



IN THE SUPREME COURT FOR THE STATE OF DELAWARE

RONNIE C. WILLIAMS
Defendant Below
Appellant

Case No. 80, 2022

V.

THE STATE OF DELAWARE
Plaintiff Below
Appellee

Court Below: Delaware Superior
Court of the State of Delaware

Date: 11/17/2022

**APPELLANT'S FIRST AMENDED OPENING
BRIEF**

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NATURE OF THE PROCEEDINGS

This appeal consists of the appeal by Ronnie C. Williams (“Mr. Williams”) to the Delaware Supreme Court of the State of Delaware following an order of the Superior Court of the State of Delaware in and for New Castle County, by the Honorable Diane Clark Streett, dated February 8, 2022.¹ The trial, which began November 8, 2021² and concluded February 18, 2022³ resulted in his conviction and sentencing for child sexual abuse charges.

¹ Appx0017

² *Id.* at 0019

³ *Id.* at 1302

SUMMARY OF THE ARGUMENT

1. The trial abused its discretion when it refused to grant Mr. Williams a mistrial after a State's witness had an outburst during the trial. This outburst prejudiced the jury and the trial court failed to provide an adequate jury instruction to amend the prejudice. Mr. Williams is requesting this appeal be GRANTED and that he be granted a NEW TRIAL.

2. The trial court abused its discretion when it refused to grant Mr. Williams a mistrial after State's witnesses continually mentioned an individual that was not available to cross examine which violated Mr. Williams constitutional right to confront those who testify against him. These occurrences prejudiced the jury and the trial court failed to provide an adequate jury instruction to amend the prejudice. Mr Williams is requesting this appeal be GRANTED and that he be granted a NEW TRIAL.

STATEMENT OF THE FACTS

Jury selection began November 8, 2022⁴ and concluded November 9, 2022.⁵

The first day of trial began November 12, 2021.⁶ On this date, the court heard opening remarks from the State's attorney, followed by the testimony of Ms. Smith, Officer Mitchell, Erik Henriquez, and Ms. Cordova.⁷

Ms. Smith, a former roommate of Mr. Williams, shared testimony regarding her, as well as her son Ky'ree Watson's ("Ky'ree")⁸ relationship with him.⁹ According to Ms. Smith, Mr. Williams lived with her and her son during a particularly difficult time in her life and while living together, Mr. Williams was a great help in taking care of Ky'ree.¹⁰ Additionally, Ms. Smith testified that because of her struggles using drugs, she spent some time in prison¹¹ then subsequently moved to North Carolina in 2012.¹² During these events, Ky'ree remained in Delaware.¹³ The State's attorney then inquired into whether Ky'ree was spending time at Mr. William's residence which prompted defense Counsel to request a conference at sidebar.¹⁴ Defense counsel referenced previous discussions between parties in which they agreed very minimal testimony regarding Ky'ree was

⁴ *Id.* at 0019

⁵ *Id.* at 0196

⁶ *Id.* at 0268

⁷ *Id.* at 0270

⁸ "Ky'ree" is referred to as "Cyree" in the transcript.

⁹ *Id.* at 0329

¹⁰ *Id.* at 0330

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Appx0331

permissible.¹⁵ The court then instructed the State’s attorney not to ask questions that would suggest Ky’ree lived with Mr. Williams at his residence.¹⁶ The court did not issue a curative instruction.¹⁷ Ms. Smith also shared with the court that prior to these proceedings, Ky’ree had died.¹⁸ On Cross, Ms. Smith established that while she was apart from Ky’ree, he had spent a period of time living with his father in the lower region of Delaware.¹⁹

Next, the court heard from Officer Mitchell, who responded to the residence of Ms. Cordova, mother of alleged victims Erik Henriquez (“Erik”) and Anthony Garcia (“Anthony”) in March of 2013.²⁰ Officer Mitchell explained that when he spoke with Erik and Anthony, both of them told him that there was no inappropriate or unlawful sexual contact between themselves and Mr. Williams.²¹

The court then heard from Erik Henriquez. Erik began by explaining that he came to know Mr. Williams through playing with Ky’ree²² and that he began to have sleepovers with Ky’ree at Mr. Williams residence.²³ Immediately following this statement, Counsel met at sidebar to discuss how to mitigate the continual

¹⁵ Id. at 0331

¹⁶ Id. at 0334

¹⁷ Id.

