

EVIDENCE (PHOTOS)

Admission of Testimony into Evidence that Links Defendant's Name to Photograph in Police Database did not Constitute Error.

Trial Court may Instruct Jury on how to Consider Expert Testimony

State v. McLean, __ N.C. App. __, __ S.E.2d. __ (July 6, 2010)

The trial court's admission of testimony into evidence that linked defendant's name to a photograph in the Sanford Police Department photo database did not constitute error, much less plain error. It was not error for the trial court to instruct the jury on how to consider expert testimony based upon the testimony of Special Agent West.

Evidence--prior crimes or bad acts_preparation of photographic lineup

State v. Bellamy, 172 NCA 649 (2005)

The trial court did not err by permitting a detective to testify concerning the method he used to put together a photographic line-up containing a photograph of defendant even if this testimony may have allowed the jury to infer that defendant had a prior arrest.

Identification of Defendants—photographic lineup—not unduly suggestive

State v. Tutt, 171 NC App 518 (2005)

Due process does not require that all subjects in a photographic lineup be identical in appearance. Nor is such a lineup impermissibly suggestive merely because the defendant has a distinctive appearance. All that is required is that the lineup be fair and the investigating officers do nothing to induce the witness to select one subject rather than another.

Evidence—autopsy photographs—projected onto screen

State v. Snider 168 NCA 701 (2005)

The trial court did not abuse its discretion in a murder prosecution by admitting autopsy photographs projected onto a screen to illustrate the medical examiner's testimony. The photographs were not used in a repetitive manner and it was not excessive to project them onto a screen so that they could be viewed more easily.

Evidence--photographs--victim's body

State v. Haselden, 357 NC 1 (2003)

The trial court did not abuse its discretion in a capital first-degree murder case by admitting three photographs of the victim's body even though defendant stipulated that he caused the victim's death with the infliction of multiple gunshot wounds, because: (1) the photographs not only depicted the condition of the victim's body when found, but also corroborated defendant's confession to another man that defendant had killed the victim; (2) each photograph was taken at a different angle which offered a unique perspective on the nature and location of the victim's wounds; and (3) by showing the number and location of the victim's wounds, the photographs helped to circumstantially prove premeditation and deliberation.

Evidence--photos--gang brands and tattoos--Miranda

State v. Riley, 159 NCA 546 (2003)

There was no plain error in the admission of an officer's testimony about the meaning of photos of defendant's tattoos and brands, which allegedly depict gang membership, where defendant contended that the information was obtained after he had indicated that he did not want to be questioned without an attorney. Defendant did not object to testimony that the markings indicated membership in a gang, and there was other evidence in the record about the meaning of the marks and that the officer knew the meaning of the marks from other sources.

Evidence - photograph - defendant wearing particular shirt – admissible

State v. Robinson, 355 N.C. 320 (2002)

The trial court did not abuse its discretion in a capital prosecution for first-degree murder by admitting into evidence a photograph of defendant wearing a particular shirt to show that defendant had owned such a shirt and to illustrate testimony.

Evidence--exhibits--diagram--photographs

State v. Williams, 355 NC 501 (2002)

The trial court did not err in a first-degree murder case by admitting into evidence two exhibits that were used during the interview of defendant on 25 February 1997 including a diagram and some photographs, because: (1) defendant used the diagram and photographs when giving his statement on that date; and (2) defendant's statement has already been ruled admissible, the exhibits were a part of that statement, and defendant has not given any reason to reconsider this issue.

Evidence--videotapes--photographs--crime scenes and injuries

State v. Williams, 355 NC 501 (2002)

The trial court did not err in a first-degree murder, first-degree rape, first-degree sexual offense, assault with a deadly weapon, assault with a deadly weapon with intent to kill inflicting serious injury, attempted first-degree rape, and assault with a deadly weapon with intent to kill case involving seven different victims over a fifteen-month span by admitting into evidence videotapes and photographs that showed crime scenes and injuries with respect to five of the victims, because: (1) defendant lost the benefit of an objection to the introduction of exhibits including photographs of one of the victims during a detective's testimony since defendant failed to object to the introduction of these exhibits when they were previously used to illustrate that victim's testimony, and even if defendant had objected, these exhibits were not so cumulative in nature as to constitute undue prejudice; (2) defendant's general objection to exhibits depicting the crime scene relating to

another victim was not adequate to preserve the issue for appellate review; (3) defendant failed to object to the admission of crime scene photographs relating to one of the victims; (4) the videotape and photographs relating to one of the victims were not repetitive and defendant failed to carry his burden of showing a different result would have been reached absent the introduction of this evidence; (5) the photographs of another victim were not too gruesome or repetitive and cumulative as to violate N.C.G.S. § 8C-1, Rule 403; and (6) the photographs and videotape submitted for another victim were not so gruesome and repetitive as to require their inadmissibility.

