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IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned on Briefs February 22, 2023

STATE OF TENNESSEE v. DARRIES LEON JACKSON

Appeal from the Criminal Court for Hawkins County
No. CC-15-CR-120 Alex E. Pearson, Judge

No. E2022-00298-CCA-R3-CD

The Defendant, Darries Leon Jackson, was convicted by a Hawkins County Criminal Court jury of first degree premeditated murder and sentenced to life imprisonment. The Defendant raises five issues on appeal: (1) whether the evidence is sufficient to sustain his conviction; (2) whether the trial court abused its discretion in admitting evidence of the Defendant's shooting of the victim's daughter in violation of Tennessee Rule of Evidence 404(b); (3) whether the trial court erred by allowing the Defendant's wife to testify about conversations with the Defendant in violation of the Defendant's marital privilege; (4) whether the jury's overhearing of jury-out proceedings deprived the Defendant of his right to a fair trial; and (5) whether the Defendant was denied his right to a speedy trial. Based on our review, we affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

JOHN W. CAMPBELL, SR., J., delivered the opinion of the court, in which JAMES CURWOOD WITT, JR., P.J., and ROBERT W. WEDEMEYER, JJ., joined.

Randall F. Crossing, Jefferson City, Tennessee (on appeal), and the Defendant, *Pro Se* (at trial), for the appellant, Darries Leon Jackson.

Jonathan Skrmetti, Attorney General and Reporter; Benjamin A. Ball, Assistant Attorney General; Dan E. Armstrong, District Attorney General; and Cecil C. Mills and Ritchie Collins, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

FACTS

This case arises out of the October 25, 2014, shooting death of Bennie Bowlin, who was the mother of Kathy Ramos, a woman with whom the Defendant had an extra marital affair. At trial, the State presented evidence to show that the Defendant, whose proposal that Ms. Ramos enter into a polygamous marriage with him had been rejected by both his wife and Ms. Ramos, became angry and jealous at the thought of Ms. Ramos with other men. The Defendant acquired a gun and ammunition, told his wife of his intention to kill either Ms. Ramos or someone that Ms. Ramos loved, drove to the victim's Tuggle Hill Road home in Rogersville, and shot the victim in the head when she answered the door. He then drove to Ms. Ramos' Lincoln Avenue home in Morristown and fired five gunshots through her bedroom window, striking Ms. Ramos once in the leg. Afterward, the Defendant drove to his Morristown home, where he was arrested by the police. On June 1, 2015, the Hawkins County Grand Jury returned a presentment charging the Defendant with first degree premeditated murder for the shooting death of Bennie Bowlin. Approximately seven years later, and after six successive defense lawyers, the Defendant, acting *pro se*, proceeded to trial on the murder charge before a Hawkins County Criminal Court jury.

State's Proof

At the February 2022 trial, Sergeant Kenneth Ferguson of the Hawkins County Sheriff's Office ("HCSO"), testified that he was dispatched to the victim's mobile home on Tuggle Hill Road at approximately midnight on October 25, 2014, in response to a call that something had hit the home. He and fellow officers searched the exterior of the home but found nothing. They were about to depart when the victim's daughter asked, "[W]hat about my mother?" He then entered the back door and found the deceased victim lying on the kitchen floor with an apparent gunshot wound to her head.

Crystal Bowlin, the victim's daughter and Ms. Ramos' sister, testified that she lived with the victim in the Tuggle Hill Road mobile home in October 2014. She came home at approximately 7:00 p.m. on October 25, 2014, spoke to the victim, who regularly slept in the living room, and then went to her back bedroom and fell asleep. She was later awakened by someone "beating on the door." She heard the victim get up from the living room couch and, after a pause, a gunshot. At that point, she called 911 from her bedroom.

On cross-examination, Ms. Bowlin testified that she did not know the Defendant but had seen him when he and his wife brought Ms. Ramos to the victim's home. She acknowledged she heard two car doors slam shut after the shooting, which could indicate the presence of two individuals. She said she knew nothing about the victim's having feuded with Leslie or Doc Correll. At the Defendant's request, she read her statement to

police, in which she stated that Leslie and Doc Correll had supplied muscle relaxers to the victim and that the victim had not wanted to be around them in the week that preceded the victim's death. When asked if she thought there was "discord" between the victim and the Corrells, she responded that she did not know.

Kathy Ramos testified that she met the Defendant and his wife through her church. She was pregnant at the time, and she gave birth in June 2012. In July 2012, she and the Defendant had sexual intercourse. She was not interested in anything more than friendship from the Defendant, but he made it clear that he wanted more. During a conversation that the Defendant had with her and Mrs. Jackson, the Defendant asked if she would like to join his marriage as the second wife. She was angry at the suggestion and walked away, and the Defendant followed her. She attempted to end the Defendant's pursuit of her as a romantic partner but was unsuccessful.

Ms. Ramos testified that when her home burned, the Jacksons offered to let her and her children live with them. She said she and her children lived with the Jacksons for two or three months until a new apartment became available to her. After their move to the new apartment, the Defendant came by her apartment every day after work. The Defendant was sometimes accompanied by Mrs. Jackson and sometimes alone. On one occasion, the Defendant showed her a small tape recorder that he had hidden under her bed "to see if [Ms. Ramos] had anybody . . .in [her] bed[.]" The Defendant played the tape recording for Ms. Ramos, which contained the sound of Ms. Ramos' snoring, and told her that the snoring sound "was sexual noises." The Defendant informed Ms. Ramos that he had other hidden recorders in her home but did not show the other recorders to her.

Ms. Ramos testified that a few days prior to the shooting, Ms. Ramos' roommate invited two male friends - - the roommate's boyfriend, Darryl, and Darryl's cousin - - to Ms. Ramos' Lincoln Avenue apartment. Approximately thirty to forty-five minutes after Ms. Ramos had gone to bed, she heard a loud argument between her roommate and the Defendant. Ms. Ramos testified that the Defendant wanted to know why the male guests were present and why Ms. Ramos was in bed. She said her roommate told the Defendant that the men were the roommate's friends and that the Defendant needed to go home to his wife. The Defendant left, but he returned a second time, came partway down the hallway, asked Ms. Ramos why the men were there, and told Ms. Ramos that no one was allowed in her apartment. Her roommate again told the Defendant to leave, and he complied. However, the Defendant returned a third time and said to Ms. Ramos that he had told her "to have them gone" and that the men had "no business" at the apartment. The Defendant pulled up his shirt, revealing a gun, said, "I can handle mine, can you handle yours[?]"and then left.

