particulars is within the discretion of the trial court and is not reversible except for "palpable and gross abuse thereof." *State v. Young,* 312 N.C. 669, 676, 325 S.E.2d 181, 186 (1985) (citation omitted). Furthermore, "denial of a defendant's motion for a bill of particulars will be held error only when it clearly appears to the appellate court that the lack of timely access to the requested information significantly impaired defendant's preparation and conduct of his case." *State v. Moore,* 335 N.C. 567, 588, 440 S.E.2d 797, 809 (1994) (citation omitted).

Pursuant to N.C. Gen. Stat. § 15A-925, "[a] motion for a bill of particulars must request and specify items of factual information desired by the defendant which pertain to the charge and which are not recited in the pleading, and must allege that

[11] To the extent Defendant raises a constitutional challenge with regard to the trial court's denial of his motion for a bill of particulars, we deem the issue abandoned. Defendant did not raise a constitutional challenge before the trial court and cannot argue a constitutional claim for the first time on appeal. *State v. Watts*, 357 N.C. 366, 372, 584 S.E.2d 740, 745 (2003) (citation omitted). Accordingly, we do not address Defendant's constitutional argument.

the defendant cannot adequately prepare or conduct his defense without such information." N.C. Gen. Stat. § 15A-925(b) (2017). "The function of a bill of particulars is to inform the defendant of the nature of the evidence which the State proposes to offer." *State v. Cameron*, 283 N.C. 191, 194, 195 S.E.2d 481, 483 (1973) (citation omitted).

However, "where all the information surrounding the commission of the crime[s] is contained in the bill of indictment or can be obtained by examination of the State's witnesses, there is no abuse of discretion in the denial of the motion." *State v. Martin*, 21 N.C. App. 645, 647, 205 S.E.2d 583, 585 (1974) (citation omitted). Additionally, if Defendant "was provided with enough of the requested information to adequately prepare h[is] case" through discovery, the trial court did not abuse its discretion in denying a motion for a bill of particulars. *State v. Hines*, 122 N.C. App. 545, 551, 471 S.E.2d 109, 113 (1996) (holding the trial court did abuse its discretion in denying defendant's motion when the record lacked evidence of significant impairment of defendant's preparation and the State provided enough information through discovery).

Defendant alleges "new allegations" at trial were beyond his knowledge, specifically that he penetrated Rebecca with objects and used force to commit second degree sexual offense. However, the State, per the trial court's instruction at the 16 April 2016 hearing, provided Defendant with open-file discovery. *See State v.*

Williams, 355 N.C. 501, 542, 565 S.E.2d 609, 633-34 (2002); *State v. Whitman*, 179 N.C. App. 657, 664-65, 635 S.E.2d 906, 911 (2006) (holding no abuse of discretion where the State provided defendant with open-file discovery and the evidence presented at trial did not differ from the information provided in discovery); *State v. Youngs*, 141 N.C. App. 220, 232, 540 S.E.2d 794, 802 (2000) (holding no abuse of discretion when the State provided defendant with all discoverable information, the age of the victim resulted in lack of specificity as to the offenses, and a bill of particulars could not cure the lack of specificity). *See also Hines*, 122 N.C. App. at 551, 471 S.E.2d at 113.

Under our case law, Defendant fails to show a significant impairment to the preparation of his defense. Our review of the record shows Defendant presented a thoroughly prepared defense, in which he denied the allegations against him, thoroughly cross-examined Rebecca regarding prior inconsistent allegations, and called several of his brothers to testify on his behalf.

We conclude the trial court did not abuse its discretion in denying Defendant's motion for a bill of particulars and overrule this assignment of error.

B. The State's Cross-Examination of Defendant

Defendant next contends the trial court plainly erred in allowing the State to impermissibly vouch for Rebecca's credibility during cross-examination of Defendant. We disagree.

