

OPINION

Officer's Opinion Testimony That Substances Were Marijuana Was Admissible

State v. Ferguson, ___ N.C. App. ___, ___ S.E. 2d ___ (15 June 2010).

The defendant was convicted of two marijuana offenses. The court ruled, relying on *State v. Fletcher*, 92 N.C. App. 50 (1988) (officers with appropriate background properly offered opinion testimony that substance was marijuana), the trial court did not err in allowing a law enforcement officer to testify that in his opinion the substances seized from a motor vehicle and the defendant's pocketbook were marijuana. The court stated that the decision in *State v. Llamas-Hernandez*, 363 N.C. 8 (2009) (reversing court of appeals ruling based on dissenting opinion, which stated that officer's opinion testimony that white powder was cocaine was inadmissible), did not cast doubt on the continuing validity of the *Fletcher* ruling.

Rule 702(a1) Obviates State's Need to Prove HGN Testing Method Is Sufficiently Reliable

State v. Smart, ___ N.C. App. ___, 674 S.E.2d 684 (17 March 2009).

An officer stopped a vehicle for impaired driving. She noticed a "very strong" odor of alcohol on the driver and other signs of impairment. She administered the horizontal gaze (HGN) nystagmus test and observed several indicators that the defendant was under the influence of an impairing substance. The court rejected the defendant's argument that the state failed to show that HGN is sufficiently reliable as a basis for expert testimony. The court ruled that Rule 702(a1) obviates the state's need to prove that the HGN testing method is sufficiently reliable.

Court, Per Curiam and Without Opinion, Reverses Ruling of North Carolina Court of Appeals for Reasons Stated in Dissenting Opinion That Trial Judge Erred in Allowing Detective to Offer Lay Opinion That White Powder Was Cocaine

State v. Llamas-Hernandez, ___ N.C. ___, 673 S.E.2d 658 (6 February 2009), reversing for reasons stated in dissenting opinion, ___ N.C. App. ___, 659 S.E.2d 79 (15 April 2008).

The court, per curiam and without an opinion, reversed the ruling of the North Carolina Court of Appeals for the reasons stated in the dissenting opinion that the trial judge erred in allowing a detective to offer a lay opinion that 55 grams of a white powder seized by officers was cocaine. The substance was not subject to preliminary testing. The identification of the powder was based solely on the detective's visual observations. There was no testimony why he believed that the white powder was cocaine other than his extensive experience in handling drug cases. There also was

no testimony about any distinguishing characteristics of the white powder, such as its taste or texture. [Author's note: This ruling raises a question about the continuing validity of *State v. Freeman*, 185 N.C. App. 408 (2007) (officer's lay opinion testimony that pills were crack cocaine was admissible). On the other hand, the rationale for the ruling in *Llamas-Hernandez* does not appear to affect a ruling that an officer may offer expert opinion testimony that a substance is marijuana; see, e.g., *State v. Fletcher*, 92 N.C. App. 50 (1988).]

(2) Trial Judge Erred in Allowing Detective To Offer Lay Opinion Testimony That Surveillance Videotapes of Events Involving Criminal Offenses Were Consistent With Victim's Trial Testimony

State v. Buie, ___ N.C. App. ___, 671 S.E.2d 351 (6 January 2009).

The defendant was convicted of first-degree sexual offense and rape, armed robbery, and second-degree kidnapping. The victim was kidnapped in a hospital parking lot, forced to withdraw money from her ATM, and later was sexually assaulted. (2) The state introduced surveillance tapes from the hospital and bank that had recorded some of the events involving the crimes being tried. The court ruled that the trial judge erred in allowing a detective to offer lay opinion testimony of what the videotapes depicted. For example, the detective was impermissibly allowed to testify that the videotapes were consistent with the victim's trial testimony. The court distinguished other appellate cases that have upheld the admission of testimony by officers concerning surveillance videotapes, because their interpretations of those videotapes were based in part on their firsthand observations.

