COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH

NO. 02-16-00050-CR

STEPHEN BIELICKE — APPELLANT

V.

THE STATE OF TEXAS — STATE

FROM THE 362ND DISTRICT COURT OF DENTON COUNTY
TRIAL COURT NO. F-2014-2218-D

MEMORANDUM OPINION[1]

I. INTRODUCTION

Appellant Stephen Bielicke appeals his conviction for murder. In five issues, Bielicke argues that the trial court abused its discretion by denying his motions for mistrial and that the trial court erred by admitting certain evidence. We will affirm.

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[1]*See* Tex. R. App. P. 47.4.

II. BACKGROUND

In September 2014, Bielicke's wife left him and moved in with the couple's mutual friends, the Kegleys. On the evening of September 23, 2014, Bielicke called Bill Kegley several times and threatened to kill him and his family. Although Bielicke was using phones at various convenience stores to make these calls, Bill was able to look the phone numbers up online and determine where Bielicke was located when he made the calls.

Around 10:30 p.m. on the same night, several witnesses observed a verbal altercation between the drivers of a silver SUV and a maroon PT Cruiser in the parking lot of a QuikTrip convenience store. The driver of the SUV was allegedly yelling something similar to: "You want to [f***] with me?" According to several witnesses, the man yelling was wearing a red shirt and appeared to be waiving a gun toward the PT Cruiser. When the PT Cruiser left the store, the SUV gave chase.

Near this time, the 911 dispatch received calls about a shooting on I-35. Witnesses had observed a silver SUV pull beside a PT Cruiser on the access road to I-35 and fire several shots. After that, the PT Cruiser swerved, left the access road, entered I-35, and hit a guardrail. After the shooting, Bielicke returned to the 7-Eleven store where he was earlier in the evening and screamed while raising his hands, told a customer that the customer was a rock star, told a woman that she was a Rockette, and even showed a woman a gun. He also yelled that "nobody want[ed] to [f***]" with [him]. A clerk at the 7-Eleven store

also contacted 911 and was able to give a description of Bielicke, his silver SUV, and the SUV's license plate. The store clerk later identified Bielicke in a photo lineup. In response to the 7-Eleven incident, officers located an address for the vehicle at issue and arrived to find Bielicke sitting on the tailgate of his silver SUV, wearing a red shirt. The license plate on the SUV matched that given during the 911 call from the 7-Eleven store clerk.

After realizing that Bielicke also matched the description of the driver of the silver SUV involved in the I-35 shooting, police obtained arrest and search warrants for Bielicke's home and vehicle. Police found Bielicke's gun in the back of the SUV, and they later learned that it shoots the same type of unfired bullets also found inside the SUV, which also matched the type of bullets found during the autopsy of Verland Scott Johansen, the victim of the shooting between Bielicke's SUV and the PT cruiser found on I-35. Further investigation revealed that a gunshot-residue test showed one particle that was characteristic of primer gunshot residue on Bielicke's palm.

After Johansen was transported to and then died at the hospital, an autopsy revealed that he had died as a result of a bullet entering his right ear and then traveling downward through the base of his skull—Johansen had suffered deadly fractures to his skull and injuries to his brain.

A jury found Bielicke guilty of murder and sentenced him to sixty-five years' confinement. The trial court rendered judgment accordingly, and this appeal followed.

III. DISCUSSION

A. Bielicke's Right Against Self-Incrimination

In his first issue, Bielicke argues that the trial court abused its discretion by denying his motion for mistrial lodged during the punishment phase of trial after he objected to, and the trial court sustained his objection to, a question the prosecutor asked of Dr. Kristi Compton, a clinical and forensic psychologist, who conducted a diagnostic interview with Bielicke prior to trial and who Bielicke called to testify at punishment regarding that interview. Bielicke contends that the prosecutor's question violated his right to remain silent and not to incriminate himself. The State argues that Bielicke waived his right against self-incrimination or to remain silent by voluntarily agreeing to be interviewed and tested by his expert and then later calling Compton to testify. We agree with the State.

