

Circuit Court for Baltimore City
Case No. 117258004

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 743

September Term, 2019

CRAIG RUSSELL WILLIAMS III.,

v.

STATE OF MARYLAND

Reed,
Wells,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: October 9, 2020

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

In 2019, a Baltimore City jury convicted appellant Craig Russell Williams, III (“Williams”) of felony murder, use of a firearm in the commission of a crime of violence, and attempted robbery with a deadly weapon. On appeal, Williams argues that the circuit court erred by (1) permitting the State to present other crimes evidence, and by (2) denying William’ motion to exclude photos and videos from another individual’s cell phone. Finding no error, we affirm the Circuit Court for Baltimore City.

BACKGROUND

Around 1 a.m. on August 8, 2017, Tyrese and Tyrone Davis were walking home on Franklin Street in Baltimore City when a car pulled up behind them. According to Tyrone, a man jumped out of the passenger side and demanded his belongings. Tyrone threw his cell phone at the man, and the two brothers ran away in different directions. Tyrone then heard a gunshot, so he ran back to Franklin Street to find his brother, Tyrese, laying in the alley with a gunshot wound to the head. Tyrese ultimately died from the gunshot wound. Shortly thereafter, Officer Brook Varner responded to a 911 call for the shooting and observed a .45 caliber shell casing. Tyrone was unable to identify the shooter, but described the car they were in as a “tan color car.”

At 1:48 a.m. that same morning, Detective Ryan Massey responded to a call for a homicide on Tulsa Road in Baltimore County. Dejuane Beverly was found dead with a gunshot wound to the head. His watch and backpack were missing, and four .45 caliber shell casings were located around his body.

On August 15, 2017, William Rogers was riding in his car with Williams and Kevin Parker when Williams pulled out a gun, put it to Rogers' head, and told him to get out of the car. When Rogers ran out of the car, Williams shot him in both legs. Six .45 caliber shell casings were recovered at the scene of the shooting. Rogers provided police with the tag number of his stolen vehicle.

Approximately twenty minutes after the carjacking, Williams and Parker were stopped by police for speeding by Officer Geoffrey Dunham. Body-camera footage of the traffic stop showed that Parker was driving the stolen vehicle and Williams was in the front passenger seat. Shortly after the traffic stop, Officer Dunham received information on the carjacking and determined it was the same vehicle he had recently stopped for speeding.

Police searched a silver Toyota Camry belonging to Williams' girlfriend, which police believed to be the vehicle the suspects were driving during both homicides. Underneath the driver's side floor mat was a .45 caliber shell casing, and located in the front passenger door was a watch matching the description of the watch taken from Beverly.

Williams was arrested on August 17, 2017. Police recovered a .45 caliber handgun from his waistband. Firearms examiner James Wagster compared the shell casings found at the three crime scenes and determined that they had all been fired from the .45 caliber handgun found on Williams when he was arrested.

At trial, it was not disputed that Williams was present during the murders of Davis and Beverly, and the carjacking of Rogers. Williams, however, asserted that he was only present for these crimes because he was afraid of Parker who was a known gang leader. Though Williams was only arrested for crimes related to the murder of Tyrese Davis, the State introduced evidence of Williams' involvement in the other two crimes, as well as text messages, photos, and videos of Williams and Parker together in the time between the murders and the carjacking. Williams was convicted of all charges and sentenced to life without parole for felony murder and twenty years consecutive for the firearm offense.

Williams' appeal follows.

DISCUSSION

In reviewing the trial court's decision to admit relevant evidence, "as well as its decision to admit relevant evidence over an objection that the evidence is unfairly prejudicial," the trial court's decision "will not be reversed absent an abuse of discretion." *Collins v. State*, 164 Md. App. 582, 609 (2005).

I. THE COURT DID NOT ABUSE ITS DISCRETION BY ADMITTING OTHER CRIMES EVIDENCE

Williams claims that the motions court abused its discretion in permitting the State to introduce other crimes evidence—specifically Williams' involvement in the murder of Beverly and the carjacking of Rogers that occurred one week later. The State contends that the evidence was relevant to proving intent, identity, and knowledge of the crimes. The State argues that the other crimes evidence was paramount in proving he was an

“active and willing participant,” because Williams’ asserted the defense of duress. Williams claims that his own admission that he was present for the subsequent crimes, albeit under duress, was sufficient, and that the evidence was unfairly prejudicial because it was “overkill” to admit extensive evidence of the other crimes.