Trial Judge Did Not Err in Allowing Law Enforcement Officer to Offer Opinion That Seized Pills Were Crack Cocaine

State v. Freeman, ___ N.C. App. ___, 648 S.E.2d 876 (21 August 2007).

The defendant was convicted of possession of cocaine. The court ruled that the trial judge did not err under Rule 701 in allowing a law enforcement officer to offer his opinion that two of the pills in a pill bottle seized from the defendant were crack cocaine—based on his extensive training and experience with narcotics. The officer testified that during his eight years as an officer he had had contact with crack cocaine between 500 and 1,000 times.

Trial Judge Erred in Not Allowing Defense Witnesses to Offer Under Rule 405(a)

Their Personal Opinions of State's Witness's Character for Truthfulness or Untruthfulness

State v. Hernandez, 184 N.C. App. 344, 646 S.E.2d 579 (3 July 2007).

The defendant was on trial for rape. The court ruled that the trial judge erred in not allowing three defense witnesses to offer under Rule 405(a) their personal opinions of the character of truthfulness or untruthfulness of the state's witness (the alleged rape victim) who had testified on the state's case in chief. The defendant needed to show only that each of the three witnesses had personal knowledge of the witness and they had formed an opinion about her character for truthfulness or untruthfulness. The defendant was not required to show that the witness had been untruthful to the defense witnesses as a foundation for their testimony.

Trial Judge Did Not Err in Allowing Opinion Testimony by State's Accident Reconstruction Expert

State v. Brown, 182 N.C. App. 115, 646 S.E.2d 775 (6 March 2007).

The defendant was convicted of second-degree murder and other offenses (willful speed competition, reckless driving, and driving left of center) as a result of a collision of his vehicle (vehicle A) with another vehicle (vehicle B) as they sped together on a highway, and vehicle B crashed into the decedent's vehicle (vehicle C), which was traveling in the opposite direction from vehicles A and B. The court ruled that the trial judge did not err in allowing the state's accident reconstruction expert to offer his opinion that the driver of vehicle B was trying to get out of the way of oncoming traffic, based on statements made by the driver of vehicle B and the physical evidence. The court stated that the expert employed methods found to be reliable, such as a review of both the physical evidence and witness statements.

Evidence-Detective's testimony-Nature of testimony by child sexual abuse victims-Permissible lay testimony

State v Wallace 179 NCA 710 (2006)

A detective's testimony that child sexual abuse victims do not tell exactly the same story every time constituted permissible lay testimony. His experience supports his testimony on the procedure he uses for questioning victims, and he offered no opinion on the credibility of the victim.

1. Evidence--lay opinion--identification of substance as methamphetamine

State v Yelton, 175 NCA 349 (2006)

The trial court did not abuse its discretion in a second-degree murder, possession with intent to sell and deliver methamphetamine, and sale and delivery of methamphetamine case by allowing lay witness testimony that the substance given by defendant to an individual who died was methamphetamine, because: 1) the testimony was admissible under N.C.G.S. § 8C-1, Rule 701 since it was rationally based on the witness's six years of experience with methamphetamine and her perceptions while smoking the substance; 2) the witness's uncertainty as to the precise weight and cost of an "eightball" was irrelevant; and 3) the witness's testimony was helpful for a clear understanding of her testimony or to the determination of a fact in issue.

2. Evidence--lay opinion--defendant trying to kill officer

State v McVay, 174 NCA 335 (2005)

The trial court did not err in an attempted first-degree murder prosecution by admitting the lay opinion of various law enforcement officers that defendant "tried to kill" an officer. The testimony of the officers amounted to nothing more than shorthand statements of fact based on their knowledge and observations.