We review the denial of a mistrial for an abuse of discretion. *See Webb v. State*, 232 S.W.3d 109, 112 (Tex. Crim. App. 2007). Generally, an accused's right against self-incrimination is violated when the language of a statement or question, viewed from the jury's perspective, is "manifestly intended or of such a character that the jury would necessarily and naturally take it as a comment on the accused's failure to testify." *Banks v. State*, 643 S.W.2d 129, 134 (Tex. Crim. App. 1982), *cert. denied*, 464 U.S. 904 (1983); *see Patrick v. State*, 906 S.W.2d 481, 490 (Tex. Crim. App. 1995), *cert. denied*, 517 U.S. 1106 (1996). But if an accused breaks his silence to speak to his own psychiatric expert and introduces testimony which is based on that interview, he has constructively taken the stand

and waived his right against self-incrimination. *Chamberlain v. State*, 998 S.W.2d 230, 234 (Tex. Crim. App. 1999), *cert. denied*, 528 U.S. 1082 (2000). As the court of criminal appeals has stated, such actions "constitute a waiver of the defendant's fifth amendment privilege *in the same manner as would the defendant's election to testify at trial*." *Soria v. State*, 933 S.W.2d 46, 54 (Tex. Crim. App. 1996), *cert. denied*, 520 U.S. 1253 (1997); *see also Lagrone v. State*, 942 S.W.2d 602, 609–11 (Tex. Crim. App.), *cert. denied*, 522 U.S. 917 (1997).

Here, Bielicke consented to being interviewed and tested by Compton and called Compton to testify regarding that interview at punishment. This constituted a waiver of his right against self-incrimination in the same manner as if Bielicke had elected to testify. Thus, he was not allowed to call Compton to testify on his own behalf and then shield the cross-examination of Compton by claiming such examination violated his rights. *See Garcia v. State*, 126 S.W.3d 921, 924 (Tex. Crim. App. 2004) ("[W]hen a defendant makes a statement which is admitted into evidence, the State's reference to the statement and comparison between the statement and the other evidence collected is not a comment on the defendant's failure to testify or his right to remain silent."). We conclude and hold that the trial court did not abuse its discretion by denying Bielicke's motion for mistrial predicated on the State's cross-examination of Compton. We overrule Bielicke's first issue.

B. Admitted Photographs

In his second issue, Bielicke argues that the trial court abused its discretion by allowing the State to introduce photographs of Johansen, the victim, that were taken while he was in the hospital just after the shooting as well as photographs from Johansen's autopsy. The State argues that these photographs were probative to show the injuries that Johansen sustained and to show the trajectory of the bullet which caused his death because the injuries were internal and could not be observed without manipulation by the autopsy. We conclude that the trial court did not abuse its discretion by admitting these photographs.

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). Thus, the admissibility of photographs is within the sound discretion of the trial court. *Hayes v. State*, 85 S.W.3d 809, 815 (Tex. Crim. App. 2002). Rule of Evidence 403 provides that even relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading of the jury, or by consideration of undue delay, or needless presentation of cumulative evidence. Tex. R. Evid 403. But Rule 403 favors admissibility and contains a presumption that relevant evidence will be more probative than prejudicial. *Hayes*, 85 S.W.3d at 815. We will uphold the ruling so long as it was within the zone of reasonable disagreement. *Rayford v. State*, 125 S.W.3d 521, 529 (Tex. Crim. App.), *cert. denied*, 543 U.S. 823 (2004).

1. Photographs of Johansen Taken at the Hospital

At trial, the State introduced five photographs, four of which Bielicke objected to, depicting Johansen's condition when he arrived at the hospital, shortly after being shot, as medical personnel attempted to revive and save him.

Generally, photographs are admissible if verbal testimony is admitted which describes what the photographs depict. *Emery v. State*, 881 S.W.2d 702, 710 (Tex. Crim. App. 1994), *cert. denied*, 513 U.S. 1192 (1995). Here, the officer who took the four complained-of pictures of Johansen at the hospital testified that the pictures showed the condition of Johansen's injuries upon his arrival at the hospital. The officer also testified that one of the pictures showed the identification bracelet that hospital personnel had placed on Johansen. We have reviewed the objected-to photographs taken at the hospital, and they show no more than the treatment of the injuries that Johansen suffered shortly before his arrival at the hospital. *See Gonzales v. State*, No. 02-10-00448-CR, 2011 WL 6415125, at *2 (Tex. App.—Fort Worth Dec. 22, 2011) (mem. op., not designated for publication) (holding that trial court did not abuse its discretion by admitting photographs of victim, taken at hospital shortly after victim's arrival, showing treatment of serious injuries inflicted by defendant). We hold that the trial court did not abuse its discretion by admitting these photographs.