We review evidence admitted without objection for plain error. N.C. R. App. P. 10(a)(4) (2017). Plain error occurs when the error is "so basic, so prejudicial, so lacking in its elements that justice cannot have been done[.]" *State v. Odom*, 307 N.C. 655, 660, 300 S.E.2d 375, 378 (1983) (citation omitted). "Under the plain error rule, defendant must convince this Court not only that there was error, but that absent the error, the jury probably would have reached a different result." *State v. Jordan*, 333 N.C. 431, 440, 426 S.E.2d 692, 697 (1993) (citation omitted).

A witness is not permitted to vouch for the credibility of the alleged victim in a child sexual abuse case. *See State v. Aguallo*, 322 N.C. 818, 822, 370 S.E.2d 676, 678 (1988). Indeed, "[t]he question of whether a witness is telling the truth is a question of credibility and is a matter for the jury alone." *State v. Solomon*, 340 N.C. 212, 221, 456 S.E.2d 778, 784 (1995) (citing *State v. Ford*, 323 N.C. 466, 469, 373 S.E.2d 420, 421 (1988)).

Defendant points to the following portion of cross-examination:

> Q. Your brother [Bill] pled guilty to incest, felony incest with your sister; is that correct?
>
> A. I believe so.
>
> Q. And you have read in the discovery where [Rebecca] indicated that she had vaginal intercourse with your brother [Bill], correct?
>
> A. That is correct.
>
> Q. And she -- and he did, in fact, plead guilty to incest,

right?

A. That is correct.

Q. So she was correct or right with respect to that, right?

A. Um, I would say in a sense, yes.

Q. Okay. And she indicated that she had sexual contact with [Nick] as far as to your knowledge, right?

A. Yes.

Q. And that she had vaginal intercourse with [Nick] on multiple occasions; is that correct?

A. I believe that is correct.

Q. And he has, in fact, pled guilty to four counts of vaginal intercourse or incest, correct?

A. I believe that is correct.

Q. And with respect to [Max], he confessed to law enforcement that he had sexual contact with [Rebecca], and she also corroborated that, correct?

A. Um, I am not sure.

Q. Okay. Well, he has pled guilty to multiple counts of indecent liberties with a minor. Can we agree on that?

A. I believe so.

Q. And [Michael] has pled guilty to first degree sexual offense -- and is in prison -- with [Rebecca]; is that correct?

A. I believe so.

Q. So she was right with respect to -- right with respect to

[Michael], correct, on her allegations?

A. That, I am not sure.

Q. Okay. Well, she made statements that [Michael] had did things to her, correct?

A. She did.

Q. And he has, in fact, pled to at least one count of first degree sexual offense?

A. He did.

Q. And with respect to -- with respect to [Edgar], she testified and also provided information to law enforcement that he also had sexual contact with her as well, correct?

A. I believe so.

Q. You believe so or did she?

A. I believe that is correct.

Q. Okay. And [Edgar] has also confessed to sexual contact?

A. Yes.

Q. Sodomy?

A. I'm not sure what his charges are.

…

Q. He pled guilty to first degree sexual offense, correct?

A. I believe so.

Q. And he is currently in prison for that?

> A. Yes.
>
> Q. And she made statements regarding things he had done to her as well?
>
> A. She did.
>
> Q. So she has been right about every single one of your brothers with the exception of you?
>
> A. No, I would not say that.
>
> Q. Okay. And she did not approach law enforcement, did she?
>
> A. Not to my knowledge.
>
> Q. Okay. It was [Edgar] who went to law enforcement from the beginning?
>
> A. Yes, I believe so.

Defendant argues this testimony "amounted to an opinion that vouched for the credibility of [Rebecca] and was inadmissible[.]" The State contends "[i]n context, the prosecution was not vouching for the credibility of the victim, but was testing Defendant's credibility and his denial of any wrongful acts."