¹⁸ Id. at 0340

¹⁹ Id. at 0344

²⁰ Id. at 0347-0348

²¹ Id. at 0348-0350

²² Id. at 0363

²³ Id. at 0367

mentioning of Ky'ree and his residency with Mr. Williams.²⁴ The court did not provide a curative instruction to the jury but instead took a short break in order to remind Erik not to mention Ky'ree staying at Mr. Williams residence.²⁵ Erik then recounted one of the sleepovers where he alleges Mr. Williams performed oral sex on him²⁶ and that this type of conduct, as well as other types of conduct, reoccurred after that.²⁷ The State's attorney then asked if Erik had maintained a relationship with Ky'ree, to which Defense counsel objected.²⁸ Again, counsel met a sidebar but this time Defense counsel motioned for a mistrial, citing that the continual references to Ky'ree unduly suggested that Ky'ree too was a victim of abuse while staying with Mr. Williams.²⁹ The court denied the motion and counsels agreed the State would be allowed to lead the witness in an attempt to avoid potential prejudicial damage.³⁰

When testimony resumed, Erik testified that after he left Delaware, he eventually disclosed what had happened to him to Ky'ree³¹, clarifying that although he had told Officer Mitchell that there was no illegal sexual behavior happening between him and Mr. Williams, he was not telling the truth because he was scared.³² The State then inquired into what Erik was doing in the summer of

²⁴ Id.

²⁵ Id. at 0368-0369

²⁶ Id. at 0374

²⁷ Id. at 0378

²⁸ Id. at 0382

²⁹ Id. at 0383; Question Presented Preserved

³⁰ Id. at 0385

³¹ Id. at 0388

³² Id. at 0389

2018, to which Erik stated that he went on a number of vacations with Mr. Williams to various amusement parks over a span of three months.³³ At some point in time after these trips, Erik informed the court that he became aware that his younger brother Anthony had also alleged abuse against Mr. Williams and that this knowledge led him to sever his relationship with Mr. Williams.³⁴ When asked why he went on vacation with Mr. Williams, despite allegedly having been abused by him numerous times, Erik explained that he had “blocked it out” and continued “for the free stuff”.³⁵ In 2019, Erik testified that he spoke with a Detective Smith and disclosed the incidents of abuse that occurred in the past, as well as alleging that the abuse occurred when he would return to Delaware to visit family.³⁶

On Cross examination, Counsel for Mr. Williams pointed out the discrepancies between Erik's previous statements to police and the testimony he was sharing with the court regarding the type of sexual misconduct he was accusing Mr. Williams of³⁷ as well as the time frame over which it happened.³⁸ Following this testimony, Erik was asked to refer to an exhibit which were previous statements he made in preparation for trial³⁹ and an Instagram

³³ Id. at 0391-0392

³⁴ Id. at 0393

³⁵ Id. at 0394

³⁶ Id. at 0394-0397

³⁷ Id. at 0412-0423

³⁸ Id. at 0427-0430

³⁹ Id. at 0440-0442

conversation he had with his brother Anthony about “finessing” Mr. Williams financially.⁴⁰

Lastly, the court heard from Ms. Cordova,⁴¹ Erik and Anthony’s mother. Ms. Cordova began by explaining her relationship with Mr. Williams as well as her recollection of her sons’ relationship with him.⁴² During this line of questioning, Ms. Cordova became emotional and had an outburst where she called Mr. Williams “a freaking liar”.⁴³ At this point, Counsel for Mr. Williams motioned for a mistrial, explaining that Ms. Cordova’s emotional state and courtroom outburst was prejudicial to Mr. Williams and the damage required a mistrial.⁴⁴ The court, denying the motion, instead decided to cease testimony for the day and issue a brief instruction for the jury to disregard Ms. Cordova’s outburst.⁴⁵ Additionally, because Ms. Cordova was to resume her testimony the following week, the court instructed her that any more outbursts or emotional displays would result in her being removed from the court and stricken from giving further testimony.⁴⁶ With this, the court concluded proceedings for the day.⁴⁷

⁴⁰ Id. at 0444-0445

⁴¹ Id. at 0461

⁴² Id. at 0465-0467

⁴³ Id. at 0467-0468

⁴⁴ Id. Question Presented Preserved.