Ms. Ramos testified that the Defendant knew where the victim lived because he had taken Ms. Ramos to the victim's home in the past. She said she was in in bed with her two-year-old daughter early on the morning of October 26, 2014, when five bullets were fired from outside her home through her bedroom window. She did not realize she had been hit in the leg and thought she had urinated on herself in fright until her roommate came into her bedroom and pointed out that the liquid she felt was her blood. She identified the Defendant as the possible suspect and showed text messages the Defendant had sent her to a police detective who interviewed her at the hospital. She said the police detective, accompanied by a chaplain, returned to inform her that the victim had been shot and killed approximately an hour before Ms. Ramos was shot.

On cross-examination, Ms. Ramos testified that she and the Defendant had sexual intercourse only once. She said it occurred in her apartment late at night and that both she and the Defendant were drunk. She was fairly confident that the Defendant made the second wife comment during the time that she lived with the Defendant and Mrs. Jackson in the Defendant's home. She denied that the comment was made in a joking manner. She acknowledged that the Defendant sometimes dropped off and picked up her children from school and that the Defendant claimed and treated her children as his own. She stated that the Defendant would suddenly appear inside her home without notice, and she concluded he must have had a key made to her apartment. She said she repeatedly asked him to return the key, but he refused.

Ms. Ramos acknowledged that the Department of Children's and Family Services had been involved with her family and said it was because the Defendant had inappropriately touched her nine-year-old daughter. She disagreed that the complaint had been dismissed as meritless, testifying that she had recently learned that the case was on hold due to the Defendant's incarceration. She denied that her daughter had gotten into her medication while she lived at the Jacksons' home or that she had refused to take the child to the hospital.

Heath Rigny, employed in the asset protection department of a Morristown Walmart, testified that at the request of law enforcement he had located store surveillance video and receipts for an ammunition purchase at 9:13 p.m. on October 23, 2014, and the exchange of the ammunition at 11:22 p.m. the same night. On cross-examination, he testified that the ammunition purchase was made by a woman and the exchange was made by an African American man.

Jessica Jackson testified that she lived in Clearwater, Florida and was married to the Defendant. In 2014, she lived in Morristown with the Defendant and their three children. She met Ms. Ramos through their church, and she and Ms. Ramos became friends. The Defendant met Ms. Ramos at the Jackson home and over time appeared to become very

fond of both Ms. Ramos and her children. Mrs. Jackson noticed that the Defendant was spending a lot of time with Ms. Ramos and her children and that the Defendant did various things for the family, such as giving Ms. Ramos rides different places.

Mrs. Jackson testified that Ms. Ramos' home burned at some point, and Ms. Ramos and her children lived with the Jackson family for a "[c]ouple of months." Mrs. Jackson said she was not happy about the situation, but the Defendant did not take her thoughts into consideration. She stated she became concerned about the Defendant's relationship with Ms. Ramos after seeing a Facebook message in which the Defendant asked Ms. Ramos to meet him for lunch. What particularly stood out in her memory was a conversation the Defendant had with Mrs. Jackson and Ms. Ramos in which he "said that he was going to take [Ms. Ramos] as his second wife." The Defendant did not appear to Mrs. Jackson to be joking, and she did not take it as a joke. She reacted by telling the Defendant that she would not "have that[,]" and Ms. Ramos reacted by "storm[ing] out the backdoor" with the Defendant following after her.

Mrs. Jackson testified that she and Mr. Jackson had purchased a Plymouth Voyager minivan from a man named Riley. She said the first time she saw the Defendant with a gun was on October 23, 2014, when the Defendant came out of Mr. Riley's house with a Smith and Wesson handgun. The Defendant drove to Walmart, gave her the clip from the gun and a pamphlet with information about ammunition, and asked her to purchase ammunition for him. When they got home, the Defendant tried to load the ammunition she had purchased into the clip but it did not fit. The Defendant told her he was returning to Walmart to exchange the ammunition, left, and returned with the correct ammunition. The Defendant loaded the ammunition into the gun, fired one round out the back door of the home, and placed the gun and ammunition in the nightstand beside their bed.

Mrs. Jackson testified the Defendant told her that he had purchased the gun for the family's protection. She said the Defendant asked her to place ammunition in different parts of the house, telling her that he "wanted [her] to be in bonded [sic] to him." She did as he asked but wiped her fingerprints off the bullets because she was afraid she would be in trouble. After she had placed the ammunition in different locations in the home, the Defendant asked her to burn the ammunition box in the kitchen sink and throw the ashes in the trash, and she complied.

Mrs. Jackson testified that the victim occasionally attended Mrs. Jackson's church and that she and the Defendant had once given Ms. Ramos a ride to the victim's home. She stated that on October 25, 2014, the Defendant purchased liquor, came home, and drank Vodka while she drank Rum. The Defendant told her that night that he was going to kill either Ms. Ramos or someone that Ms. Ramos loved, and that if it was not Ms. Ramos' mother, it would be Ms. Ramos' son. When she tried to talk him out of it, the Defendant,

whom she knew as Darryl, told her that she would have "old Darryl back" after Ms. Ramos was gone. Mrs. Jackson testified that the Defendant had the gun on him when he left the house at approximately 10:30 p.m. Before he left, the Defendant told her that "his wings were speckled[.]" She did not know exactly what the Defendant meant by that phrase, but she interpreted it as "like a split personality[.]" She awakened at 12:30 or 1:00 a.m. the next morning to find police officers outside her home.

On cross-examination, Mrs. Jackson testified that she and the Defendant had been married since 2004. She acknowledged the Defendant had never hit or threatened her and that she had never known him to "act out on" anyone else. She agreed that she and the Defendant had given Ms. Ramos assistance at various points, which included caring for two of Ms. Ramos' children when Ms. Ramos was in jail and helping Ms. Ramos to get out of jail. She acknowledged that the Defendant sometimes joked and admitted it was possible he was joking when he made the second wife comment. She repeated, however, that she did not interpret it as joke and indicated that Ms. Ramos did not either, testifying, "I just remember the conversation and I wasn't happy with the situation and she had stormed out the backdoor of our house and you followed after her."