We need not decide whether the trial court committed error in permitting this cross-examination because Defendant failed to demonstrate any alleged error would amount to plain error.[12] Rebecca testified, without objection, about her allegations against her other brothers. Bill, Nick, Michael, and Edgar testified. The State cross-

[12] During this portion of cross-examination, Defendant objected only once and on the grounds of the form of question, not on impermissible vouching.

examined each, asking about the guilty pleas resulting from Rebecca's allegations against them. Additionally, the State admitted copies of the criminal judgments against Max, Nick, Michael, Edgar, and Bill without objection from Defendant. In light of the other evidence at trial, we cannot say "that absent the error, the jury probably would have reached a different result." *Jordan*, 333 N.C. at 440, 426 S.E.2d at 697 (citation omitted). Accordingly, we hold the trial court did not commit plain error.

C. Photographs of Rebecca

Lastly, Defendant argues the trial court committed reversible error in admitting photographs of Rebecca, showing her at a young age. We disagree.

As stated *supra*, we review evidence admitted without objection for plain error. N.C. R. App. P. 10(a)(4). However, where Defendant objected to the admission of evidence at trial, we review for prejudicial error. N.C. Gen. Stat. § 15A-1443(a) (2017). "A defendant is prejudiced by evidentiary error 'when there is a reasonable possibility that, had the error in question not been committed, a different result would have been reached at the trial out of which the appeal arises.' " *State v. Wilkerson*, 363 N.C. 382, 415, 683 S.E.2d 174, 194 (2009) (quoting N.C. Gen. Stat. § 15A-1443(a)). Defendant objected to the admission of Exhibit 3, but not Exhibits 4 or 5. Thus, we review for prejudicial error regarding Exhibit 3 and review the trial court's admission of Exhibits 4 and 5 for plain error.

Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." N.C. R. Evid. 401 (2017). While relevant evidence is generally admissible, irrelevant evidence is inadmissible.[13] N.C. R. Evid. 402 (2017).

Defendant contends the photographs "simply were irrelevant" because "[t]here was nothing [Rebecca] could describe in words during her testimony that could be illuminated by childhood portraits of herself." Defendant asserts the error gives rise to plain and prejudicial error because the photographs "surely gave rise to unfair sympathy for [Rebecca] and antipathy against [Defendant]." The State argues the photographs were relevant to show the age progression of Rebecca during the long period of abuse.

Again, Defendant fails to show any alleged error would amount to prejudicial *or* plain error. The photographs showed Rebecca at an age when the assaults occurred and were not of such a nature to "g[i]ve rise to unfair sympathy for

[13] On appeal, Defendant also asserts the photographs were admitted in violation of Rule 403 of the North Carolina Rules of Evidence. Rule 403 excludes otherwise relevant evidence if "its probative value is substantially outweighed by the danger of unfair prejudice [or] confusion of the issues . . . ." N.C. R. Evid. 403 (2017). We review Rule 403 challenges for an abuse of discretion. *State v. Moultry*, ___ N.C. App. ___, ___, 784 S.E.2d 572, 573-74 (2016) (citation omitted). However, our Courts, generally, "ha[ve] not applied the plain error rule to issues which fall within the realm of the trial court's discretion[.]" *State v. Steen*, 352 N.C. 227, 256, 536 S.E.2d 1, 18 (2000). Defendant failed to object to the trial court's admission of Exhibits 4 and 5. Thus, he waived any argument under Rule 403 regarding these two exhibits. With regard to Exhibit 3, we hold the trial court did not commit any error in violation of Rule 403 in admitting the photograph.

[Rebecca.]" In light of the evidence at trial, we cannot say without the photographs "there is a reasonable possibility that . . . a different result would have been reached at the trial" or "absent the error, the jury probably would have reached a different result." *Wilkerson*, 363 N.C. at 415, 683 S.E.2d at 194 (citation omitted); *Jordan*, 333 N.C. at 440, 426 S.E.2d at 697 (citation omitted). Accordingly, we hold the trial court did not commit prejudicial or plain error in admitting the photographs.

III. Conclusion

For the foregoing reasons, we hold Defendant received a fair trial, free from reversible error.

NO ERROR.

Judges DIETZ and ZACHARY concur.

Report per Rule 30(e).