

THIRD DIVISION
NOVEMBER 6, 2013

No. 1-11-3777

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 09CR109
)	
KRISTY WRIGHT,)	Honorable
)	Thomas Joseph Hennelly,
Defendant-Appellant.)	Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Hyman and Justice Neville concurred in the judgment.

ORDER

¶ 1 *HELD:* Defendant's conviction for first-degree murder affirmed where prejudicial hearsay testimony was not elicited during her trial.

¶ 2 Following a jury trial, defendant Kristy Wright was found guilty of first-degree murder and sentenced to 39 years' imprisonment. On appeal, defendant challenges her conviction and the sentence imposed thereon, arguing that she was denied her constitutional rights to a fair trial and to confrontation where the State elicited prejudicial hearsay testimony during her trial. For the reasons

that follow herein, we affirm the judgment of the circuit court.

¶ 3

I. BACKGROUND

¶ 4 On November 17, 2008, defendant struck Shaunte Sardin¹ and Nikkia Brown with her rented vehicle. Sardin died from the injuries she sustained after being hit by defendant's SUV, while Brown survived the incident. Defendant was subsequently charged with the first-degree murder of Sardin and the attempted murder of Brown. Defendant elected to proceed by way of a jury trial.

¶ 5 At trial, Nikkia Brown testified that at approximately 3:30 p.m. on the day of the incident, she was driving to pick up her son from his school, which was located near the intersection of 41st Street and State Street. As she was driving, Brown observed her friend Shaunte Sardin arguing with a man, whom she later learned was James Clark. Brown stopped her car and began to approach Sardin on foot. At that point, Clark had begun running down 41st Street toward Wabash Avenue. Sardin followed him and told Brown to "call [her] brother" because "these mother fuckers [were] trying to jump on [her]." Brown made the call and then caught up to Sardin at the median in the center of Wabash Avenue. Clark had already crossed the street and appeared to be talking on his cell phone in front of St. Elizabeth School.

¶ 6 As she and Sardin were standing in the median, Brown noticed a silver SUV driving on Wabash Avenue toward them. Brown testified that the car was traveling "really fast"

¹ The trial transcript includes various spellings of Sardin's first name including "Shauntai" and "Shaunte." We will use the spelling "Shaunte" as that is the spelling utilized by Sardin's sister in her victim impact statement.

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and almost struck them. She estimated that the vehicle only "missed [them] by an inch." After the vehicle traveled past them, the driver made a U-turn and again drove directly at Brown and Sardin. Brown attempted to get out of the street but it was "too late" and this time, both women were struck by the vehicle. Brown identified defendant as the driver of the SUV. She had never seen defendant before that day. Later testimony verified Sardin died of her injuries. Brown was taken to Cook County Hospital where she was treated for multiple injuries, including three broken ribs, a punctured lung, a kidney laceration and a neck fracture. On November 26, 2008, Brown viewed a line-up at the 51st Street police station. She identified defendant as the driver of the vehicle that hit her and Sardin.

¶ 7 On cross-examination, Brown did not recall whether Sardin had a hammer in her hand when she encountered her in the median of Wabash Avenue. She also did not remember speaking to police at the hospital following the accident or telling them that Sardin had been following Clark with a hammer. Prior to the accident, Brown acknowledged that Clark had been trying to get away from Sardin but that she continued to follow him. Brown further acknowledged that she had been concerned about Sardin's behavior and had called Sardin's brother several times in an effort to calm her friend down. Brown also admitted that she was not sure if she was actually hit by defendant's car or whether Sardin's body was pushed into hers after Sardin was struck by the SUV.

¶ 8 Andre Potts, a maintenance engineer at St. Elizabeth School located at 41st Street and Wabash Avenue, witnessed the incident. He testified that at approximately 3:30 p.m. on November 17, 2008, he was outside of the school when he heard a commotion around the side of

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the building. When he looked over towards the intersection of 41st and Wabash Avenue, Potts observed a man crossing the street. A woman carrying a pipe was following him and calling him names and another woman was following the first. The second woman was trying to get the first woman to "stop whatever was happening at that particular time." Potts then saw a grey SUV race around the corner of 41st Street before stopping abruptly to avoid a collision with another vehicle. Potts testified that the SUV had been traveling at a high rate of speed and that he could hear the vehicle's "tires screeching" when it came to a stop. The SUV then sped up and drove toward the two women who were then standing in the median. Potts testified that the vehicle appeared to be heading directly at the first woman but that the SUV swerved away from the median where both women were standing, narrowly avoiding an accident. As the SUV sped past the women, the woman with the pipe threw it at the vehicle and "busted the window." Potts heard the woman say, "I know that 'B' is not gonna try to run me over" as she threw the pipe. Potts then observed the SUV make a U-turn and again drive toward the two women standing on the median. Potts testified that defendant was "revving her engine up" and started to drive "real fast" toward the women. Both women were hit by the vehicle and thrown in the air and landed on the hood of the SUV. The driver then swerved onto the curb before maneuvering onto the road, causing the women to be thrown from the hood of the vehicle. After the collision, Potts observed the male involved in the incident turn and run away from the crash. Potts used his cell phone to call "911" and then went to check on the victims. Sardin was on the ground and was convulsing with her eyes "rolling back in her head." Brown, however, was responsive and she asked him to call her family. Potts made some calls and told her that help was coming.