Mrs. Jackson acknowledged that the Defendant was usually "cool, calm and collected" but changed in the days before the shooting by drinking more heavily and appearing paranoid. She agreed that the Defendant told her that their family was being followed, talked about men in Greenville that he believed were after him, and said that he "was going to get them before they get us." She also agreed that the Defendant told her as he left their home on October 25 that he was headed to Greenville. She testified that she purchased the ammunition for the Defendant because the Defendant was a convicted felon. She knew at the time of purchase that the Defendant could not purchase ammunition as a convicted felon but did not know that it was illegal for her to purchase ammunition for him.

Mrs. Jackson testified that she did not think the Defendant was mentally ill but thought he was "rather smart[,]" with a manipulative and secretive manner. When asked if she thought he manipulated her in the marriage, she responded "[i]n some ways, yes" and described the Defendant as "rather pushy." Asked what she meant when she said the Defendant wanted her "in bonded" to him, she replied, "You wanted me to be part of the situation, go along with, have some take in it, accomplice if you will." She said she purchased the ammunition because the Defendant asked her to, and not for the purpose of killing or injuring anyone. Finally, she acknowledged that she and the Defendant had remained in contact over the past seven years and that she was not afraid of him.

On redirect examination, Mrs. Jackson testified that on the night of October 25, 2014, the Defendant "had a rage inside of him." She said the Defendant first told her that he intended to kill Ms. Ramos. She thought she had talked him out of it, but he then said

that he was going "[t]o kill [the victim]." At the request of the prosecutor, Mrs. Jackson identified and read her statement to police. In the statement, Mrs. Jackson said the Defendant told her that Ms. Ramos was "in a form of prostitution" with Ms. Ramos' roommate's boyfriend, Darryl, and two other men, and that Darryl had threatened to kill the Defendant's family. The statement reads in part:

> I guess for a week or a week and a half [the Defendant] had talked about revenge on [Ms. Ramos]. I know he cheated on me with her but I don't think that's the reason for what he did. I think it is because of the threats. I think he sought to do something to someone before they did something to us. I wished he would have just left it alone. He did get a gun from that guy, he pays the van note to. His name is Riley but I don't know his last name. [The Defendant] gave him the van title for the gun. It was last week on Wednesday night, church night, me and him and the girls rode out to Riley's house, it was actually afternoon. It was after he had gotten off work. He had the gun when he got in the van, I saw it. It was black and silver, a Smith & Wesson. The ammo was purchased at Walmart. He asked me to get the ammo and I got the wrong kind . . . I told him that I did not want him to kill [Ms. Ramos]. His expression was that he wanted to kill [Ms. Ramos] but that if he couldn't he would kill someone that she loved. Even though I had ill feelings towards [Ms. Ramos] for sleeping with [the Defendant] but I didn't want her to be hurt . . . [The Defendant] had said that he would kill either [the victim] or [Ms. Ramos'] son Wesley . . . [The Defendant] had told me the Saturday before he left, you don't know anything. He didn't want me to tell you all anything. He wanted me to be in bond to him, that's what he said. He wanted me to put rounds all around my house and I did but I got afraid that if he really did do something that my fingerprints would be on them so I wiped them off. He just kept saying you are in bond to me. He did say that when all this was over, that I would have the Darryl that I fell in love with back. He has changed a lot since he cheated on me. When we met he was in the ministry and before he left that night he asked me to pray for him that God would make his wings either white or all black because his wings were speckled.

Donnie Eidson testified that he lived on Tuggle Hill Road in Rogersville in 2014 and had installed a home surveillance system on his house. The system did not record the date or time, as it consisted of just a "regular VCR which [he] had set for six hours taping." Late on the night of October 25, 2014, he set the tape to start recording and went to bed. When he learned about the victim's shooting, he contacted law enforcement and gave his surveillance tapes to HCSO officers.

HCSO Detective John Pruitt testified that he responded to the shooting on Tuggle Hill Road in Rogersville shortly after midnight on October 26, 2014. He said he had just completed an interview with one of the victim's daughters when he was directed to go to the Morristown Police Department ("MPD") in Hamblen County, which had a suspect in custody in an incident that was believed to be related to the victim's shooting. When he arrived, he spoke with MPD Detective Vicky Arnold and then watched on a monitor as she interviewed the Defendant about the Morristown shooting. He said the Defendant acknowledged he was the owner of a white Plymouth minivan but said that he had loaned it to a prostitute named Vicky, leaving the key for her on the seat. The Defendant stated that the minivan was gone when he went to bed at 7 p.m., but he noticed it had been returned when he awakened at 10:00 p.m. The Defendant initially denied any knowledge of Ms. Ramos' shooting "but later stated that Darryl must have done the shooting."

Detective Pruitt testified that he entered the interview room, introduced himself, and told the Defendant that he wanted to talk to him about an incident in Rogersville involving Ms. Ramos' mother. He said the Defendant "immediately denied knowledge of that shooting as well." He asked the Defendant how he knew there had been a shooting, and the Defendant responded that he had just told him. According to Detective Pruitt, he had not mentioned a shooting in the Rogersville incident and, to his knowledge, neither had anyone else. He testified that the Defendant altered his timeline as the interview continued, stating that he noticed his minivan missing at 9:00 p.m. and saw at midnight that it had been returned. When he began to question the Defendant about the discrepancies, the Defendant's demeanor changed, with the Defendant becoming confrontational and eventually striking the table with his fists and demanding an attorney.

Detective Pruitt testified that the Defendant told him his cell phone number was 423-438-6557. He testified that he watched the surveillance video provided by Mr. Eidson and observed a white Plymouth minivan with the same black stripe as the Defendant's minivan going up the hill toward the murder scene and then returning down the hill. He identified still photographs from the surveillance video of the minivan, as well as photographs of the Defendant's minivan.

On cross-examination, Detective Pruitt acknowledged that the Defendant consistently denied any involvement in either shooting. Detective Pruitt could not recall if Mr. Eidson told him that he started videotaping at 11:30 p.m. but said that "Mr. Eidson did relate to us that that it was a routine that he knew when he started each tape and when each tape ended." According to the tape counter, the white minivan traveled up the hill at forty-two minutes and forty-nine seconds into the recording and traveled back down the hill at forty-four minutes and twenty-two seconds. One of the police cruisers went up the hill at forty-six minutes and forty-four seconds, a walker went up the hill at forty-seven minutes and fifty-six seconds, and a man ran down the hill at forty-nine minutes and fifty-one

seconds. When asked whether he attempted to locate the individual who was on foot, Detective Pruitt pointed out that that individual did not go up the hill until after the arrival of the police and said that his focus was on locating the minivan.