5. Evidence--lay opinion--difference in shell casings fired from an automatic weapon versus a revolver

State v. Fisher 171 NCA 201 (2005)

The trial court did not commit plain error in a prosecution for assault with a deadly weapon with intent to kill inflicting serious injury and multiple assaults with a deadly weapon with intent to kill by failing to instruct the jury to disregard a detective's testimony following a sustained objection about the difference in shell casings fired from an automatic weapon versus a revolver, because: 1) the detective's testimony regarding the location of shell casings when a bullet is fired from two different weapons was not based upon any specialized expertise or training, but merely upon his own personal experience and observations in firing different kinds of weapons; and 2) having failed to qualify the detective as an expert in shell casing ballistics, the State was not prevented from eliciting lay opinion testimony from him.

4. Evidence--lay testimony--field sobriety tests

State v. Streckfuss 171 NCA 81 (2005)

The trial court did not err in a driving while impaired case by allowing a deputy to testify regarding the field sobriety tests over defendant's objection even though the State failed to establish both that the deputy was qualified to properly administer or interpret the tests and that the tests had been properly administered, because the testimony was relevant to the deputy's lay testimony that defendant was impaired.

4. Evidence—fingerprinting techniques—deputy's lay opinion

State v. Friend 164 NCA 430 (2004)

The trial court did not err by allowing a deputy to present lay opinion testimony about fingerprinting techniques. The deputy was in charge of CID and helped the jury understand why fingerprints were not recovered.

2. Evidence—consumption of alcohol by driver—observations of officer

State v. Speight 166 NCA 106 (2004)

An officer's testimony that a DWI and second-degree murder defendant had consumed sufficient alcohol to be impaired was admissible because the officer detected the odor of alcohol in the car and on defendant's breath, observed the scene of the collision and its severity, interviewed four or five witnesses, and had been on a traffic enforcement unit for five years.

2. Evidence--nonexpert testimony--effects of Valium

State v. Smith 357 NC 604 (2003)

The trial court did not err in a capital first-degree murder prosecution by allowing the testimony of a nurse regarding the effects of ten milligrams of Valium, because: 1) the testimony was admissible under N.C.G.S. § 8C-1, Rule 701 as a nonexpert's opinion based on reasonable perceptions while working as a nurse over a number of years; and 2) her testimony was admissible under Rule 701 since the testimony was helpful in the determination of a fact in issue concerning whether defendant was so impaired when he killed the victim that he could not have killed with premeditation and deliberation.

4. Evidence - credibility - failure to allow testimony - no prejudicial error

State v. Mareck, 152 N.C. App. 479 (2002)

Although the trial court erred in a second-degree murder case by preventing defendant from offering opinion testimony from two witnesses as to defendant's reputation for truthfulness to bolster defendant's credibility, the error does not warrant a new trial See Farb p23

5. Evidence—deputy fire marshal’s opinion—not qualified as expert

State v. Sexton 153 NCA 641 (2002)

The trial court did not err in a prosecution arising from the burning of an occupied mobile home by allowing a deputy fire marshal who had investigated the fire but who had not been qualified as an expert to give his opinion as to the cause of the fire. Defendant did not object at trial to the qualifications of the witness as an expert and the witness was better qualified than the jury to form an opinion on the cause of the fire.

3. Evidence—police officer’s opinion—drug dealers’ use of motels

State v. Diaz 155 NCA 307 (2002)

The trial court in a cocaine prosecution correctly allowed an officer to testify about a special focus on hotels in Greensboro for drug interdiction because the officer’s job and his experience made him better qualified than the jury to form the opinion that drugs had come into the city from individuals who were using hotels and motels within city limits.

2. Evidence—value of murder victim’s car—lab technician’s testimony

State v. Cobb 150 NCA 31 (2002)

The trial court did not err in a first-degree murder prosecution by allowing a crime lab technician to testify that the victim’s car had a value greater than \$1,000. The lab technician’s experience and close personal observation of the vehicle, viewed alongside evidence as to how the victim maintained the vehicle, provides an ample foundation for an opinion as to its value.