2. Photographs from the Autopsy

The State also introduced four photographs from Johansen's autopsy. The first of the autopsy photographs shows a sutured incision made by the surgeon

during attempts to save Johansen when he arrived at the hospital. The second shows the bottom of Johansen's skull after the top of his skull and brain were removed during the autopsy. The third photograph shows Johansen's removed brain with an apparent injury caused by the bullet. And the fourth is of an envelope used to submit the spent bullet recovered from Johansen's neck during the autopsy.

An analysis under Rule 403 includes: (1) how probative the evidence is, (2) the potential of the evidence to impress the jury in some irrational but nevertheless indelible way, (3) the time the proponent needs to develop the evidence, and (4) the proponent's need for the evidence. *See Shuffield v. State*, 189 S.W.3d 782, 787 (Tex. Crim. App.), *cert. denied*, 549 U.S. 1056 (2006). Furthermore, a number of additional factors may also be relevant in the analysis, including: the number of photographs offered, their gruesomeness, their detail, their size, whether they are in color or black-and-white, whether they are close-up images, whether the body depicted is clothed or naked, the availability of other means of proof, and other circumstances unique to the individual case. *See Williams v. State*, 301 S.W.3d 675, 690 (Tex. Crim. App. 2009), *cert. denied*, 560 U.S. 966 (2010).

Autopsy photographs are generally admissible unless they depict only the mutilation caused by the autopsy itself. *Hayes*, 85 S.W.3d at 816. But mutilation caused during an autopsy is not necessarily fatal to the admissibility of the photograph if the photograph is highly probative of the medical examiner's

findings and conclusions or when it allows the jury to see an internal injury. *See Gallo v. State*, 239 S.W.3d 757, 763 (Tex. Crim. App. 2007), *cert. denied*, 553 U.S. 1080 (2008) (concluding that trial court did not err by admitting photographs of the decedent's rib, skullcap, and brain, all visible due to the decedent's autopsy, because they were necessary to show the injuries sustained).

Here, although three of the complained-of photographs were in color and could be considered gruesome, autopsy photographs are often gruesome, and a trial court does not abuse its discretion by admitting such photographs when it would otherwise be difficult to show a victim's injury without altering the body in some way. *See Herrera v. State*, 367 S.W.3d 762, 777 (Tex. App.—Houston [14th Dist.] 2012, no pet.) (*citing Davis v. State*, 313 S.W.3d 317, 331 (Tex. Crim. App.), *cert. denied*, 565 U.S. 828 (2010) (concluding that photograph of cross-sectioned tongue was admissible because it showed an injury that was not otherwise visible)).

The complained-of autopsy photographs in this case were necessary because Johansen's injuries could only be visible after manipulation during the autopsy. *Harris v. State*, 661 S.W.2d 106, 108 (Tex. Crim. App. 1983) (concluding trial court did not err by admitting photograph of decedent's skull with skin deflected because it was necessary to show a skull fracture). Thus, we conclude that the trial court did not abuse its discretion by admitting the autopsy photographs.

Based on the record before us, we cannot say that the trial court abused its discretion by determining that the complained-of photographs were relevant or that the probative value of the photographs was not substantially outweighed by the danger of unfair prejudice to Bielicke. We overrule Bielicke's second issue.

C. Improper Jury Argument

In his third issue, Bielicke argues that the trial court abused its discretion by denying his motion for mistrial predicated on what he deems improper argument made by the prosecutor during the punishment phase at trial.

During argument in the punishment phase of trial, the State referenced the death penalty and mentioned that there are good arguments for its imposition in this case even though it is not a capital murder case. Defense counsel objected to this comment. The trial court sustained the objection and then promptly instructed the jury to disregard the statement. The trial court denied defense counsel's motion for mistrial.

We review a trial court's denial of a motion for mistrial under an abuse-of-discretion standard and must uphold the trial court's ruling if it was within the zone of reasonable disagreement. *Archie v. State*, 221 S.W.3d 695, 699 (Tex. Crim. App. 2007) (*citing Wead v. State*, 129 S.W.3d 126, 129 (Tex. Crim. App. 2004)). "Only in extreme circumstances, where the prejudice is incurable, will a mistrial be required." *Hawkins v. State*, 135 S.W.3d 72, 77 (Tex. Crim. App. 2004). A mistrial is appropriate only for a narrow class of highly prejudicial and incurable errors and may be used to end trial proceedings when

the error is "so prejudicial that expenditure of further time and expense would be wasteful and futile." *Id.* (*quoting Ladd v. State*, 3 S.W.3d 547, 567 (Tex. Crim. App. 1999), *cert. denied*, 529 U.S. 1070 (2000)).