Mirta Orca, a Lincoln Avenue neighbor of Ms. Ramos in 2014, testified that at approximately 1:00 or 1:30 a.m. on October 26, 2014, she heard a vehicle pull up outside her home. She looked out the window expecting her husband but saw a white minivan. She watched for a moment to see if anyone got out of the minivan, but then went back to bed. Approximately five minutes later, her husband pulled in, and the driver of the white minivan drove off. A few minutes after her husband came inside, they heard multiple gunshots. She identified the photograph of the Defendant's minivan as appearing to be the same vehicle she saw that morning. On cross-examination, she testified that the white minivan outside her home had a black line on its side similar to the black line on the Defendant's minivan.

Ricky Sanders testified that he was currently employed with the Y-12 Security Police but in October 2014 was a detective with the MPD. On October 26, 2016, assisted by MPD Officer David Griffith, he executed a search warrant on the Defendant's Morristown home. He said he found and collected into evidence a .380 round of Tula ammunition on the floor inside the front entrance, seven .380 rounds of Tula ammunition in a computer desk in the living room, seven .380 rounds of Tula ammunition in the master bedroom nightstand, and one .32 caliber round of ammunition on the windowsill in a bathroom. On cross-examination, he agreed that the ammunition appeared to have been placed in "sets of seven[.]" When asked if it appeared to him to be "a ritualistic thing[,]" he replied that he did not know but that it appeared odd.

The parties stipulated that Detective Sanders also collected into evidence three cell phones but one of the cell phones was currently missing. The next day, the prosecutor announced that the police had located the third cell phone.

MPD Officer David Griffith testified that he assisted Detective Sanders in the October 26, 2014 search of the Defendant's home. He said he found seven rounds of .380 Tula ammunition in the bathroom sink cabinet and seven rounds of .380 Tula ammunition in the kitchen drawer. He did not recall finding any ammunition boxes. As part of his duties that day, he also swabbed the Defendant's hands for a gunshot residue (GSR") test.

MPD Detective Todd King, who processed the Lincoln Avenue crime scene early on the morning of October 26, 2014, testified that he found two .380 Tula ammunition shell casings on the ground outside the window and five projectiles inside the bedroom. He later processed the Defendant's minivan, which had been transported to the MPD. During the search of the minivan, he collected into evidence one round of .380 Tula ammunition from

the front floorboard, six rounds of .380 Tula ammunition from the front seat, and a tape recorder from the glove box.

MPD Detective Vicky Arnold testified that she went first to the Lincoln Avenue crime scene and then to the hospital, where Ms. Ramos was still in the emergency room. She said she had already been informed about the victim's shooting death, which occurred prior to Ms. Ramos' shooting, but did not initially tell Ms. Ramos about it. Ms. Ramos showed her where she had been shot and told her that she believed the Defendant was the one who had shot her. Ms. Ramos also showed her two text messages she had received from the Defendant. The first text message, sent at 10:07 p.m. on October 25, 2014, read: "Miss U, hope all is well loving on U[.]" The second text message, sent at 12:28 a.m. on October 26, 2014, read: "My thrills in life are in the colors of my wings[.]"

Detective Arnold testified that she returned to the MPD, where the Defendant had already been taken to the interview room. The Defendant appeared to be intoxicated but no so intoxicated as to be unable to understand what was happening or what she was saying. She read him his rights, and the Defendant agreed to be interviewed, signing the waiver of rights form at 3:45 a.m. on October 26, 2014. As she talked to the Defendant about Ms. Ramos' shooting, the Defendant at one point said that "[i]t was probably Darryl that did this." Detective Arnold testified that Darryl was the Defendant, and that she knew that "because [she] had known him before." On cross-examination, she testified that she knew the Defendant as "Darryl also known as Darries" and interpreted his comment that Darryl must have done it as the Defendant's talking about himself. She testified that the Defendant refused to sign the statement and agreed that he did not confess "to anything."

MPD Detective Michael Morrison, who was a patrol officer in 2014, testified that in the early morning hours of October 26, 2014, he and his trainee officer responded to the home of the Defendant, who had been identified as the suspect in the Lincoln Avenue shooting. As they approached, he saw the Defendant walking toward the back of his home, drew his weapon, ordered the Defendant to lie on the ground, handcuffed him, and eventually transported him to the police station. The Defendant did not appear surprised and was compliant during the arrest. Detective Morrison witnessed the interview at the MPD and recalled that when the detectives began questioning the Defendant about the Lincoln Avenue shooting, the Defendant said words to the effect, "I don't know who shot her or her mother." He said he was surprised "because up to that point nobody had said anything about the mother being shot."

Detective Vicky Arnold, recalled by the State, testified that the previous evening she had located a cellular flip phone that had been collected into evidence by MPD Officer Ricky Sanders. The phone's number was 423-438-6557, the same number that sent the text messages she had read during her earlier testimony.

HCSO Detective David Lafollette, who processed the Tuggle Hill Road crime scene early on the morning of October 26, 2014, identified photographs of the victim's body, a .380 Tula shell casing on the floor, and a projectile in the hallway beyond the victim's body. He said he was alerted to the Hamblen County incident involving the victim's daughter and drove to Morristown to meet with Detective Pruitt at the Defendant's Morristown home. When he arrived, the Defendant's minivan was behind an abandoned house across the road from the Defendant's home. The vehicle was transported from that location to the MPD for a search, but he later obtained a separate search warrant. During his search, he found a single round of .380 Tula ammunition on the instrument panel next to the fuel gauge. On cross-examination, he testified he thought it would have been easy for MPD officers to overlook the bullet because he initially overlooked it when he began his search.

Marcus Washington testified that he was currently incarcerated awaiting disposition in a federal felony possession of a firearm case. In the past, he had been incarcerated with the Defendant in the Hawkins County Jail in a small pod that contained approximately eleven cells. The Defendant, the only other African American in the pod, introduced himself to Mr. Washington within a day or two of Mr. Washington's arrival at the jail. Mr. Washington testified that other jail inmates who had been in prison knew of Mr. Washington's "association within an organization[,]" and he believed the Defendant "became comfortable on who [Mr. Washington] was."

Mr. Washington testified that he was a ranking member of "the Almighty Vice Lord Nation," a national organization known in the media as the "Vice Lords." He said the organization had changed over time into "something that became more criminal" but "started in 1958" as "an organization to try to help the undeserved [sic], oppressed individuals . . . to uplift themselves." As a Vice Lord who believed in the organization's founding principles, he did not advocate violence and had taken an oath to "love [his] people and to help [his] people to be the will of God, to die for [his] people[.]"