4. Evidence--minor child’s prior injuries--opinion testimony about battered child syndrome

State v. Stokes 150 NCA 211 (2002)

The trial court did not err in a first-degree felony murder and felonious

child abuse case by permitting the State to offer evidence of the minor child's prior injuries to his ear and head, as well as the opinion testimony of a doctor that the minor child suffered from battered child syndrome, because: 1) evidence of the prior injuries was relevant to the doctor's diagnosis of battered child syndrome; and 2) the basis of the doctor's expert opinion was his experience and education, as well as his review of the minor child's medical records and the autopsy report.

5. Evidence--defendant's demeanor after arrest--relevancy--lay opinion

State v. Lloyd 354 NC 76, 2001

The trial court did not abuse its discretion in a capital first-degree murder prosecution by admitting testimony of two of the State's witnesses concerning defendant's demeanor as calm at the time of his arrest within an hour of shooting the victim, because: 1) the testimony was relevant under N.C.G.S. § 8C-1, Rule 401 since it tended to negate defendant's claim that the shooting was accidental and shed light on both the circumstances of the murder and on defendant's intent and state of mind at the time of the offense; 2) the probative value of the testimony was not substantially outweighed by unfair prejudice, N.C.G.S. § 8C-1, Rule 403; and 3) the lay testimony was based upon the investigators' personal observations of defendant for a period of time and was helpful to a clear understanding of whether defendant acted with intent or whether the shooting was an accident, N.C.G.S. § 8C-1, Rule 701.

2. Evidence--opinion testimony--confession--not under influence of drugs, narcotics, or alcohol

State v. Patterson 146 N.C. App. 113, 2001

The trial court did not err in a first-degree murder case by allowing an S.B.I. agent to testify that defendant did not appear to be under the influence of drugs, narcotics, or alcohol or any other controlled substance when defendant spoke to agents at the Pitt County Detox Center about the victim's death, because: 1) a lay person may give his opinion as to whether a person is under the influence of an intoxicating substance so long as that opinion is based on the witness's personal observation; 2) a police officer is allowed to give his opinion of the defendant's mental capacities at the time of a confession; and 3) it was necessary for the agent in this case to give his opinion as to defendant's mental state at the time of the confession to help with the determination that defendant voluntarily gave the statement to police.

1. Evidence--opinion testimony--victim died from gunshot wounds to back of

head

State v. Cherry, 141 N.C. App. 642 2000

The trial court did not err in a first-degree murder case by allowing a deputy sheriff to testify that in his opinion the victim died from the gunshot wounds to the back of his head, because: 1) the deputy described the position of the victim's body and testified that he had seen bullet wounds to human bodies numerous times; 2) the deputy illustrated the nature and extent of the wounds with a photograph of the victim's body; and 3) the victim's wounds were lethal in nature to a sufficient degree to render expert medical testimony as to the cause of death unnecessary.

5. Evidence - lay opinion - investigating officer - driving while impaired

State v. Rich, 351 N.C. 386 (2000)

An investigating officer was properly permitted to state his opinion in a prosecution for two second degree murders that defendant was driving while impaired when he collided with the victims' vehicle for the purpose of showing malice where the officer based his opinion not only on the odor of alcohol, but also on his investigation of the accident and upon his experience enforcing traffic laws and dealing with intoxicated drivers.

12. Evidence - Lay opinion - shorthand statements of fact

State v. Braxton, 352 N.C. 158 (2000)

The testimony of several officers in a capital trial about the victim's screams during the murder, the appearance of the crime scene, and defendant's behavior and demeanor immediately following the murder, did not amount to improper lay opinion under N.C.G.S. § 8C-1, Rule 701 because the testimony of these witnesses was admissible as shorthand statements of fact.