We will assume that the complained-of argument was error, but we conclude that Bielicke was not harmed by the statement. Appellate courts balance three factors in determining harm in the punishment phase of a non-capital case: (1) the severity of the misconduct (prejudicial effect), (2) curative measures, and (3) the certainty of the punishment assessed absent the misconduct (likelihood of the same punishment being assessed). *Hawkins*, 135 S.W.3d at 77.

Here, we do not conclude that the prosecutor's statement that good arguments existed to support the death penalty in this case constituted severe misconduct. *Rische v. State*, 834 S.W.2d 942, 951 (Tex. App.—Houston [1st Dist.] 1992, pet. ref'd). Furthermore, after the prosecutor made the complained-of statement, the trial court promptly instructed the jury to disregard it. *See Westbrook v. State*, 29 S.W.3d 103, 115–16 (Tex. Crim. App. 2000), *cert. denied*, 532 U.S. 944 (2001) (holding that a prompt instruction to disregard ordinarily cures any harm from improper argument). And on appeal, reviewing courts generally presume that the jury followed the trial court's instructions. *Thrift v. State*, 176 S.W.3d 221, 224 (Tex. Crim. App. 2005). Moreover, the jury was instructed in the jury charge regarding the proper range of punishment applicable in this case. *See Orr v. State*, 306 S.W.3d 380, 405 (Tex. App.—Fort Worth

2010, no pet.) (holding that because the trial court orally instructed the jury to disregard the improper question, and the court's charge instructed the jury that they could not conjecture as to what the answer might have been or as to the reason for the objection, reviewing court would presume the jury followed the trial court's instruction). Additionally, the high range of punishment in this case was life or ninety-nine years, and the jury assessed punishment at sixty-five. And the record is replete with evidence by which the jury could have found Bielicke deserving of the sentence imposed. We conclude that the trial court did not abuse its discretion by denying Bielicke's motion for mistrial, and we overrule his third issue.

D. Statement Bielicke Made While Being Apprehended

In his fourth issue, Bielicke argues that the trial court erred by allowing the arresting officer to testify that after apprehending Bielicke and handcuffing him, the officer asked Bielicke whether he had a gun on him and that Bielicke stated that he had one in his SUV. Bielicke argues that the trial court should have suppressed this statement because it was made during a custodial arrest and prior to any *Miranda* warnings.

Here, after receiving a dispatch regarding a man with a gun at a 7-Eleven store, Lewisville Police Officer Duk Le searched for Bielicke. Le eventually found Bielicke sitting near the rear of his SUV in a garage. As Le approached him, Le said that Bielicke began to make furtive "movements towards his waist and his pockets." Le drew his service weapon, ordered Bielicke to the ground, and

handcuffed him. Le said that he did so because the dispatch indicated that a firearm was involved and that based on his experience, he was concerned for his as well as others' safety. Le then asked Bielicke if he had a gun on him, to which Bielicke stated he did not but that he had one in his SUV.

We review a trial court's ruling on a motion to suppress evidence under a bifurcated standard of review. *Amador v. State*, 221 S.W.3d 666, 673 (Tex. Crim. App. 2007); *Guzman v. State*, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997). We give almost total deference to a trial court's rulings on questions of historical fact and application-of-law-to-fact questions that turn on an evaluation of credibility and demeanor, but we review de novo application-of-law-to-fact questions that do not turn on credibility and demeanor. *Amador*, 221 S.W.3d at 673; *Estrada v. State*, 154 S.W.3d 604, 607 (Tex. Crim. App. 2005); *Johnson v. State*, 68 S.W.3d 644, 652–53 (Tex. Crim. App. 2002). When reviewing the trial court's ruling on a motion to suppress, we must view the evidence in the light most favorable to the trial court's ruling. *Wiede*, 214 S.W.3d at 24; *State v. Kelly*, 204 S.W.3d 808, 818 (Tex. Crim. App. 2006).