⁴⁵ Id. at 0470

⁴⁶ Id. at 0472-0474

⁴⁷ Id.

On Monday, November 15, 2021, the court resumed trial and continued with testimony from Ms. Cordova. The State's attorney asked Ms. Cordova if her son Anthony would spend time at Mr. Williams house and for what purposes.⁴⁸ Ms. Cordova responded that Mr. Williams would treat Anthony very well but opined that his intentions were to manipulate Anthony.⁴⁹ This response raised an objection by defense counsel and a conversation was had at sidebar in an attempt to limit Ms. Cordova's prejudicial remarks.⁵⁰ When testimony resumed, State's counsel inquired about whether Mr. Williams had moved from his previous address to another location.⁵¹ Ms. Cordova confirmed, clarifying that Mr. Williams had lived with Ky'ree and moved in order to continue to live with Ky'ree.⁵² This too raised concern for defense counsel and another conversation was held at sidebar to address State's line of questioning that could lead to Ms. Cordova mentioning Ky'ree.⁵³ Before resuming testimony, the court issued a brief instruction to disregard the last answer that Ms. Cordova gave.⁵⁴ The remainder of Ms. Cordova's testimony informed the court that in 2017, she moved to a new home and Anthony began living with Mr. Williams to avoid switching schools.⁵⁵ At this time, Mr. Williams also became Anthony's legal guardian.⁵⁶ Ms. Cordova testified

⁴⁸ Id. at 0493-0495

⁴⁹ Id.

⁵⁰ Id. at 0496

⁵¹ Id. at 0497-0501

⁵² Id.

⁵³ Id. at 0501

⁵⁴ Id. at 0503-0504

⁵⁵ Id. at 0505-0507

⁵⁶ Id.

that during this time, Mr. Williams was providing for Anthony and that he had concerns about Anthony dating because it may affect his grades or lead to a pregnancy.⁵⁷

After Ms. Cordova's testimony, the court heard from Officer Sydnor, an officer with the New Castle County Police Department.⁵⁸ Officer Sydnor testified that he executed a search warrant at Mr. William's residence on September 13, 2018.⁵⁹ He explained that the evidence he was looking for was evidence of interior cameras, footage that would have been captured by these cameras, and a muscle stimulation machine.⁶⁰ Officer Sydnor then testified that he did not seize any cameras⁶¹, any footage⁶², or any muscle stimulation machines.⁶³

Anthony Garcia also testified on November 15, 2021. Anthony's testimony began by describing the circumstances in which he became acquainted with Mr. Williams and how frequently he would spend time at Mr. William's residence.⁶⁴ Anthony continually mentioned Ky'ree's name, describing that he enjoyed playing video games with Ky'ree and talking with him and Mr. Williams about life in general.⁶⁵ Anthony describes feeling like "more of a part of that family with Ky'ree and Ronnie" as a reason for wanting to spend time at Mr.

⁵⁷ *Id.* at 0512

⁵⁸ *Id.* at 0517

⁵⁹ *Id.* at 0522

⁶⁰ *Id.* at 0523

⁶¹ *Id.* at 0531

⁶² *Id.* at 0533

⁶³ *Id.* at 0535-0536

⁶⁴ *Id.* at 0543-0554

⁶⁵ *Id.*

Williams residence.⁶⁶ After this answer, defense Counsel requested to approach the bench because he was again concerned about the mentioning of Ky'ree.⁶⁷ The trial court noticed that Anthony appeared to be smirking when mentioning Ky'ree's name and agreed this was a problem.⁶⁸ The court then decided to send the jury out in order to instruct Anthony itself.⁶⁹ After instructing him not to mention Ky'ree anymore, Anthony's testimony continued without any further issues.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 0556