3. Evidence - Lay opinion - personal perception

State v. Johnson, 136 N.C. App. 683 (2000)

The trial court did not err in a first-degree murder and robbery with a dangerous weapon case by refusing to sustain defendant's objection to the State's questioning of the detectives as to their opinions of defendant's understanding of the juvenile rights form because the opinions were based on the detectives' personal perceptions of defendant at the time of the confession and helped the trial court determine the issue of the

voluntariness of defendant's statement. N.C.G.S. 8C-1, Rule 701.

5. Evidence - lay opinion - intoxication

State v. Locklear, 136 N.C. App. 716 (2000)

The trial court did not err in an assault with a firearm on a law enforcement officer case by allowing an officer to answer whether defendant appeared to be intoxicated because N.C.G.S. 8C-1, Rule 701 allows a lay witness to give an opinion as to the intoxication or sobriety of another, and the evidence reveals the officer was close enough to observe defendant's actions.

6. Evidence - Lay opinion - shorthand statement of fact

State v. Lesane, 137 N.C. App. 234 (2000)

The trial court did not err in a first-degree murder case by allowing the testimony of an eyewitness, stating it looked to him like defendant was trying to shoot the victim in the head, because the statement was a permissible opinion in the form of a shorthand statement of fact. N.C.G.S. § 8C-1, Rule 701.

Evidence and Witnesses 2068 (NCI4th) - murder - testimony disparaging defendant's character - emotions toward victim - admissible

State v. Jennings, 333 N.C. 579 (1993) 430 S.E.2d 188

The trial court did not err in a murder prosecution by allowing the victim's financial advisor to testify that defendant had wanted part of the victim's (her husband's) assets transferred to her immediately, that defendant had talked of the victim as if he was not human, that there was no compassion for the victim,

3. Evidence and Witnesses 2510 (NCI4th) - opinion or inference - personal knowledge or perception of witness

State v. Palmer, 334 N.C. 104 (1993) 431 S.E.2d 172

A detective was properly permitted to testify that there was no forced entry into a murder victim's apartment where the detective testified concerning his inspection of the apartment which formed the basis for this conclusion. N.C.G.S. 8C-1,

1. Evidence and Witnesses 2089 (NCI4th) - demeanor of defendant - opinion

evidence

State v. Shoemaker, 334 N.C. 252 (1993) 432 S.E.2d 314

Testimony by various witnesses that defendant appeared "carefree," "extremely calm," "nonchalant," "very unconcerned," and "uncaring" on the night of a shooting was admissible opinion evidence based on the witnesses' observations of defendant's demeanor.

5. Evidence and Witnesses 2093 (NCI4th) - murder - testimony that defendant feigning distress - admissible

State v. Dukes, 110 N.C. App. 695 (1993) 431 S.E.2d 209

The trial judge did not err in a murder prosecution by allowing the State's witnesses to testify that defendant was faking his distress at the scene of his wife's death, in route to the Law Enforcement Center, or at the Law Enforcement Center where each of the witnesses was required to provide foundation testimony which showed that their opinion was based upon their own perception of the defendant's behavior.

Evidence and Witnesses 2047, 2152 (NCI4th) - lay opinion testimony - capability of rape - perceptions and observations of witness - legal term of art

State v. Najewicz, 112 N.C. App. 280 (1993) 436 S.E.2d 132

Opinion testimony by defendant's supervisor as to whether defendant was "capable of raping anyone" was properly excluded because (1) there was no foundation showing that the opinion called for was rationally based upon the perception and observations of the witness, and the word "raping" is a legal term of art not readily apparent to the witness.

2. Evidence and Witnesses 2068 (NCI4th) -sexual abuse case - opinion testimony of parents - admission prejudicial error

State v. Kelly, 118 N.C. App. 589 (5-2-1995)

4. Evidence and Witnesses 2101 (NCI4th) first-degree murder - defendant's mental state following confession - officer's testimony excluded - no error

State v. Daniels, 337 N.C. 243 (1994) ___ S.E.2d ___

The trial court did not err in a first-degree murder prosecution by excluding portions of the testimony of a law enforcement officer regarding defendant's mental state following his confession where defendant's first questions were improper because they pertained only to whether defendant "could have waived" his rights and his last question, as to whether defendant understood the Miranda form, was also improper as calling for a legal conclusion. Witnesses may testify as to whether defendants had the capacity to understand certain words on the Miranda form, such as "right" or "attorney," but may not testify as to whether defendants had the capacity to waive their rights.

