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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-1035

Filed: 15 December 2020

Granville County, No. 15CRS050053-55, 50059-60

STATE OF NORTH CAROLINA

v.

ERIC ALEXANDER CAMPBELL, Defendant.

Appeal by Defendant from judgments entered 13 September 2017 by Judge Henry W. Hight, Jr., in Granville County Superior Court. Heard in the Court of Appeals 21 October 2020.

Attorney General Joshua H. Stein, by Assistant Attorney General Teresa M. Postell, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Amanda S. Zimmer, for the Defendant.

DILLON, Judge.

Eric Alexander Campbell (“Defendant”) appeals from judgments entered upon a jury verdict finding him guilty of two counts of first-degree murder, first-degree burglary, robbery with a dangerous weapon, second-degree arson, and two counts of

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cruelty to animals. We conclude that Defendant received a fair trial, free from reversible error.

I. Background

The evidence at trial tended to show as follows: On 31 December 2014 Defendant and his father, Edward Campbell (“Father”), entered the home of Jerome and Dora Faulkner (the “victims”) in Granville County. They (or, as Defendant contends, Father alone) brutally attacked and killed the victims and their two dogs. Defendant and Father loaded the bodies of the victims and their dogs and stolen personal property into vehicles. They (or Father alone) burned the house to the ground as they fled the scene. Defendant drove the victims’ stolen truck and Father drove a stolen Suburban.

Defendant and Father drove from North Carolina through Virginia into West Virginia where they were apprehended. Father began shooting at officers who stopped their vehicles. Defendant and Father were charged in West Virginia. They were extradited to North Carolina.

While awaiting trial at Central Prison, Father committed suicide.

After giving pretrial notice, Defendant moved to introduce at trial recorded statements Father made while in custody. The trial court admitted some of Father’s statements but excluded the remainder of the approximately 10 hours or 200 pages of statements.

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During the trial, Defendant presented evidence, including his own testimony, to show that Father alone committed the crimes against the victims and that Defendant was only present and remained passive because he had a lifelong fear of Father. Defendant argued that he had no intent to harm the victims and that he had no common plan with Father. The State presented evidence to show that Defendant acted with Father to commit the crimes and was as guilty as Father.

Defendant was found guilty by a jury on all counts. The jury recommended life without parole for the murders, finding eleven (11) mitigating factors relating to Defendant's relationship with Father. Defendant timely appealed.

II. Analysis

Defendant makes several arguments on appeal, which we address in turn.

A. Father's Statements

Defendant sought to introduce 10 hours of recorded statements made by Father while in custody. The State sought to exclude the statements based primarily on grounds of hearsay and on Rule 403 (prejudicial balancing). The trial court admitted parts of Father's interviews where he admits to being violent and terrorizing his children. However, the trial court would not allow into evidence portions which included statements by Father in which he stated that his son (Defendant) had nothing to do with the killings, but that Father acted alone. In denying the admission of these portions, the trial court largely relied on Rule 403.

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N.C. Gen. Stat § 8C-1, Rule 403 (2014). In two separate arguments, Defendant contends that this exclusion was error.

Defendant contends that in excluding Father's statements, the trial court abused its discretion and violated his constitutional right to present a defense.

Even assuming *arguendo* Father's statements which were excluded were otherwise admissible under a hearsay exception and that it was an abuse of discretion to exclude them based on Rule 403, Defendant has failed to show reversible error because Father's statements that he acted alone did not likely affect the outcome given the other evidence before the jury. The other evidence showed that Defendant entered the victims' house with Father, loaded the four bodies into vehicles, and drove them away as they escaped. Defendant also accompanied Father to purchase items with the victims' stolen credit card, and there was gunshot residue on his hand. Father's admitted statements and testimony from other witnesses provided the jury with evidence to support Defendant's contention that he was passive and scared of Father.

Defendant was allowed to present his defense. The jury received the whole picture and made their decision. There is not a reasonable possibility that the verdict would have been different had the jury been allowed to hear Father's statements that he acted alone, given the other evidence.

B. Juror Issue

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Defendant also argues that the trial court's failure to remove Juror #3 and declare a mistrial or to inquire into her conduct violated his right to an impartial jury.

On the second day of jury deliberations, the jury sent a note to the court that read: "Juror #3 would like to request that she be excused [due] to feeling unable to properly evaluate the case." Without questioning Juror #3, the court excused the entire jury for a long weekend recess. During the recess, Juror #3 was involved in a car accident. She was absent when the jury reconvened due to her injuries, so the court recessed again until she could rejoin the jury. Juror #3 was able to return before the court a few days later. She stated that she was worried about being "charge[d]" and stated that she would serve as a juror if she was required. The court recessed for almost one month to allow Juror #3 to have surgery and recuperate.

After the month-long recess, the court questioned Juror #3. She explained that her doctor had not cleared her to work but answered affirmatively when asked if she could participate in jury deliberations. Following a request by defense counsel to ask Juror #3 if she had engaged in communication about the case, the court questioned the entire jury about outside communication. Defense counsel then sought to remove Juror #3 by written motion. The motion also requested a mistrial or further inquiry on the grounds that defense counsel had received a message supposedly from Juror #3 during the month-long recess. The trial court denied Defendant's motion to remove Juror #3 and thereby declare a mistrial.

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We review issues of juror misconduct and the denial of a motion for mistrial under the abuse of discretion standard. *State v. Conaway*, 339 N.C. 487, 518, 453 S.E.2d 824, 844 (1995) (“[O]nce a jury has been impaneled, any further challenge to a juror is a matter within the trial court’s sound discretion.”); *State v. Swift*, 290 N.C. 383, 396, 226 S.E.2d 652, 663 (1976) (“A motion for a [mistrial] is addressed to the sound discretion of the trial court and in the absence of abuse of discretion there is no error.”).

Our courts have consistently recognized that “[t]he requirement of neutrality and the appearance of impartiality are vital safeguards[.]” *State v. Neal*, 196 N.C. App. 100, 107, 674 S.E.2d 713, 718 (2009). With those goals in mind, a “trial court has the responsibility to conduct investigations to this effect, including examination of jurors when warranted, to determine whether any misconduct has occurred and has prejudiced the defendant.” *State v. Barnes*, 345 N.C. 184, 226, 481 S.E.2d 44, 67 (1997). However, the trial court retains discretion regarding the scope of this inquiry. *Id.* at 226, 481 S.E.2d at 67.

The trial court investigated possible impartiality or misconduct several times during jury deliberations. It questioned Juror #3 after the long weekend recess and the month-long recess about her ability to continue deliberations. It also questioned the entire jury about improper outside communication after defense counsel raised suspicion about internet contact with Juror #3. The court was satisfied after each of

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these inquiries that there was no concern of impartiality or misconduct. The trial court did not abuse its discretion in conducting these inquiries to the extent it saw fit. Although there is some evidence that Juror #3 was hesitant to continue participating in deliberations, we cannot say that the court's decision not to declare a mistrial or to inquire further was "manifestly unsupported by reason." *State v. Hennis*, 323 N.C. 279, 285, 372 S.E.2d 523, 527 (1988). Therefore, we find no error regarding the juror issue raised by Defendant.

III. Conclusion

We conclude that the trial court did not commit reversible error in excluding Father's statements. Further, the trial court did not err in failing to remove Juror #3. Defendant received a fair trial, free from reversible error.

NO ERROR.

Judges INMAN and YOUNG concur.

Report per Rule 30(e).