Evidence--photostatic reproduction--hotel registration card--authenticity--chain of custody

State v. Ferguson, 145 NC App 302 (2001)

The trial court did not err in a first-degree murder, attempted murder, and robbery with a dangerous weapon case by admitting a photostatic reproduction of a hotel registration card, because: (1) defendant's signature was properly authenticated under N.C.G.S. § 8C-1, Rule 901(a) by a comparison of his university identification card to the signature on the motel registration card; (2) although the original motel registration card was turned over to the police and its location was unknown, the owner of the motel testified that the exhibit was an exact copy of the original registration card and defendant has not raised any real issue as to the authenticity of the original; and (3) a detailed chain of custody was not necessary when there was no reason to believe the document was altered.

Evidence--photographs of victim--victim's bloodstained shirt

State v. Lloyd, 354 NC 76 (2001)

The trial court did not abuse its discretion in a capital first-degree murder prosecution by admitting four photographs of the victim's front porch showing a pool of blood and the victim's bloodstained shirt, five photographs of the victim's bloodstained shirt marked with bullet holes, and the victim's bloodstained shirt, because: (1) the photographs were introduced for the limited purpose of illustrating witness testimony; (2) the photographs were relevant under N.C.G.S. § 8C-1, Rules 401 and 402 for the purpose of allowing the jury to understand the

witness's testimony and for corroborating the State's case; (3) the photographs were not unnecessarily gory, inflammatory, or excessive; and (4) the victim's shirt was relevant to illustrate a witness's testimony and to corroborate the State's case.

Evidence and Witnesses 1694 (NCI4th) - photographs of victim's body - relevancy to prove premeditation and deliberation

State v. Barnes, 333 N.C. 666 (1993) 430 S.E.2d 223

Evidence and Witnesses 1697 (NCI4th) - murder - autopsy photographs of victim - admissible to illustrate testimony of pathologist

State v. Kyle, 333 N.C. 687 (1993) 430 S.E.2d 412

Evidence and Witnesses 1693 (NCI4th) enlarged photograph of victim's body - admissibility for illustrative purposes

State v. Sexton, 336 N.C. 321 (1994) ___ S.E.2d ___

Evidence and Witnesses 1694 (NCI4th) - photographs of graves and autopsies of murder victims

State v. Cummings, 332 N.C. 487 (1992) 422 S.E.2d 692

The trial court in a first degree murder prosecution did not abuse its discretion in the admission of twenty-three photographs of the autopsies of the victim and her sister and the graves in which the bodies were found where the photographs were used to illustrate the testimony of the doctors who performed the autopsies describing the cause of death and the manner of the killing of each sister, and the evidence was crucial to the State's theory that both sisters were killed by the same person.

Evidence and Witnesses 1695 (NCI4th) - photographs of murder - victim's body

State v. Lee, 335 N.C. 244 (1994) 439 S.E.2d 547

Although the victim's identity and the cause of her death were not in dispute in this sentencing proceeding for first-degree murder, photographs depicting the victim's nude body in an advanced stage of decomposition, the manner in which she was strangled, and injuries to her head were admissible to show the circumstances of her death which were relevant in the sentencing proceeding.

Evidence and Witnesses 1652 (NCI4th) photographs - defendant's destruction of property - hostility toward wife - admission for illustrative purposes

State v. Barlowe, 337 N.C. 371 (1994) ___ S.E.2d ___

Five photographs depicting defendant's extensive destruction of the contents of the home he shared with his wife were properly admitted to illustrate the testimony of three witnesses that on the night of a murder and other crimes defendant acted overtly hostile and with inexplicable violence toward his wife.

Evidence and Witnesses 1730 (NCI4th) videotape - admission for illustrative purposes

State v. House, 340 N.C. 187 (1995) ___ S.E.2d ___

The trial court did not err by admitting a videotape illustrating testimony describing the route along which a homicide victim had been dragged behind defendant's logging truck and the location of blood along the route two days after the murder.

Evidence and Witnesses 1731 (NCI4th) capital murder and rape videotape of body

State v. Kandies, 342 N.C. 419 (1996) ___ S.E.2d ___

The trial court did not abuse its discretion in a prosecution for the first-degree rape and murder of a four-year-old girl by admitting a twenty-minute videotape which portrayed the discovery of the body, including ninety seconds that focused on the bloodied head and body.