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¶ 9 The following day, a Chicago police officer came to show Potts a series of pictures. He identified defendant from the photo array as the driver of the SUV. Thereafter, on December 8, 2008, Potts went to the police station to view a physical lineup. He identified defendant from a lineup as the driver of the SUV that hit Sardin and Brown.

¶ 10 On cross-examination, Potts acknowledged that he did not remember whether Sardin was holding a pipe or a hammer in her hands prior to the incident. He just knew that she had been holding some object in her hand. He also did not remember seeing Clark on his phone before the women were struck by defendant's vehicle.

¶ 11 Chicago Police Detective Jessica Jones was assigned to investigate the incident. When she and her partner arrived at the scene, the area had already been taped off by other police officers. Detective Jones observed a hammer lying on the sidewalk, two abandoned shoes on the ground as well as a car key and tire tracks. Shortly after the accident, Detective Jones took a statement from Brown while she was being treated for her injuries at the hospital. In that statement, Brown indicated that Sardin had a hammer and threw it at the SUV before the vehicle struck them. After viewing the crime scene and speaking to Brown, Detective Jones subsequently interviewed members of Sardin's family including her sister, Audrey Johnson. After speaking with Sardin's family, Jones assembled a photo array and included a picture of defendant in that array. Potts, an eyewitness to the incident, was shown the photo array and identified defendant as the driver of the vehicle that struck and killed Sardin. Following Potts' identification, Detective Jones put out an investigative alert for defendant.

¶ 12 Audrey Johnson, Sardin's sister, confirmed that she spoke to police after her sister was

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killed. Johnson further testified that prior to her death, Sardin had introduced her to James Clark, whom she called "Bud." She explained that her sister and Clark were "close friend[s]" and lived approximately one block away from each other.

¶ 13 Doctor James Filkins, a deputy medical examiner at the Cook County Medical Examiner's Office, performed the autopsy of Shaunte Sardin on November 18, 2009. He testified that Sardin suffered numerous physical injuries as a result of the collision, including abrasions, rib and pelvic fractures and a collapsed lung. He identified the cause of death as the result of multiple injuries that resulted from being hit by an SUV. The manner of death was homicide. Doctor Filkins further testified that evidence of cocaine and alcohol was present in Sardin's body at the time of her death.

¶ 14 After presenting the aforementioned testimony, the State rested its case. Defendant elected to exercise her constitutional right to testify. She stated that she was 21-years-old at the time of the incident and that had been dating and living with James Clark for about a year. She confirmed that Clark's nickname was "Bud." On November 17, 2008, defendant was driving to the grocery store in an SUV that Clark had rented when she received a phone call from him. After the call, defendant drove to meet him. As she maneuvered her car east on 41st Street she observed her boyfriend being followed by two women. She recognized one of the women as Sardin. Defendant clarified that she "really didn't know her, know her;" rather, she had met Sardin once or twice. Defendant explained that Sardin was a friend of her boyfriend's and had been to Clark's home in the past. Defendant, however, did not know whether Sardin had ever had a romantic relationship with Clark.

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¶ 15 As defendant reached the intersection of 41st Street and Wabash Avenue, she observed Clark and Sardin arguing, but she was unable to hear what was being said. She had intended to stop the SUV to pick up Clark, but as she drove closer to him, an item was thrown at her vehicle's window. Defendant testified that she became afraid of Sardin and Brown and feared that they would get into the vehicle if she stopped. As a result, defendant initially drove the SUV past both women who were standing in the median before making a U-turn. After turning her vehicle around, defendant made another attempt to pick up Clark. She explained that Sardin was still in the street and that she tried to swerve the vehicle around her, but ultimately struck her with the SUV. Defendant did not realize that she also struck Brown with her vehicle. She denied that she ever aimed her vehicle at either of the women.