A person is in "custody" when: (1) the individual is formally arrested, or (2) the individual's freedom of movement has been restricted to the degree associated with a formal arrest. *Nguyen v. State*, 292 S.W.3d 671, 677 (Tex. Crim. App. 2009); *Medford v. State*, 13 S.W.3d 769, 772–73 (Tex. Crim. App. 2000). But an investigative detention occurs when an officer detains a person reasonably suspected of criminal activity to determine his identity or to maintain

the status quo to gather more information. *Hoag v. State*, 728 S.W.2d 375, 380 (Tex. Crim. App. 1987); *Akins v. State*, 202 S.W.3d 879, 885 (Tex. App—Fort Worth 2006, pet. ref'd).

Although restraining an individual generally constitutes arrest, handcuffing before questioning (or even ordering a suspect to lie down) does not necessarily convert an investigative detention into an arrest. *Akins*, 202 S.W.3d at 885. (citing *Rhodes v. State*, 945 S.W.2d 115, 118 (Tex. Crim. App.), *cert. denied*, 522 U.S. 894 (1997)). During an investigative detention, an officer may utilize handcuffs when circumstances dictate their necessity to maintain officer safety. *Akins*, 202 S.W.3d at 886; *see Nargi v. State*, 895 S.W.2d 820, 823 (Tex. App.—Houston [14th Dist.] 1995, *pet. dism'd, improvidently granted*, 922 S.W.2d 180 (Tex. Crim. App. 1996) (holding that handcuffing of defendant during investigatory stop did not transform stop into arrest because potentially dangerous behavior displayed by defendant supported reasonable inference that police officer needed to obtain control over defendant to question him safely). Reasonableness must be judged from the perspective of a reasonable officer at the scene, rather than with the advantage of hindsight. *Rhodes*, 945 S.W.2d at 118. Allowances must be made for the fact that officers must often make quick decisions under tense, uncertain, and rapidly changing circumstances. *Id.* Additional factors to consider in determining the reasonableness of the detention include the nature of the crime under investigation, the degree of suspicion, the

location of the stop, the time of day, and the reaction of the suspect. *State v, Moore*, 25 S.W.3d 383, 386 (Tex. App. Austin 2000, no pet.).

Viewing the evidence in a light most favorable to the trial court's ruling, the record indicates that as Le approached Bielicke, Bielicke made furtive gestures towards an area where a gun could have been and that Le had been apprised that the suspect could be armed. Thus, Le drew his service weapon, ordered Bielicke to the ground, handcuffed him, and questioned him about the presence of a gun. As Le stated, he responded in this manner because he was aware that the call he was responding to involved a firearm. Thus, Le could have reasonably believed that he was acting out of concern for his own safety and that of others. *See Amores v. State*, 816 S.W.2d 407, 419 (Tex. Crim. App. 1991) (reasoning that an officer's opinion, while not determinative, is another factor to be considered in determining the reasonableness of the detention). We conclude that Le's actions were reasonable under the circumstances and that the trial court did not err by concluding that Le had not formally arrested Bielicke and thus did not err by allowing Le to testify regarding this encounter and what Bielicke said. *See State v. Sheppard*, 271 S.W.3d 281, 286–87 (Tex. Crim. App, 2008) (holding that investigative detention did not transform into an arrest when the officer handcuffed and frisked the defendant based upon complaint that defendant was doing drugs and had threatened someone with a large knife). We overrule Bielicke's fourth issue.

E. Threatening Phone Calls

In his fifth issue, Bielicke argues that the trial court erred by allowing the State to introduce evidence of the contents of his threatening phone calls to the Kegleys. Bielicke argues that the State did not give sufficient notice that it would introduce this evidence and that the evidence was improperly admitted extraneous-offense evidence. The State argues that it gave proper notice and that the evidence was properly admitted because Bielicke contested intent at trial.

We review a trial court's decision to admit evidence under an abuse-of-discretion standard. *See Guzman*, 955 S.W.2d at 89; *Montgomery v. State*, 810 S.W.2d 372, 391 (Tex. Crim. App. 1991) (op. on reh'g). Under this standard, a trial court enjoys "wide latitude to exclude, or, particularly in view of the presumption of admissibility of relevant evidence, *not* to exclude" evidence. *Montgomery*, 810 S.W.2d at 390. A trial court abuses its discretion by admitting evidence only if its ruling is so clearly wrong that it lies outside the zone of reasonable disagreement. *Id.* at 391; *see also Tillman v. State*, 354 S.W.3d 425, 435 (Tex. Crim. App. 2011). In other words, an appellate court must uphold the trial court's ruling if it is reasonably supported by the record and is correct under any theory of law applicable to the case. *See Carrasco v. State*, 154 S.W.3d 127, 129 (Tex. Crim. App. 2005).