We disagree. In general, “evidence of a defendant’s prior criminal acts may not be introduced to prove that he is guilty of the offense for which he is on trial.” *State v. Faulkner*, 314 Md. 630, 633 (1989) (quoting *Straughn v. State*, 297 Md. 329, 333 (1983)). “Evidence of other crimes may be admitted, however, if it is substantially relevant to some contested issue in the case and it is not offered to prove the defendant’s guilt based on propensity to commit crime or his character as a criminal.” *Faulkner*, 314 Md. at 634.

Evidence of a defendant’s prior bad acts may be admissible for certain purposes “such as proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identity, or absence of mistake or accident.” Md. Rule 5-404(b). In *Faulkner*, the Court of Appeals outlined a three-part test to establish when a trial court may admit evidence of a defendant’s prior acts. First, the evidence must be “substantially relevant to some contested issue in the case and ... not offered to prove the defendant’s guilt based on propensity to commit crime or his character as a criminal.” *Faulkner*, 314 Md. at 634. The court must determine “whether the evidence fits within one or more of the *Ross* exceptions.” *Id.* Second, “the evidence proffered to the trial judge must be clear and convincing in establishing the accused’s involvement in the other crimes.” *Id.* Finally the

court must weigh the “necessity for and probative value of the ‘other crimes’ evidence ... against any undue prejudice likely to result from its admission.” *Id.* at 635.

Applying the first prong of the test, we find that evidence of William’s involvement in the second murder and the carjacking was substantially relevant to prove his intent to commit, and knowledge of, the robbery and shooting of Tyrese Davis.

At trial, Williams admitted he was driving Parker in his girlfriend’s car when Parker robbed the Davis brothers and murdered Tyrese Davis. Williams claimed he was unaware of Parker’s intentions prior to the murder, and only continued to go along with Parker under duress. The State argued that Williams was an active and willing participant from the time of the first murder through the carjacking a week later. The evidence that Williams participated in two murders and one carjacking with Parker tends to show that Williams was knowledgeable of Parker’s intention to commit these crimes and was an active participant because he had ample time to distance himself from Parker or refuse to participate in these crimes.

Applying the second prong of the test, Williams does not dispute that there was clear and convincing evidence that he was involved in the murders of Davis and Beverly, and the carjacking of Rogers. At trial, Detective Raymond Hunter, the lead investigator for the murder of Davis, played a recorded statement from Williams. In his statement, he admitted to being present with Parker during the commission of all three crimes. Williams also admitted that he and Parker had planned to commit the carjacking of Rogers. Further, ballistics testimony from James Wagster, a firearms expert, established

that the same gun that fired the cartridge that killed Davis also fired the cartridges that wounded Rogers during the carjacking. This same gun was found in Williams' possession when he was arrested. Thus, there was clear and convincing evidence that Williams was involved in all three crimes.

Finally, Williams' claim that the admission of evidence of the murder of Beverly and carjacking of Rogers was more prejudicial than probative is without merit. He argues that his statement to Detective Hunter was sufficient to implicate him in all three crimes and that the State ultimately introduced more evidence about the other crimes than the murder of Davis, effectively creating three trials in one. His admission to Detective Hunter that he was present at all three crimes was insufficient for the State to rebut a central issue of the case—whether Williams participated in the crimes because he was under duress. Further, the trial court instructed the jury that the present trial did not include charges of the murder of Beverly or the carjacking of Rogers, and that evidence could only be considered on the question of identity, knowledge, intent, or motive. We find that the admission of other crimes evidence was permissible under Rule 5-404(b) and thus did not constitute an abuse of discretion.

II. THE COURT DID NOT ABUSE ITS DISCRETION BY ADMITTING EVIDENCE FROM PARKER'S PHONE

Williams argues that the trial court abused its discretion in denying Williams' motion to exclude irrelevant and unfairly prejudicial photos and videos from Kevin Parker's cell phone. The State responds that the evidence was relevant to rebut Williams'

defense of duress. The trial court held that it was relevant as to whether or not Williams participated as a result of duress and the evidence was not unfairly prejudicial.

Here, the trial court properly concluded that the probative value of the photographs and videos were not outweighed by the potential for unfair prejudice. The State admitted evidence from Parker's cell phone, including phone records of Williams and Parker in contact by phone calls and text messages, and photos and videos of them partying together before and after the murders. In his statement to Detective Hunter, Williams attempted to explain away his involvement in the murder of Beverly and the carjacking as a result of his fear of Parker. The photos, videos, and phone calls were probative as to whether Williams was an active and willing participant in the crimes committed with his friend Parker, or if he was acting out of fear of the consequences of betraying Parker. The photographs, videos, and phone calls were not unfairly prejudicial and aided the jury's evaluation of Williams' defense of duress.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**