¶ 16 Defendant acknowledged that did not stop her vehicle after hitting both women with her car; rather, she "panicked" and sped away from the scene. She drove onto the Dan Ryan Expressway, intending to make her way to Indiana where her family lived. Defendant explained that she wanted to go to Indiana because she "wanted to see [her] family" and because she "had to take care of some personal business." Because she knew she could not make it there with a cracked windshield, defendant ultimately abandoned the SUV on 71st Street. Defendant then took a train to Indiana. After staying with her family for a period of time, defendant subsequently returned to Chicago. When she learned that police were looking for her, defendant turned herself into police. Although defendant had a cell phone, she acknowledged that she never called the police to report the collision.

¶ 17 At the conclusion of defendant's testimony, the parties delivered closing arguments. The

jury commenced deliberations after receiving the relevant jury instructions and ultimately returned with a verdict finding defendant guilty of first-degree murder and not guilty of attempted murder. The court subsequently presided over a sentencing hearing, and after considering evidence advanced in aggravation and mitigation, sentenced defendant to 39 years' imprisonment. This appeal followed.

¶ 18

II. ANALYSIS

¶ 19 On appeal, defendant solely argues that she was denied her rights to a fair trial and to confrontation when the State elicited prejudicial hearsay testimony from Detective Jones about the relationship that Sardin had with defendant's boyfriend. She argues that this testimony was the "primary evidence" that the State relied on to establish that defendant acted with the requisite mental state to support an intentional first-degree murder conviction. Because this was the only element of the crime at issue during her trial, defendant argues that the admission of the hearsay testimony was "highly prejudicial" and ultimately deprived her of her right to a fair trial.

¶ 20 The State responds that no improper hearsay testimony was elicited from Detective Jones. The State observes that Jones merely relayed the steps she took during the course of her investigation of the incident. Although Detective Jones explained that she spoke to members of Sardin's family prior to issuing an investigative alert for defendant, the State emphasizes she never recounted the substance of her conversations with Sardin's family and never provided any information about Sardin's relationship with defendant's boyfriend.

¶ 21 Although defendant suggests that her claim should be reviewed *de novo*, it is well-established that evidentiary rulings are within the sound discretion of the circuit court and will

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not be reversed absent an abuse of discretion. *People v. Caffey*, 205 Ill. 2d 52, 89 (2001); *People v. Dobbey*, 2011 IL App (1st) 091518, ¶ 43. More specifically, a trial court's ruling on the admissibility of hearsay testimony is reviewed for an abuse of discretion. *Caffey*, 205 Ill. 2d at 89; *People v. Bailey*, 409 Ill. App. 3d 574, 583 (2011). An abuse of discretion will be found only where it can be determined that the trial court's ruling is arbitrary, fanciful or unreasonable or where no reasonable person would take the view adopted by the trial court. *People v. Illgen*, 145 Ill. 2d 353, 364 (1991); *People v. Rush*, 401 Ill. App. 3d 1, 13 (2010). Keeping this standard in mind, we now turn to the substance of defendant's claim.

¶ 22 Hearsay is an out-of-court statement offered to prove the truth of the matter asserted and is generally inadmissible unless it falls within a specifically recognized exception. *Caffey*, 205 Ill. 2d at 88; *People v. Lawler*, 142 Ill. 2d 548, 557 (1991); *People v. Wright*, 2013 IL App (1st) 103232, ¶ 73. The general prohibition of hearsay evidence exists because there is no opportunity to cross-examine the declarant and violates a defendant's constitutionally protected right to confrontation. U. S. Const., amends. VI, XIV; Ill. Const. 1970, art. I, § 8; *People v. Peoples*, 377 Ill. App. 3d 978, 983 (2007); *People v. Jura*, 352 Ill. App. 3d 1090, 1085 (2004). One exception to this general prohibition permits police officers to testify about statements made by others when such testimony is not offered to prove the truth of the matter asserted, but is instead used to show the investigative steps taken by the officer that led to a defendant's arrest. *People v. Pulliam*, 176 Ill. 2d 261, 274 (1997); *People v. Rush*, 401 Ill. App. 3d 1, 15 (2010). Pursuant to the "course-of-conduct" or "investigatory procedure" exception, an officer may testify that she had a conversation with an individual and acted on the information that she received. *People v. Mims*,

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403 Ill. App. 3d 884, 897 (2010); *Jura*, 352 Ill. App. 3d at 1085. This exception, however, does not permit an officer to detail the substance of her conversation with the individual because such testimony constitutes inadmissible hearsay. *Mims*, 403 Ill. App. 3d at 897; *Jura*, 352 Ill. App. 3d at 1085. Where an officer's testimony is limited to showing the course of the investigation that led to the defendant's arrest, the testimony does not constitute hearsay and the admission of that testimony does not violate a defendant's constitutional right to confrontation. *Peoples*, 377 Ill. App. 3d at 986.