Mr. Washington testified that the Defendant "held himself with statute [sic]" and was "soft-spoken" and "articulate[,]" and he at first assumed that the Defendant was being unfairly treated. The Defendant sought his legal assistance, and he drafted a motion to suppress that the Defendant copied into his own handwriting to use in his defense. Later, the Defendant sought his advice about a bill of particulars that the Defendant had written. Mr. Washington testified that when he read it, he "became completely alarmed" because the contents "made [the Defendant] look guilty." He said he criticized the writing, telling the Defendant that "it was going to look really bad if he actually filed that motion." The Defendant became upset at his continued criticism and eventually said, "[F]*** 'em, I did it, I killed them, help me fix this."

Mr. Washington testified that he was shocked by the Defendant's revelation. Less than a week later, he contacted the authorities because he "wanted to disassociate [himself] and [his] organization with anything that has to do with killing innocent people." He said the Vice Lords organization did "not take kindly to people that have killed innocent people, have harmed children in any kind of way or raped someone." He stated that he initially was hesitant to testify against the Defendant because some Vice Lords would view it as "treason" or "breaking [their] code of silence[.]" However, his desire to speak out against the killing of innocents overcame his fear of retribution.

Mr. Washington testified that because their writings were subject to inspection by jail officials, he and the Defendant used code words in their letters to each other. He identified a letter the Defendant sent him in which, according to his testimony, the Defendant used a code phrase to tell him that he had hidden the murder weapon. He read the letter, which included the lines: "They seemed to be looking for my Luke 22:36 - - 'Never poop where you sleep.'" He said the Defendant's jail cell had been searched, and the Defendant's reference to "Luke 22:36" was a reference to his firearm. He read another letter that contained smiley faces drawn beside certain statements, including the Defendant's statement that he did not kill anyone in Hawkins County. He said the smiley faces were the Defendant's way of indicating that the statements were not true. Mr. Washington repeated that he contacted the authorities because of his desire to disassociate from the Defendant and said that he had not been promised or given anything in exchange for his testimony. The letters he identified as authored by the Defendant were admitted as collective exhibit 98.

On cross-examination, Mr. Washington testified that the subject of Luke 22:36 was a weapon. He acknowledged that he had borrowed one of the Defendant's law books and that he and the Defendant had an altercation about pages missing from the book. He said the Defendant accused him of taking the pages, but he had not, and the Defendant later apologized and told him that he knew who the culprit was.

Teri Arney, a retired TBI special agent forensic scientist who specialized in firearm and tool mark identification, testified that she examined the bullets and shell casings submitted in the Hawkins and Hamblen County cases and determined that all had been fired from the same firearm.

TBI Assistant Special Agent in Charge of the Middle Tennessee Criminal Investigation Division Riley Lewis Gray, an expert in GSR who had formerly worked as a special agent forensic scientist in the TBI laboratory in Nashville, testified that gunshot primer residue is composed of antimony, barium and lead. She said all three of those elements must be present in a "spherical rounded shape[,]" in order "to classify it as gunshot primer residue[.]" She analyzed the Defendant's socks, shoes, blue jeans, belt,

tank top, green long-sleeved shirt, black hoodie, and blue jacket and found GSR on the Defendant's black hoodie. She found particles consistent with GSR on the Defendant's green long-sleeved shirt and blue jacket, but because those articles of clothing contained only two of the three required elements, she was unable to rule out the possibility that they originated "from other occupational and industrial sources."

On cross-examination, she testified that it required "at least two or more particles that have all three of those elements present" and that were in "that spherical shape criteria" for a determination of GSR. She disagreed that the Defendant's contact with brakes in his employment at a tire shop would lead to the presence of GSR, testifying that frequent contact with brake pads would not "exhibit all three of those elements within one particle that also has that spherical shape that we are looking for GSR."

Dr. Christopher Hauch, a forensic pathologist who had reviewed the autopsy report, testified that the victim had a gunshot wound to the head in which the bullet entered her right eye, passed through her brain, and exited the back of her head. The presence of gunshot stippling on her face led him to conclude that the muzzle of the gun was within one to three feet of her face when it was fired. He said the victim's cause of death was the gunshot wound to her brain, and the manner of death was homicide.

Defendant's Proof

Bobby Arnwine testified that he was an inmate of the Hawkins County Jail and had known the Defendant for three years. He described the Defendant as a man who loved God and kept to himself. He said that Mr. Washington, who bragged about being a pimp and about his gang affiliation, was not an inmate at the jail for very long and that Mr. Washington and the Defendant were "definitely not pals." He recalled that Mr. Washington once returned a borrowed law book to the Defendant that was missing some pages and that the Defendant told him not to ask for anything again and to stay "off [the Defendant's] door." He testified that the Defendant was the only inmate in the pod that had law books and that it was the Defendant to whom other inmates went for help with legal issues. He never saw the Defendant and Mr. Washington collaborating on any law work. On cross-examination, he acknowledged that the Defendant had very distinctive handwriting, and he identified the handwriting in collective exhibit 98 as the Defendant's.

William Riley testified that the Defendant regularly made $100 weekly payments for a van that he had sold to the Defendant. He said he never sold or gave the Defendant a firearm. On cross-examination, he acknowledged it was possible that someone else might have been at his home when the Defendant brought him his weekly van payment.

Donnie Eidson, recalled as a witness for the Defendant, testified that he began recording surveillance video at his home because there were "drug deals going on" in front of his house and people "walking up and down . . . at all times of the night[.]" When he learned about the victim's shooting, he watched his security video, saw a suspicious-looking pedestrian walking up and down in front of his house, and contacted law enforcement. He had no idea at that time that the police were searching for a vehicle. On cross-examination, he testified that when the police officer who came to his home to view the surveillance video saw the vehicle, the officer immediately said, "I'm ninety-nine percent sure that's the vehicle[.]"

Ronald Tipton, owner of Sunset Towing, testified that he had no memory of towing the Defendant's minivan. He described the usual practice involved in towing a vehicle as backing the tow truck to the vehicle, lowering the bed of the tow truck, hooking cables to the vehicle, and pulling the vehicle onto the bed of the tow truck. He said if they had access to the vehicle's keys, they put the vehicle in neutral before pulling it onto the tow truck. However, they did "drag a lot of them" because they did not have the keys. He acknowledged it was possible to damage a transmission by dragging a vehicle that was not in neutral.