Evidence and Witnesses 1731 (NCI4th) first-degree murder videotape of crime scene victims moved to show wounds admissible

State v. French, 342 N.C. 863 (3-8-1996) ___ S.E.2d ___

Evidence and Witnesses § 1695 (NCI4th) photographs of decomposed body admissibility for illustrative purposes

State v. Bates, 343 N.C. 564 (1996) 473 S.E.2d 269

Evidence and Witnesses §§ 1688, 1694, 1700 (NCI4th) capital murder of police officers photographs of victims appearance in life, at scene, autopsy

State v. Harden, 344 N.C. 542 (1996) 476 S.E.2d 658

Evidence and Witnesses § 1687 (NCI4th) - murder of police officer - photograph taken before murder – admissible

State v. Gaines, 345 N.C. 647 (1997)

Defendant did not show error, much less plain error, in a prosecution for the murder of a police officer in the admission of a photograph of the officer taken while he was alive where the photograph was used for illustrative purposes during the testimony of the victim's wife.

Evidence and Witnesses § 1688 (NCI4th) - photograph of murder victim while alive – admissible for illustrative purposes

State v. Bishop, 346 N.C. 365 (1997)

A photograph of a murder victim while she was alive was admissible to illustrate her mother's testimony which described the color of her daughter's hair and which was relevant to show that the victim did not fit the description of a woman seen on the day before the murder purchasing oil lamps found in the mother's house where the victim was killed.

Evidence and Witnesses § 1679 (NCI4th) - child abuse and murder - photo of defendant - appearance on day of arrest – admissible

State v. Pierce, 346 N.C. 471 (1997)

There was no error in a prosecution for murder by torture, felonious child abuse, and felony murder in the introduction of a photograph of defendant taken on the day of his arrest which shows tattoos and long hair. The photograph was not inflammatory and, even assuming error, there was no reasonable possibility of a different result had the photograph been excluded.

Evidence and Witnesses § 1906 D(NCI4th) - and assault - photographic line-up - defendant's photo darker

State V. Johnson, 128 N.C. App. 361 (1998)

The trial court did not err in a robbery and assault prosecution by denying defendant's motion to suppress an out-of-court photographic identification where the individuals in the lineup all possessed physical characteristics similar to defendant's and, while defendant's photograph was one of two or three that were darker than the others, there is nothing to indicate that defendant's complexion was considered in constructing the lineup. Moreover, the witness had ample

opportunity to observe the robbery and assault and there was no substantial likelihood of misidentification.

Evidence - lineup - photo and physical - defendant only suspect in both

State v. Breeze, 130 N.C. App. 344 (1998)

The trial court did not err in an armed robbery prosecution by denying defendant's motion to suppress identifications where defendant was the only suspect who appeared in both the photo and physical lineups. Each of the three victims who viewed the physical lineup after the photo lineup had a strong motive for and intention to remember the appearance of the perpetrator; each of the victims had ample opportunity to observe the features of the perpetrator; each provided police with a definite, detailed description of the perpetrator based on studying the features of the perpetrator at the scene of the crime; defendant was not distinguished from the other suspects in either lineup; the witnesses were not encouraged to draw more attention to defendant than the other suspects; and each of the witnesses was able to sufficiently identify defendant as the perpetrator.

Evidence and Witnesses § 1695 (NCI4th) - first-degree murder - photographs of decomposed body - relevant and probative

State v. Warren, 348 N.C. 80 (1998)

The trial court did not err in a capital first-degree murder prosecution by denying defendant's motion in limine and allowing the admission of seven photographs of the victim's body.

Evidence and Witnesses § 1695 (NCI4th) - photographs of murder victim's body – decomposition and maggots

State v. Trull, 349 N.C. 428 (1998)

The trial court did not err by admitting eight photographs that show a murder victim's body in an advanced state of decomposition with maggot infestation where the photographs assisted in illustrating the testimony of the forensic entomologist, an SBI agent, and the forensic pathologist. Nor did the trial court abuse its discretion under N.C.G.S. § 15A-1233(a) by permitting the jurors to reexamine the photographs in the courtroom during their deliberations.

Evidence - capital sentencing - crime scene, autopsy and other photographs

State v. Williams, 350 N.C. 1 (1999)

The trial court did not err in a capital sentencing proceeding by its admission of photographs of the murder victim's house and neighborhood to illustrate the testimony of the victim's neighbor and her nephew regarding what they saw on the night of the crime; a photograph of the victim on the night of the killing to illustrate testimony of the victim's nephew and brother-in-law about the injuries they observed following the killing; and five photographs of the victim taken by the forensic pathologist to illustrate his testimony about the injuries to the victim's head and vaginal area that he observed during his autopsy. Furthermore, photographs of the victim on the day after the killing were relevant to the issue of whether the murder was heinous, atrocious or cruel.