¶ 23 Here, at trial, Detective Jones provided details about her investigation into the car incident that killed Sardin. Specifically, Detective Jones recounted that she spoke to members of Sardin's family, including her sister, Audreya, before compiling a photo array of potential suspects, including a picture of defendant. The testimony was relayed in the following manner:

"[STATE]: And during that conversation, did you speak to [Audreya] about a relationship [her sister] had with a man by the name of James Clark?

[DETECTIVE JONES]: Yes.

[STATE]: What did Audreya tell you regarding that relationship?

[DEFENSE]: Objection

[COURT]: Sustained."

¶ 24 After the court sustained defense counsel's objection, a sidebar was conducted outside of the presence of the jury. During the sidebar, the court explained: "Here's my ruling, you can ask if [Detective Jones] had a conversation without the content. You can ask what she did after the conversation. The content of the conversation will not come in. The objection to that is

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sustained." Thereafter, the State resumed its examination of Detective Jones as follows:

"[STATE]: Detective, you had a conversation with a family member; is that correct?

[DETECTIVE JONES]: Correct

[STATE]: After having a conversation with that family member, did you continue with your investigation?

[DETECTIVE JONES]: Yes

[STATE]: Pursuant to that investigation, you returned to Area 1?

[DETECTIVE JONES]: Yes

[STATE]: Did you do anything while you were at Area 1?

[DETECTIVE JONES]: Compiled all the interviews and prepared photo arrays.

[STATE]: Can you explain to the ladies and gentlemen of the jury what a photo array is?

[DETECTIVE JONES]: Sure. A photo array is a subject that you put—a suspect that you put into photos with other people who match the similar description.

[STATE]: And you compiled a photo array of that nature; is that correct?

[DETECTIVE JONES]: Yes

[STATE]: Did you include one specific person at that time that you were at that time suspicious of?

[DETECTIVE JONES]: Yes

[STATE]: Who was that?

[DETECTIVE JONES]: Kristy Wright [Defendant]."

¶ 25 After reviewing the aforementioned testimony, we reject defendant's argument that

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Detective Jones' testimony included inadmissible hearsay. Detective Jones did not recount the substance of her conversation with Sardin's sister; rather, she merely relayed the course of events that led to defendant's arrest. Importantly, she did not explicitly testify about any statement made by Audreya that implicated defendant of any crime. Instead, Detective Jones merely testified that after her conversation with Audreya, she returned to the police station and assembled a photo array in which defendant's picture was included. Such testimony does not constitute hearsay and is admissible. See, e.g., *People v. Gacho*, 122 Ill. 2d 221, 248 (1988) (recognizing that course-of-investigation testimony is admissible even where the inference to be drawn from that testimony is that the conversation motivated the officer's conduct); *Peoples*, 377 Ill. App. 3d at 986 (same). Accordingly, because Detective Jones' testimony was limited to her investigatory procedure, it did not amount to hearsay and its admission does not constitute error. Moreover, because Detective Jones' testimony did not constitute hearsay, her testimony did not violate defendant's constitutional right to confrontation. See, e.g., *Peoples*, 377 Ill. App. 3d at 986.

¶ 26 Assuming *arguendo* that Detective Jones' testimony did include inadmissible hearsay, we find that the admission of said testimony was harmless beyond a reasonable doubt. See *People v. Gonzalez*, 379 Ill. App. 3d 941, 955 (2008) (recognizing that the admission of hearsay testimony amounts to harmless error if there is no reasonable probability that the verdict of the trial would have been different had the hearsay been excluded). Here, the jury heard testimony from Audreya as well as defendant herself that Sardin had a relationship with Clark. Although their relationship was never defined, both witnesses confirmed that Sardin and Clark knew each other. Given that Detective Jones' testimony did not include any additional information about that

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relationship that the jury had not already heard, defendant was not prejudiced by her testimony. See, e.g., *Mims*, 403 Ill. App. 3d at 897 (finding that the defendant was not prejudiced by the admission of hearsay testimony where it merely recounted evidence that the jury had already heard and did not include any additional details). Moreover, despite defendant's claim to the contrary, Detective Jones' testimony was not the sole evidence presented by the State to support the charge that defendant acted with intent to kill necessary to sustain a murder conviction. The extensive nature of Sardin's injuries and the eyewitness testimony both support the jury's finding that when defendant struck Sardin, she did so with an intent to kill. See *People v. Teague*, 2013 IL App (1st) 110349, ¶ 24 (recognizing that intent to kill may be inferred from the surrounding circumstances, including the character of the assault, the use of a deadly weapon and the nature and extent of the victim's injuries).

¶ 27

III. CONCLUSION

¶ 28 Accordingly, the judgment of the circuit court is affirmed.

¶ 29 Affirmed.

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