James Myers, owner of Myers Towing, initially testified that he did not recognize the Defendant's minivan and had no memory of towing it from the MPD impound lot. At the request of the Defendant, he then read his statement to police, in which he said that in 2014 he received a call from dispatch to tow a vehicle from a parking garage in Morristown to the HCSO impound lot. In the statement, he also said that Don Mitchell met him at the garage and that someone drove the vehicle to the roadway for him to load it onto his tow truck. Upon further direct examination, he testified that he reached inside the vehicle, put it in neutral in order to pull it onto his tow truck, and then transported it to the HCSO impound lot. He said he did not remember seeing a bullet.

Paul McDermott testified that he was the asset protection manager at the Morristown Walmart and had knowledge of the store's return policies. He stated that the store's policy was that firearms sales are final, with no returns or exchanges allowed on either firearms or ammunition. On cross-examination, he agreed that the October 23, 2014 Walmart receipts reflected that an employee had allowed an exchange of ammunition in the transaction reflected in those receipts, despite company policy.

Retired HCSO Detective Don Mitchell testified that the Defendant's minivan was brought out of the MPD's secure Morristown lot, loaded onto a tow truck, transported to Hawkins County, and unloaded in the HCSO's secure lot. He could not recall who brought the vehicle out of the Morristown lot.

Joshua Ball, formerly employed as the death investigator for Hawkins County, testified that on October 26, 2014, he performed a brief examination of the victim's body, determined that an autopsy would be required, and left.

John Gulley, a paramedic supervisor at Hawkins County Emergency Medical Services and the first EMS unit on the Tuggle Hill Road crime scene, testified that he quickly determined that the victim was dead and left the scene. He did not see anyone move the victim's body.

MPD Detective Todd King, recalled as a witness for the Defendant, identified a report prepared by an officer with the MPD patrol division on which "9 mm" was written underneath the section that stated, "gun caliber if known." He testified that it was not the caliber of ammunition found at the Lincoln Avenue crime scene and appeared to be "human error[.]"

TBI Forensic Scientist Russell Davis testified that the results of the GSR test of the Defendant's hands were inconclusive. He said he found antimony, barium and lead but not at sufficient levels to be able to conclusively state that it was indicative of GSR. He testified that GSR is caught in the oils of an individual's hands and could be affected by hand-washing and the passage of time.

TBI Special Agent Forensic Scientist Chad Johnson testified that he found human blood on the Defendant's socks but the victim was excluded as a contributor to the DNA profile. On the driver's side floormat of the Defendant's vehicle, he found blood that contained a limited DNA profile consistent with the mixture of DNA from two individuals, but neither DNA profile matched the victim's DNA profile.

Christopher Robinson testified that he had been the owner of Chris Robinson Forensics for the past eleven and one-half years. Prior to starting his own business, he had spent ten years as a firearms examiner with the Georgia Bureau of Investigation and two and a half years as the director of the Atlanta Police Department's crime laboratory. He said he was certified in firearms and ballistics, gunshot residue analysis, crime scene reconstruction, and blood spatter analysis, and that he had testified in Tennessee courts 738 times, appearing 520 times for the state and 218 times for the defense.

After being accepted by the trial court as an expert witness, Mr. Robinson testified that the Federal Bureau of Investigation ("FBI") and the Army have higher standards than Tennessee for determining the presence of GSR, with the FBI requiring the presence of three particles containing the requisite elements and the Army laboratory requiring four. He said that GSR could be transferred from an individual who has fired a weapon to another individual by physical contact, and could be transferred onto an individual's hands or

clothing from the individual being placed in the back of a police car that contains GSR. He explained that the FBI had done a study that found the presence of GSR in eighteen of thirty police cars tested. He stated that he "would have expected to see a lot more GSR than what was found on [the Defendant's] hands" if the Defendant had fired six shots from a gun. Based on the stippling patterns on the victim's face, he estimated that the gun was five and one-half inches from the victim when fired. He testified that he would have expected blood spatter on the Defendant's clothing had he fired the gun from that close a distance. On cross-examination, Mr. Robinson acknowledged that he had not been to the crime scene and that there were a number of unknown variables about the manner in which the victim had been shot, including the length of the gun's barrel and the position of the shooter.

The Defendant elected not to testify in his own defense. After deliberating, the jury found him guilty of the first degree premeditated murder of the victim. The trial court sentenced him to life imprisonment, with the sentence to be served concurrently to the Defendant's sentences in a federal case.[1] The Defendant filed both a timely motion for new trial and a premature notice of appeal. Counsel was appointed at the Defendant's request, and the Defendant was represented by counsel in the motion for new trial, which was denied, and in his direct appeal to this court.

ANALYSIS

I. Sufficiency of the Evidence

The Defendant contends that the circumstantial evidence presented at trial was not only insufficient to sustain his conviction but, "[t]o the contrary, . . . established that [he] did not kill the victim." In support, he cites Ms. Bowlin's testimony that she heard two car doors slam shut, Mrs. Jackson's testimony that the Defendant acquired the gun for home protection, the defense expert's testimony that there should have been blood spatter on the Defendant's clothing if he fired the fatal shot, and the State's failure to produce the murder weapon or "any forensic evidence" such as "DNA, fingerprints, or the victim's blood[.]" The State responds that the evidence was sufficient for the jury to find the essential elements of the crime beyond a reasonable doubt. We agree with the State.

When the sufficiency of the evidence is challenged on appeal, the relevant question of the reviewing court is "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the

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[1] In his federal case based on the same facts as the instant case, the Defendant received concurrent life sentences for his convictions for two counts of possessing ammunition as a convicted felon. *See United States v. Darries Leon Jackson*, 768 Fed. Appx 400 (6th Cir. 2019).

crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see also* Tenn. R. App. P. 13(e) ("Findings of guilt in criminal actions whether by the trial court or jury shall be set aside if the evidence is insufficient to support the findings by the trier of fact of guilt beyond a reasonable doubt."); *State v. Evans*, 838 S.W.2d 185, 190-92 (Tenn. 1992); *State v. Anderson*, 835 S.W.2d 600, 604 (Tenn. Crim. App. 1992).