ARGUMENT

I. The trial court erred in denying Mr. Williams motion for a mistrial because Ms. Cordova’s courtroom outburst unduly prejudiced Mr. Williams and infringed upon his Constitutional right to an impartial jury according to the Sixth Amendment

A. QUESTION(S) PRESENTED

Whether a trial judge should grant a motion for mistrial according to the *Taylor* test when a prosecution witness has a courtroom outburst in front of the jury? (Preserved Appx0467-0468)

Whether it is an abuse of discretion to deny a motion for mistrial when the trial judge fails to give an adequate curative instruction following a courtroom outburst? (Preserved Appx0467-0468)

B. STANDARD OF REVIEW

The Delaware Supreme Court reviews a "trial court's denial of a motion for a mistrial under an abuse of discretion standard."⁷⁰

C. MERITS OF THE ARGUMENT

This Court should find that the trial court abused its discretion and infringed upon Mr. William’s right to an impartial jury by failing to grant a mistrial due to Ms. Cordova’s courtroom outburst. “A trial judge is in the best position to evaluate the prejudicial effect of an outburst by a witness upon the jury. Therefore, the decision on whether to grant a mistrial after an outburst by a witness rests within

⁷⁰ *Ray v. State*, 170 A.3d 777 (Del. 2017)

the trial judge's sound discretion.”⁷¹ “The denial of a motion for a mistrial because of a witness's outburst will not be reversed on appeal in the absence an abuse of that discretion or the denial of a substantial right of the complaining party.”⁷² In order to weigh whether the trial judge abused her discretion or denied the complaining party a substantial right, this Court must consult the four factors of the *Taylor* test.⁷³ “The first consideration is the nature, persistency, and frequency of the witness's outburst. The second consideration is whether the witness's outburst created a likelihood that the jury would be misled or prejudiced. The third factor to be considered is the closeness of the case. The final consideration is the curative or mitigating action taken by the trial judge.”⁷⁴

This Court applied the *Taylor* test in *Burns v. State*,⁷⁵ and determined that the lower court did not abuse its discretion in denying a motion for mistrial. Mr. Williams asks this Court to compare his facts to *Burns* by applying the *Taylor* test and find that the trial judge did abuse its discretion by denying his motion for a mistrial. The first factor of “persistence” is not in dispute and will not be discussed in the argument below. Additionally, if this Court finds in Mr. Williams' favor regarding factors three and four, the second factor of “likelihood” should fall in his favor as well.

⁷¹ *Johnson v. State*, Del. Supr., 311 A.2d 873, 874 (1973)

⁷² *Id.*

⁷³ *Taylor v. State*, 690 A.2d 933 (1997).

⁷⁴ *Id.* at 935.

⁷⁵ 968 A.2d 1012 (Del. 2009)

A. According to the third factor of the *Taylor* test, the outburst was especially prejudicial because of the “closeness” of the case.

In *Burns*, the defendant was convicted for second-degree rape of his two neices.⁷⁶ During the trial, a State’s witness had an outburst when responding to the prosecutor’s question by “rais[ing] his voice, lean[ing] forward in his chair and point[ing] toward Burns”.⁷⁷ The defense counsel immediately objected and motioned for a mistrial.⁷⁸ When weighing the third factor of the *Taylor* test, the court determined that the case was close because of “the absence of physical evidence and the age of the events in question” which “made the outcome depend on a “credibility contest” between Burns and the victims”.⁷⁹ Generally, the court determines the closeness of a case by considering the relevant evidence of the respective parties to determine whether or not the outburst was likely to prejudice the defendant in the eyes of the jury.⁸⁰

Mr. William’s case was also close for the same reasons exhibited in *Burns*. Similarly, Mr. Williams was tried for illegal sexual contact with minors and at trial, the State relied heavily on testimony from the victims to secure a conviction because there was very no physical evidence to support the charges.⁸¹ Additionally,

⁷⁶ *Id.* at 1016

⁷⁷ *Id.* at 1015

⁷⁸ *Id.*

⁷⁹ *Id.* at 1017

⁸⁰ See *Lowman v. State*, 124 A.3d 1014 (2015) (illustrating how this Court found the case was not close due to the overwhelming evidence against the defendant).