7. Evidence and Witnesses 2089 (NCI4th) defendant's demeanor at crime scene admissibility of investigating officers' testimony

State v. Lambert, 341 N.C. 36 (1995) ___ S.E.2d

In a prosecution of defendant for the murder of her husband, the trial court did not err in allowing the testimony of the investigating officers which related to defendant's lack of emotion at the scene of the killing, since the testimony stemmed from the officer's personal experience combined with their observation of defendant, was helpful to a clear understanding of a relevant issue, and had probative value which was not outweighed by the danger of unfair prejudice. N.C.G.S. 8C-1, Rule 701.

14. Evidence and Witnesses 2090 (NCI4th) murder of child another child's fear of defendant relevancy competency of lay testimony

State v. Burr, 341 N.C. 263 (1995) ___ S.E.2d ___

In a prosecution for the murder of a child, the mother's testimony that another of her children was scared of defendant was relevant and admissible to demonstrate the state of the familial relationship in the brief period preceding the murder during which defendant resided in the mother's home. Further, testimony by a neighbor that the children "didn't act like kids when [defendant] was around" was rationally based on the witness's perception and was competent to show the relationship defendant had with the children, one of whom was the murder victim. Also, a social worker's testimony that the mother told her that one of her children was scared of defendant was admissible to corroborate the mother's testimony.

3. Evidence and Witnesses 3156 (NCI4th) credibility of witness opinion testimony

State v. Jones, 342 N.C. 457 (1996) ___ S.E.2d ___

A deputy sheriff who investigated a murder was properly permitted to testify that he had formed an opinion that a State's witness was a truthful and honest person and that he had not caught her in a lie that he could prove, since the credibility of a witness whose credibility has been attacked may be supported by opinion testimony pursuant to N.C.G.S. 8C-1, Rule 608(a).

6. Evidence and Witnesses 2124 (NCI4th) noncapital first-degree murder officer's opinion markings on victim's clothing gunshot stippling

State v. Jones, 342 N.C. 457 (1996) ___ S.E.2d ___

There was no error in a first-degree murder prosecution where an officer was allowed to identify markings on the victim's clothing as gunshot stippling based on fifteen years of experience in examining crime scenes. The testimony corroborated testimony about stippling on the victim's shoulder and contradicted defendant's testimony about how far he was standing from the victim when he fired the gun.

7. Evidence and Witnesses 1274 (NCI4th) confession defendant's mental capabilities officer's opinion

State v. Jones, 342 N.C. 457 (1996) ___ S.E.2d ___

There was no error in a first-degree murder prosecution where an officer was allowed to give his opinion regarding defendant's mental capabilities at the time he confessed but defendant was not allowed to introduce evidence regarding his mental capabilities. The State has the burden of establishing that a confessing defendant possesses the proper mental capacity to waive his rights and the testimony meets the standards of N.C.G.S. 8C-1, Rule 701 in that the opinion was rationally based on the officer's perception of defendant at the time of the confession and it was necessary that the officer give his opinion to help determine whether defendant voluntarily gave the statement, a crucial fact in issue.

5. Evidence and Witnesses 2047 (NCI4th) lay opinion testimony proper foundation

State v. Mitchell, 342 N.C. 797 (3-8-1996) ___ S.E.2d ___

A proper foundation was laid for lay opinion testimony by a murder victim's sister that the victim's air conditioner was in "perfect shape" prior to the victim's death where the sister testified that she had eaten dinner at the victim's house the day before the murder, the air conditioner was located in the dining room where they ate dinner, and she did not notice that the air conditioner was not working at that time.