Therefore, on appeal, the State is entitled to the strongest legitimate view of the evidence and all reasonable inferences that may be drawn from it. *See State v. Williams*, 657 S.W.2d 405, 410 (Tenn. 1983). All questions involving the credibility of witnesses, the weight and value to be given the evidence, and all factual issues are resolved by the trier of fact. *See State v. Pruett*, 788 S.W.2d 559, 561 (Tenn. 1990). "A guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of the State." *State v. Grace*, 493 S.W.2d 474, 476 (Tenn. 1973). "A jury conviction removes the presumption of innocence with which a defendant is initially cloaked and replaces it with one of guilt, so that on appeal a convicted defendant has the burden of demonstrating that the evidence is insufficient." *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982).

The guilt of a defendant, including any fact required to be proven, may be predicated upon direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *See State v. Pendergrass*, 13 S.W.3d 389, 392-93 (Tenn. Crim. App. 1999). The standard of review for the sufficiency of the evidence is the same whether the conviction is based on direct or circumstantial evidence or a combination of the two. *See State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011).

To sustain the conviction, the State had to prove beyond a reasonable doubt that the Defendant committed "[a] premeditated and intentional killing" of the victim. Tenn. Code Ann. § 39-13-202 (a)(1) (2014 & 2018). Premeditation requires that the act be "done after the exercise of reflection and judgment" and committed when the accused "was sufficiently free from excitement and passion as to be capable of premeditation." *Id.* at § 39-13-202(d). Whether premeditation exists is a factual question for the jury to determine from all the evidence, including the circumstances surrounding the killing. *State v. Davidson*, 121 S.W.3d 600, 614 (Tenn. 2003).

Our supreme court has provided a non-exclusive list of factors from which a jury may infer premeditation, including the defendant's declarations of an intent to kill, evidence of the procurement of a weapon, the defendant's use of a weapon on an unarmed victim, the particular cruelty of the killing, evidence of the infliction of multiple wounds, the defendant's preparation before the killing to conceal the crime, destruction or secretion of evidence after the killing, and the defendant's calmness immediately after the killing. *State v. Nichols*, 24 S.W.3d 297, 302 (Tenn. 2000). Additional evidence from which a jury

may infer premeditation is establishment of a motive for the killing. *State v. Leach*, 148 S.W.3d 42, 54 (Tenn. 2004).

The "[i]dentity of the perpetrator is an essential element of any crime." *State v. Rice*, 184 S.W.3d 646, 662 (Tenn. 2006). The identity of a perpetrator is a question of fact left to the trier of fact to resolve. *State v. Crawford*, 635 S.W.2d 704, 705 (Tenn. Crim. App. 1982).

When viewed in the light most favorable to the State, the evidence established that the Defendant, who was obsessed with Ms. Ramos, became upset at her rejection of his polygamous marriage proposal and angry and jealous at the thought of her associating with other men. After acquiring a gun and ammunition, the Defendant threatened Ms. Ramos with the gun when he arrived to find men at her apartment. One or two nights later, the Defendant announced to his wife his intention of killing either Ms. Ramos or someone that Ms. Ramos loved. Before leaving the home with his gun, the Defendant identified the victim as his immediate intended target. The Defendant then drove his white minivan to the victim's Rogersville home and banged on the victim's door. When the victim answered, the Defendant shot her at close range directly in the head, killing her. Immediately afterward, the Defendant drove his minivan to Ms. Ramos' Morristown home and fired five bullets through her bedroom window, striking her once, before returning to his own home. The evidence was sufficient for the jury to find beyond a reasonable doubt that the Defendant was the individual who killed the victim, and that he acted intentionally and with premeditation. We, therefore, affirm the Defendant's conviction for first degree premeditated murder.

II. Admission of 404(b) Evidence

The Defendant contends that the trial court abused its discretion in admitting 404(b) evidence related to his alleged attempted murder of Ms. Ramos. The Defendant disagrees that the Morristown shooting of Ms. Ramos was relevant to show his intent in the killing of the victim and argues that, even if relevant, its probative value was outweighed by the danger of unfair prejudice. The State argues that the trial court properly admitted the evidence after holding a jury-out hearing and finding that the evidence was material to an issue other than propensity, that the evidence was clear and convincing, and that the probative value of the evidence outweighed the danger of unfair prejudice. We agree with the State.

Tennessee Rule of Evidence 404(b) provides as follows:

> Other Crimes, Wrongs, or Acts. -- Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity with the character trait. It may, however, be admissible for other purposes. The conditions which must be satisfied before allowing such evidence are:
>
> (1) The court upon request must hold a hearing outside the jury's presence;
>
> (2) The court must determine that a material issue exists other than conduct conforming with a character trait and must upon request state on the record the material issue, the ruling, and the reasons for admitting the evidence;
>
> (3) The court must find proof of the other crime, wrong, or act to be clear and convincing; and
>
> (4) The court must exclude the evidence if its probative value is outweighed by the danger of unfair prejudice.

Cases in which other "bad act" evidence of an accused will be admissible include those in which the evidence is introduced to show motive, intent, guilty knowledge, identity, absence of mistake or accident, a common scheme or plan, completion of the story, opportunity, and preparation. *See State v. Berry*, 141 S.W.3d 549, 582 (Tenn. 2004). *see also* Neil P. Cohen et al., *Tennessee Law of Evidence*§ 4.04[7][a] (6th ed. 2011). When the trial court has substantially complied with procedural requirements, the standard of review for the admission of bad act evidence is abuse of discretion. *State v. DuBose,* 953 S.W.2d 649, 652 (Tenn. 1997).

At the pretrial hearing, the State introduced evidence about the connection between the Hawkins and Hamblen County shootings through the testimony of TBI Special Agent Forensic Scientist Teri Arney, HCSO Detective David Lafollette, MPD Detective Todd King, MPD Officer David Griffith, and the Defendant's wife, Jessica Jackson, with each witness's testimony similar to the testimony that was later offered at trial. At the conclusion of the hearing, the trial court found that the Hamblen and Hawkins County shootings were part of a common plan or scheme, and that the "extremely interconnected" and "largely inseparable" evidence in the two cases was relevant to show the Defendant's intent. The court further found that evidence of the Morristown shooting was clear and convincing and that its probative value outweighed the danger of unfair prejudice to the Defendant.

We agree with the trial court that the intertwined evidence in the two cases was relevant and admissible as part of a common scheme or plan and to show the Defendant's intent in the victim's killing. We note that the evidence was also relevant and admissible to explain the Defendant's motive and to help the State establish the Defendant's identity as the killer. We agree with the trial court that the probative value of such evidence was not outweighed by the danger of unfair prejudice. We, therefore, conclude that the trial court did not abuse its discretion in admitting the evidence.