Rule of Evidence 403 states that a court may exclude relevant evidence if its probative value is substantially outweighed by a danger of "unfair prejudice,

confusing the issues, misleading the jury, undue delay, or needlessly presenting cumulative evidence." Tex. R. Evid. 403. A trial court, when undertaking a rule 403 analysis, must balance (1) the inherent probative force of the proffered item of evidence along with (2) the proponent's need for that evidence against (3) any tendency of the evidence to suggest decision on an improper basis, (4) any tendency of the evidence to confuse or distract the jury from the main issues, (5) any tendency of the evidence to be given undue weight by a jury that has not been equipped to evaluate the probative force of the evidence, and (6) the likelihood that presentation of the evidence will consume an inordinate amount of time or merely repeat evidence already admitted. *Gigliobianco v. State*, 210 S.W.3d 637, 641–42 (Tex. Crim. App. 2006). Rule 403 favors the admission of relevant evidence and carries a presumption that relevant evidence is more probative than prejudicial. *Martinez v. State*, 327 S.W.3d 727, 737 (Tex. Crim. App. 2010), *cert. denied*, 563 U.S. 1037 (2011).

Under rule 404(b), evidence of a wrong "or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." *See* Tex. R. Evid. 404(b)(1). But such evidence may be admissible for other purposes, including for purposes of showing motive, intent, or the context in which the charged crime was committed. *Gosch v. State*, 829 S.W.2d 775, 783 (Tex. Crim. App. 1991), *cert. denied*, 509 U.S. 922 (1993); *Barefoot v. State*, 596 S.W.2d 875, 887 (Tex. Crim. App. 1980), *cert. denied*, 453 U.S. 913 (1981). Like rule 403, rule 404(b)

promotes the inclusion of evidence—the rule excludes only "evidence that is offered (or will be used) solely for the purpose of proving bad character and hence conduct in conformity with that bad character." *De La Paz v. State*, 279 S.W.3d 336, 343 (Tex. Crim. App. 2009).

Bielicke argues that the State failed to give him proper notice that it intended to introduce this extraneous-offense evidence, but the record indicates that the State notified Bielicke that it intended to introduce evidence of the contents of these calls and specifically cited terroristic threats and harassment toward both of the Kegleys. We overrule this portion of Bielicke's fifth issue.

In the remainder of his fifth issue, Bielicke argues that the trial court abused its discretion by allowing the evidence to be admitted. But as the State argues, Bielicke contested his intent to commit Johansen's murder, and the State was entitled to introduce evidence in order to prove intent through evidence of these extraneous bad acts. *See Ludwig v. State*, 969 S.W.2d 22, 30 (Tex. App.—Fort Worth 1998, pet. ref'd) (once the defendant claims lack of intent, intent can no longer be inferred from other uncontested direct evidence, and the State is allowed to prove intent through evidence of other crimes, wrongs, or acts to show violent acts where the defendant was the aggressor). Moreover, the evidence was necessary so that the State could demonstrate why Bielicke was visiting several different convenience stores on the night of the murder, often using the phone to call and threaten the Kegleys, and eventually getting into a verbal altercation with Johansen, which resulted in Bielicke shooting Johansen.

See Prible v. State, 175 S.W.3d 724, 732 (Tex. Crim. App. 2005) (concluding that extraneous-offense evidence "fills in gaps of the interwoven events" of criminal conduct and helps the jury understand the context of the case). We conclude that the trial court's decision to admit the complained-of evidence was not so clearly wrong that it lies outside the zone of reasonable disagreement. We overrule Bielicke's fifth issue entirely.

IV. CONCLUSION

Having overruled all five of Bielicke's issues on appeal, we affirm the trial court's judgment.

/s/ Bill Meier
BILL MEIER
JUSTICE

PANEL: WALKER, MEIER, and GABRIEL, JJ.

GABRIEL, J., concurs without opinion.

DO NOT PUBLISH
Tex. R. App. P. 47.2(b)

DELIVERED: September 21, 2017