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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-590

Filed: 20 October 2020

Mecklenburg County, No. 16CRS231894

STATE OF NORTH CAROLINA

v.

KEDAR AZIZ MUHAMMAD, Defendant.

Appeal by Defendant from judgment entered 14 December 2018 by Judge Eric L. Levinson in Mecklenburg County Superior Court. Heard in the Court of Appeals 10 June 2020.

*Attorney General Joshua H. Stein, by Assistant Attorney General Munashe Magarira, for the State.*

*Cooley Law Office, by Craig M. Cooley, for the Defendant.*

DILLON, Judge.

Defendant appeals from a judgment entered upon a jury verdict finding him guilty of felony murder. Defendant argues that his out-of-court confession which was offered into evidence was involuntary and, therefore, inadmissible. We conclude that, while his confession may have been involuntary, the confession was not prejudicial. Accordingly, Defendant received a fair trial, free from prejudicial error.

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I. Background

This matter involves a drug transaction that Defendant Kedar Muhammad and his brother engaged in with Recharad Mickle (“Victim”) and Victim’s brother in a Walmart parking lot. During the transaction, Victim was fatally shot by Defendant’s brother.

On the day of the transaction, Defendant drove to the parking lot with his brother in the passenger seat. Upon arriving to the parking lot, Defendant’s brother moved to the backseat.

Victim and his brother arrived at the Walmart parking lot backed into the space next to Defendant’s car. Victim left his own car and entered Defendant’s vehicle on the passenger side. Victim was only in the car for a brief moment before he was shot, allegedly by Defendant’s brother, who was in the backseat. The parking lot surveillance footage showed Defendant and his brother fleeing the vehicle shortly after Victim entered their car. Once Victim’s brother saw the two men flee, he drove Victim in Defendant’s car to the hospital where he dropped Victim off for care. Victim, though, was dead on arrival.

Defendant was arrested two days later. Before he was given his Miranda warnings, Defendant stated, “I need my lawyer as soon as you tell me what I’m under arrest for.” The officers that brought him in disregarded this comment and started their interrogation. They questioned him for two minutes, after which Defendant

signed a Miranda waiver. Post-waiver, Defendant claimed that *he* (and not his brother) shot Victim and did so in self-defense. Moments later, though, he stated that his brother shot Victim in self-defense.

Defendant was charged with murder. Defendant filed a motion to suppress his statement, but his motion was denied. The State used this statement as evidence at trial along with the text messages that had been exchanged regarding the sale of the marijuana, parking lot surveillance videos, and evidence from the scene of the crime that established that a .40 caliber firearm was fired at least four times from the rear passenger seat. The jury found Defendant guilty of felony murder based on the theory of “acting in concert” with his brother. Defendant timely appealed.<sup>1</sup>

## II. Analysis

Defendant argues that the trial court erred in denying his motion to suppress. Presuming that Defendant’s statement was inadmissible, we conclude that its admission was harmless beyond a reasonable doubt. *See State v. Ortiz-Zape*, 367 N.C. 1, 13, 743 S.E.2d 156, 164 (2013) (“When violations of a defendant’s rights under the United States Constitution are alleged, harmless error review functions the same way in both federal and state courts.” (citation omitted)); N.C. Gen. Stat § 15A-1443(b) (stating that “[a] violation of a defendant’s rights under the Constitution of

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<sup>1</sup> We note that Defendant has filed two motions for our review: a Motion to Deem Reply Brief Timely Filed and a Motion to Exceed Word Limit for the Reply Brief. We deny both motions, as the information in the preceding briefs was sufficient for our review.

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the United States is prejudicial unless the appellate court finds that it was harmless beyond a reasonable doubt. The burden is upon the State to demonstrate, beyond a reasonable doubt, that the error was harmless.”).

Defendant admitted that he or his brother shot Victim. This part of Defendant’s statement was not prejudicial to Defendant as the evidence was otherwise overwhelming that either he or his brother shot Victim. The text messages between the parties to the drug transaction, the surveillance footage, bullet casings confirming the weapon type, and the other evidence all pointed to this fact.

The only issue remaining was whether the shooting of Victim was in self-defense. The portion of Defendant’s statement that Victim was shot in self-defense was not prejudicial, as it actually supported Defendant’s position. The jury, though, simply chose not to believe that the shooting was in self-defense. Accordingly, this part of Defendant’s “confession” had no effect on the verdict.

III. Conclusion

We hold that any error by the trial court in admitting Defendant’s statement that he or his brother shot Victim in self-defense was harmless beyond a reasonable doubt.

NO ERROR.

Judges ARROWOOD and YOUNG concur.

Report per Rule 30(e).