III. Testimony in Violation of Marital Privilege

The Defendant contends that the trial court erred in allowing Mrs. Jackson to testify in violation of the Defendant's marital privilege. The State argues that the Defendant has waived consideration of the issue by his failure to include the trial court's relevant findings in the record. We agree with the State.

The record reflects that the Defendant filed a motion to suppress Mrs. Jackson's testimony, asserting his marital privilege against the release of confidential communications between spouses. Included in the record is the January 5, 2022 pretrial hearing on the motion, at which Mrs. Jackson testified, among other things, that her marriage changed when the Defendant began his affair and that she now considered the marriage over, despite remaining legally married to the Defendant. The record also includes the trial court's January 28, 2022 written order denying the motion, in which the trial court referenced oral findings of fact and conclusions of law issued at a January 25, 2022 hearing. The transcript of the January 25, 2022 hearing, however, is not included in the record on appeal. It is an appellant's duty to provide a record that is sufficient "to convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal." Tenn. R. App. P. 24(b). "In the absence of a full and complete record revealing the issues that form the bases for the appeal, we must presume the correctness of the trial court's determination." *State v. March*, 293 S.W.3d 576, 591 (Tenn. Crim. App. 2008). As such, we conclude that the Defendant has waived our consideration of this issue.

IV. Jury-Out Proceedings Overheard from Jury Room

The Defendant contends his right to a fair trial was violated by the trial court's allowing the jurors to overhear jury-out proceedings, which included recordings that were never admitted as trial exhibits. He asserts that "not only was [the] issue not waived by [the D]efendant, it was not addressed by the court to determine what the jurors overheard [that] could impact their determination, nor was a curative instruction given to the jury." Despite his assertion that he did not waive the issue in the trial court, the Defendant cites the factors required for consideration of the issue as plain error, apparently conceding his

failure to either raise a contemporaneous objection or request that the trial court issue a curative instruction to the jury. The State argues that the Defendant waived the issue by not raising any objection at trial, not asking the trial court to poll the jury to determine what, if anything, the jury overheard, and not requesting any kind of curative instruction. We agree with the State.

The record reflects that the Defendant, who unsuccessfully sought to introduce a tape recording as an exhibit, was afforded the opportunity to attempt to locate what he believed to be the relevant portion by playing the tape during a jury-out conference. When the bailiff informed the trial court that jurors were able to overhear from the jury room, the trial court moved the playing of the recording into the clerk's office. The Defendant did not ask the trial court to determine what the jury might have overheard and did not request any curative instruction from the trial court.

We conclude that the Defendant has waived the issue by his failure to object or to seek any curative action at trial and that he cannot show the existence of plain error. *See State v. Smith*, 24 S.W.3d 274, 282-83 (Tenn. 2000) (adopting five-factor test of *State v. Adkisson*, 899 S.W.2d 626, 642 (Tenn. Crim. App. 1994), for a determination of when plain error review is warranted); *see also State v. Page*, 184 S.W.3d 223, 231 (Tenn. 2006) ("An error would have to [be] especially egregious in nature, striking at the very heart of the fairness of the judicial proceeding, to rise to the level of plain error.").

V. Speedy Trial

As his final issue, the Defendant contends that his constitutional right to a speedy trial was violated by the more than seven-year delay between the date of his presentment and his trial. The Defendant concedes that his "several requests for substitute counsel" was one of the reasons for the long delay but argues that "[i]n a delay of such a long period . . . there is a 'per se' violation of a defendant's right to a speedy trial." The State asserts that the delays were caused by the Defendant's repeated requests for new counsel and argues that the Defendant cannot show that he was harmed by the delay. We, once again, agree with the State.

"Both the United States Constitution and the Tennessee Constitution guarantee criminal defendants the right to a speedy trial." *State v. Moon*, 644 S.W.3d 72, 77 (Tenn. 2022), *cert. denied*, 143 S. Ct. 254 (2022); *see* U.S. Const. amend. VI; Tenn. Const. art. 1 § 9. To determine whether a defendant's constitutional right to a speedy trial has been violated, this court conducts the balancing test set forth in *Barker v. Wingo*, 407 U.S. 514, 530 (1972). *See Moon*, 644 S.W.3d at 79; *State v. Wood*, 924 S.W.2d 342, 346 (Tenn. 1996); *State v. Baker*, 614 S.W.2d 352, 353 (Tenn. 1981). Under the *Barker* analysis, we weigh the following four factors: "(1) the length of the delay; (2) the reason for the delay;

(3) whether there was a demand for a speedy trial; and (4) the presence and extent of prejudice to the defendant." *Moon*, 644 S.W.3d at 79 (citing *Barker*, 407 U.S. at 530). The determination of whether a defendant's right to a speedy trial has been violated "is a question of law to be determined de novo by a reviewing court." *Id.* at 78.

The first and third factors weigh in favor of the Defendant, as a more than seven-year delay is sufficient to trigger speedy trial concerns, *see Doggett v. United States*, 505 U.S. 647, 651 (1992) (noting that "the presumption that pretrial delay has prejudiced the accused intensifies over time"), and the Defendant appears to have made a demand for a speedy trial in one or more of his *pro se* filings.

Both the second and fourth factors, however, weigh heavily against the Defendant. Although some of the delay may be attributed to the global pandemic, most was clearly caused by the Defendant's dissatisfaction with his series of appointed counsel and his repeated requests for substitution of counsel. The record reflects that the Defendant had six different lawyers before he ultimately chose to represent himself at trial. The Defendant continued the pattern after trial, attempting to have his appointed appellate counsel removed and different appellate counsel appointed to represent him in this appeal. Moreover, the Defendant's letters to Mr. Washington suggest that this might have been part of a deliberate tactic, as he discussed his belief that "laches" would operate to prevent the State from prosecuting his case.

As for the prejudice factor, the Defendant points to the death of the coroner who performed the autopsy of the victim and the deaths of "more than one witness who would have testified in the [D]efendant's case in chief [,]" without identifying who those potential witnesses were or how they would have aided in his defense. Although "affirmative proof of particularized prejudice is not essential to every speedy trial claim," *Doggett*, 505 U.S. at 655, the Defendant's failure to provide any insight into how his defense was impaired, combined with his being the cause of much of the delay, leads us to conclude that his constitutional right to a speedy trial was not violated.

CONCLUSION

Based on our review of the record and the parties' briefs, we affirm the judgment of the trial court.

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JOHN W. CAMPBELL, SR. JUDGE