3. Evidence and Witnesses 2124 (NCI4th) opinion testimony about gunshot wound - failure to qualify as lay witness or expert

State v. Shuford, 337 N.C. 641 (1994) ___ S.E.2d ___

The trial court did not abuse its discretion by refusing to admit opinion testimony of an emergency medical technician concerning the distance from which the victim was shot without some showing by defendant that the witness was qualified to testify about gunshot wounds, either as a lay witness or as an expert,

6. Evidence and Witnesses § 2090 (NCI4th) capital murder victim afraid lay opinion testimony

State v. Burke, 343 N.C. 129 (1996) 469 S.E.2d 901

The trial court did not err in a prosecution for first-degree murder by admitting testimony from the director at a shelter where the victim had been staying that he had appeared tense or scared at times. Opinion testimony, including lay testimony, is admissible concerning the state of a person's appearance or emotions on a given occasion;

15. Evidence and Witnesses § 2051 (NCI4th) defendant desperate for money shorthand statement of fact

State v. Workman, 344 N.C. 482 (1996) 476 S.E.2d 301

Testimony that a defendant on trial for felony murder had tried to sell a vest to the witness and told the witness to borrow the money from his mother "like he might have been desperate for money" was admissible as a shorthand statement of fact.

6. Criminal Law § 1340 (NCI4th Rev.) capital sentencing mitigating evidence rebuttal by lay opinion testimony

State v. Bond, 345 N.C. 1 (1996) 478 S.E.2d 163

Where two of defendant's teachers and a social worker testified in a capital sentencing hearing that defendant was mentally retarded, an officer was properly permitted to rebut this mitigating evidence by lay opinion testimony that, based on his personal experiences with defendant, he did not think defendant was retarded. The mental condition of another is an appropriate subject for lay opinion.

3. Evidence and Witnesses §§ 2047, 2975 (NCI4th) - witness telling truth - testimony by officers - not improper character evidence - explanation of investigation

State v. Richardson, 346 N.C. 520 (1997)

In a first-degree murder prosecution wherein the State introduced defendant's pretrial statements which implicated one Hedgepeth as the actual perpetrator, and testimony by Hedgepeth refuted defendant's statements, testimony by one law officer that officers had "checked out" Hedgepeth's story, "taking care to make sure he was telling us the truth," and that in his opinion Hedgepeth had told him the truth, and testimony by a second officer that it appeared that Hedgepeth's story was true did not constitute inadmissible character evidence; rather, this testimony was admissible to explain the officers' investigation following defendant's implication of Hedgepeth and why Hedgepeth had been eliminated as a suspect. Assuming arguendo that the admission of this testimony was error, the error was harmless since Hedgepeth and his alibi witnesses testified at trial and the jurors were able to judge Hedgepeth's credibility for themselves. N.C.G.S. § 8C-1, Rules 405(a) and 608.

5. Evidence - opinion testimony by lay persons - personal observations - shorthand statements of facts

State v. Brown, 350 N.C. 193 (1999)

In a prosecution of defendant for the first-degree murder of her husband, testimony by a colleague of the victim that he sensed that the victim was unhappy in his marriage relationship, testimony by a witness that she "had suspected [defendant] all the time," testimony by an officer that defendant "appeared to be trying to be emotional" during an interview, and testimony by another witness that there "seemed to be tension" between the victim and defendant were based on the personal observations of the witnesses and were admissible under N.C.G.S. § 8C-1, Rule 701 as shorthand statements of facts.

5. Evidence - lay opinion - victim alive after shooting

State v. Hedgepeth, 350 N.C. 776 (1999)

A lay opinion by a restaurant customer that he thought the victim was alive when he was wheeled out of the restaurant after being shot by defendant was properly admitted in this capital sentencing proceeding since it was an inference rationally based upon the perception of the witness and helped to clarify his testimony.