⁸¹ App 0507-0520. During the execution of the September 13, 2018 search warrant, no physical evidence was seized, including no cameras, no footage from internal cameras, and no muscle stimulation machine.

the victims' allegations were in regards to conduct spanning from 2008 to 2017, making it difficult to recall specific dates and incidents, and therefore relying heavily on the credibility of the witnesses.⁸² As a result, this Court should find that Mr. William's case was also "close" and should weigh this factor in his favor when applying the *Taylor* test.

B. According to the Fourth Factor of the *Taylor* test, the outburst was especially prejudicial because the trial court failed to provide an adequate curative instruction.

This Court should review whether a mistrial should have been granted because "the Superior Court is in a better position to measure the risk of prejudice from events at trial."⁸³ This is especially true where the prejudice stems from an outburst in the presence of the jury.⁸⁴ Error can normally be cured by the use of a curative instruction and jurors are presumed to follow those instructions.⁸⁵ A curative instruction is a meaningful or practical alternative to declaring a mistrial.⁸⁶ As a general rule, a defendant is not entitled to a particular instruction, but he does have the unqualified right to a correct statement of the substance of the law.⁸⁷

In *Burns*, the court recognized the potential damage a courtroom outburst could have on a defendant, so it administered the following curative instruction:

⁸² Appx0025

⁸³ *Justice v. State*, 947 A.2d 1097, 1100 (Del. 2008).

⁸⁴ *Copper v. State*, 85 A.3d at 692 (Del. 2014)

⁸⁵ *Justice*, 947 A.2d at 1100.

⁸⁶ *Id.*

⁸⁷ *Hamilton v. State*, 82 A.3d 723, 726 (Del. 2013).

Ladies and gentlemen of the jury, before the recess there was a moment where tensions ran high and voices got loud. And that was not an appropriate way to express one's self in a courtroom; the witness has been so advised. Please do not allow yourself to be swayed by any emotion in this case. Your responsibility is to decide this case based upon the facts, the evidence, the testimony, any documents, the items that are introduced, and apply the law to that. And you are not, by your oath, to be swayed by any considerations other than the facts of the case and the evidence and the law. So I would instruct you to disregard the emotional outburst and to consider only the evidence in your deliberations in arriving at a verdict.⁸⁸

Burns argued that despite the court's curative instruction, he was still unfairly prejudiced and that no jury instruction could cure the harm already committed by the outburst.⁸⁹ This Court disagreed, stating that the curative instruction was "properly designed to cure any prejudice" that he may have suffered as a result of the outburst.⁹⁰

While Mr. William argues that his case is comparable to *Burns* regarding the "closeness" of the case, Mr. Williams' also argues his case is different from *Burns* when considering the measures taken by the court to mitigate the effects of a courtroom outburst. In *Burns*, this Court found that the trial court did not abuse their discretion in denying a mistrial because an adequate curative instruction was provided. This 133 word instruction recognized the tense and emotional nature of those particular proceedings but emphasized that juries should not allow any other facts or circumstances besides those submitted as permissible evidence to influence

⁸⁸ 968 A.2d 1012, 1016

⁸⁹ *Id.* at 1021.

⁹⁰ *Id.*

their verdict. The case then continued without any further incident. In Mr. William's case, after Ms. Cordova called Mr. Williams "a freaking liar" the court issued the following instruction:

Ladies and gentleman of the jury, I instruct you to disregard that last comment that was given.⁹¹

Immediately following this brief instruction, the trial court dismissed the jury for the weekend. Mr. Williams contends that the trial court's 17 word instruction, which did not specify what comment to be disregarded or why, did not cure the prejudice created by Ms. Cordova's outburst. Additionally, because this brief instruction was abutted with the jury's weekend discharging instructions, the curative intention of the first instruction was diminished, allowing the outburst to linger with the jury through the weekend and back into the courtroom when the trial resumed on Monday.

