Affirmed and Memorandum Opinion filed January 7, 2010.

In The

Fourteenth Court of Appeals

NO. 14-09-00140-CR

ANDREW JAMON SESSION, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 209th District Court
Harris County, Texas
Trial Court Cause No. 1064056

M E M O R A N D U M O P I N I O N

Appellant Andrew Jamon Session appeals his conviction for aggravated robbery challenging the trial court's ruling on his hearsay objection. We affirm.

On April 4, 2006, Alvaneeta Nelson was working at Advance America Cash Advance when two men came into the store and pointed a gun in her face. The man pointing the gun at her told her to step away from the desk while a second man jumped over the counter. A third man entered the store and locked the door. All three men had guns. The men took Nelson to the back of the store, forced her to lie down on the ground

and took the money from the safe. Approximately five to ten minutes after the men left the store, Nelson stood up and pressed the alarm button to summon the police. The three men were apprehended while robbing another store that morning. Nelson went to the second store and identified appellant as one of the three men who robbed the store.

Officer Alberto Garcia of the Houston Police Department was patrolling the area on the day of the robbery when he received a dispatch about a suspicious vehicle in the area. He observed the vehicle and noticed there were four men inside the vehicle. He followed them until they parked their car in front of a check-cashing store. He testified that three of the men went into the store while the fourth man appeared to act as a "look-out." Believing the men were robbing the store, Officer Garcia called for backup, which arrived after the four men had exited the store and were back in the car. Nelson identified the men as those who had robbed the previous store, and the men were arrested. Appellant was convicted of aggravated robbery and sentenced to 40 years' confinement in the Institutional Division of the Texas Department of Criminal Justice.

In a single issue, appellant argues the State impermissibly offered hearsay evidence when it questioned Officer Garcia. With regard to the dispatch call about the suspicious vehicle, Officer Garcia testified as follows:

> Q. Do you recall receiving a dispatch of a suspicious vehicle on that particular day?
>
> A. Yes, I did.
>
> Q. What type of vehicle were you looking for?
>
> MR. DENNINGER [defense counsel]: Calls for hearsay.
>
> THE COURT: Let's rephrase it, please.
>
> [By the prosecutor:] Were you looking for a particular vehicle, "yes" or

"no"?

THE WITNESS: Yes.

THE COURT: You may proceed.

Q. Were you looking for a particular vehicle?

A. Yes.

Q. What type of vehicle were you looking for?

MR. DENNINGER: Your Honor, that calls for hearsay.

THE COURT: The Court is going to let it in. It has to be put in proper context. Overruled.

You may proceed.

But let's stay away from as much hearsay as possible because you are going to get this every single time.

You may proceed.

Q. What type of vehicle were you looking for?

A. A gold four-door Impala.

Appellant argues that Officer Garcia's testimony about the type of vehicle they were looking for is inadmissible hearsay. A trial court's decision to admit or exclude evidence is reviewed under an abuse of discretion standard. *Torres v. State*, 71 S.W.3d 758, 760 (Tex. Crim. App. 2002). An appellate court will not reverse a trial court's ruling unless that ruling falls outside the zone of reasonable disagreement. *Id.*

Hearsay is a statement, other than one made by the declarant while testifying at

trial, that is offered to prove the truth of the matter asserted. Tex. R. Evid. 801(d). An extrajudicial statement or writing that is offered for the purpose of showing what was said rather than for proving the truth of the matter asserted does not constitute hearsay. *Dinkins v. State*, 894 S.W.2d 330, 347 (Tex. Crim. App. 1995); *Scott v. State*, 222 S.W.3d 820, 831 (Tex. App.—Houston [14th Dist.] 2007, no pet.). An officer is permitted to testify to information upon which he acted. *Schaffer v. State*, 777 S.W.2d 111, 114 (Tex. Crim. App. 1989) ("Almost always it will be relevant for a testifying officer to relate how she happened upon the scene of a crime or accident[.]"); *see also Parker v. State*, 192 S.W.3d 801, 807 (Tex. App.—Houston [1st Dist.] 2006, pet. ref'd).

Officer Garcia testified that he received a dispatch of a suspicious vehicle described as a gold four-door Impala. He saw the vehicle, followed it, and observed the driver park outside of a check-cashing establishment. Officer Garcia's testimony about the type of car he had been told to look for is not hearsay. It is not hearsay to inform the jury the factors that lead to the identification of the defendant, i.e., following the car. Therefore, the trial court did not abuse its discretion in overruling appellant's objection. We overrule appellant's sole issue.

The judgment of the trial court is affirmed.

PER CURIAM

Panel consists of Justices Yates, Seymore, and Brown.
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