Curative instructions are also administered in the form of a jury instruction at the end of trial. This practice, commonly referred to as "charging the jury", is intended to instruct the jury on how they are allowed to weigh the evidence presented to them during the trial. Charging the jury also gives a trial court the opportunity to address particular incidents during the trial. In *Hamilton*, the trial court recognized a State's witness's testimony improperly applied the law at trial and issued a curative instruction.⁹² Furthermore, the court decided a "more

⁹¹ Appx0454

⁹² 82 A.3d 723

complete jury instruction, accurately describing the law” was required.⁹³ Appellant contended that this instruction was not adequate to cure the prejudice suffered during trial. *Id.* This Court did not agree, stating that jury instructions, like these ones, presumably cure prejudices experienced at court.

Here, Mr. Williams argues that the trial court did not cure the prejudices he experienced because the first brief instruction to “disregard that last comment” was not bolstered by supplemental instructions during the charging of the jury. While the court did find it necessary to mention Ms. Cordova’s use of an interpreter,⁹⁴ it did not seem to consider reinforcing that her courtroom outburst was not to be considered at all. As a result, the jury was not properly instructed to disregard Ms. Cordova’s outburst and the prejudice Mr. Williams suffered at trial was not cured. With this in mind, this Court should find that the trial court did not provide adequate curative instructions and should weigh this factor in Mr. William’s favor when applying the *Taylor* test.

⁹³ *Id.* at 727.

⁹⁴ Appx 1250-1251

ARGUMENT

II. The trial court erred in denying Mr. Williams motion for a mistrial because the continual mentioning of Ky'ree by States witnesses infringed upon Mr. Williams Constitutional right to an impartial jury according to the Sixth Amendment.

A. QUESTION PRESENTED

Whether it is an abuse of discretion for a trial judge to deny a motion for mistrial when States witnesses continually mention a person who isn't available to testify and fails to provide the jury with an adequate curative instruction?

(Preserved Appx0383)

B. STANDARD OF REVIEW

The Delaware Supreme Court reviews a "trial court's denial of a motion for a mistrial under an abuse of discretion standard."⁹⁵

C. MERITS OF THE ARGUMENT

This Court should find that the trial court abused its discretion and infringed upon Mr. William's right to an impartial jury by failing to grant a mistrial due to the continual mentioning of Ky'ree by State's key witnesses. The number of times Ky'ree was mentioned in close proximity to Mr. Williams in discussions about where Ky'ree lived could lead a jury to infer that Ky'ree was living with Mr. Williams and that he too was a victim of abuse. The State's attorney failed to keep witnesses from mentioning Ky'ree on multiple occasions and the trial court failed

⁹⁵ *Ray v. State*, 170 A.3d 777 (Del. 2017).

to provide an adequate curative instruction to remedy the prejudice to Mr.

Williams.

A. According to the Confrontation Clause of the Sixth Amendment, Mr. William’s Constitutional rights were infringed because Ky’ree was not available to be cross examined at trial.

The Sixth Amendment to the United States Constitution . . . provides that “in all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him.”⁹⁶ The Supreme Court held that [the Clause] guarantees a defendant’s right to confront those “who bear testimony” against him.⁹⁷ A witness’s testimony against a defendant is thus inadmissible unless the witness appears at trial or, if the witness is unavailable, the defendant had a prior opportunity for cross-examination.⁹⁸

In *Favre*, a police officer testified to statements made by a confidential informant that stated they believed that the Defendant was guilty.⁹⁹ In *Favre*, the Fifth Circuit held that the defendant’s confrontation rights were violated because “testimony was admitted which led to clear and logical inference that out of court declarants believed and said that the defendant was guilty of the crime charged.”¹⁰⁰ [Further], the jury was led to infer that the informers, who were not identified,

⁹⁶ *Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 309 (U.S. 2009).

⁹⁷ *Crawford v. Washington*, 541 U.S. 36, 51 (U.S. 2004).

⁹⁸ *Id.* at 54

⁹⁹ *Favre v. Henderson*, 464 F.2d 359, 362 (5th Cir. 1972)

¹⁰⁰ *Wheeler v. State*, 36 A.3d 310 (Del. Sup. Ct. 2012) (*citing Favre v. Henderson*, 464 F.2d 359 (5th Cir. 1972))

were not present in court, and were not subject to cross-examination, believed that Favre was guilty of the crime charged. Inherent in the testimony, which may have been offered only to establish identification, was an assertion by an out-of-court declarant as to guilt.¹⁰¹

In this case, Appellant was the legal guardian of a boy named Ky'ree, who has since died and was not available to call at trial.¹⁰² Ky'ree befriended two of the three victims and was the primary reason the victims became acquainted with the Appellant.¹⁰³ Counsel for the Appellant was concerned that if Ky'ree was continually mentioned at trial, the jury would be able to infer that he was also abused while in the care of the Appellant. For this reason, the State was instructed to avoid asking questions about Ky'ree and to instruct their witnesses not to mention him when testifying. Unfortunately, two of the State's key witnesses failed to abide by these instructions.

B. Mr. Williams was unduly prejudiced as a result of the “Ky'ree” testimony because the trial court failed to provide an adequate curative instruction.

It is well established that juror impartiality must be maintained not only in the interest of fairness to the accused, but also to assure the overall integrity of the

¹⁰¹ *Favre*, 464 F.2d at 362.

¹⁰² Appx0324

¹⁰³ *Id.* at 0347

judicial process.¹⁰⁴ Further, when unduly prejudicial statements are made during trial, error can normally be cured by the use of a curative instruction to the jury, and jurors are presumed to follow those instructions.¹⁰⁵ Curative instructions are regarded as meaningful or practical alternatives to declaring mistrials.¹⁰⁶ Denials of motions at the trial court are reviewed at the appellate level under the “abuse of discretion” standard.¹⁰⁷

In *Justice*, a prosecutor was asking a detective called as State’s witness a question regarding the defendant’s age.¹⁰⁸ The detective answered that he learned the defendant’s birth date by looking it up in Delaware Criminal Justice Information System (DELJIS), which insinuated that the defendant had been previously convicted.¹⁰⁹ The judge, first rebuking the prosecutor for the line of questioning, issued a curative instruction, stating “The jury will ignore the last answer to the source of Mr. Justice’s date of birth, and the State will ask the question again, and it will be answered appropriately this time.”¹¹⁰ The defendant argued that despite this instruction, he was unduly prejudiced and a mistrial should be granted. The trial judge denied the motion for mistrial, stating the “cautionary instruction was given . . . anywhere from 60 to 90 seconds after the testimony was

¹⁰⁴ *Copper*, 85 A.3d 689, 693 (Del. 2014).

¹⁰⁵ *Justice*, 947 A.2d at 1100

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 1099

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 1100

given," which he believed sufficiently took care of any error.¹¹¹ In its analysis, this Court recognized that "[q]uestions alone can impeach. Apart from their mere wording, through voice inflections and other mannerisms of the examiner...they can insinuate; they can suggest; they can accuse; they can create an aura in the courtroom..."¹¹² Although this Court did agree that the detective's response was potentially prejudicial, it held that the prompt curative instruction remedied any damage done.¹¹³

Mr. William contends that while *Justice*'s facts are comparable to the facts of his case, this Court's ruling in *Justice* should not control the outcome of his case due to the persistence of State's witness's prejudicial insinuations and the lack of a curative instruction to remedy it.

First, while the detective in *Justice* introduced potentially prejudicial information just once whereas Ms. Smith, Ms. Cordova, Erik and Anthony introduced Ky'ree on many occasions. On four of those occasions, conferences were had at sidebar to either remind the State's attorney to avoid questioning that would suggest Ky'ree lived with Mr. Williams¹¹⁴ or to send the jury out so the trial judge could instruct the witness not to mention Ky'ree anymore.¹¹⁵ The continual mentioning of Ky'ree throughout the trial allowed the jury to infer that Ky'ree was living with Mr. Williams while this abusive behavior allegedly occurred and could lead them to infer

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.* at 1101

¹¹⁴ Appx0317

¹¹⁵ Appx0315-0321; Appx0351-0353; Appx0473-0483; Appx0540

that Ky'ree too was abused while under the supervision of Mr. Williams. As previously mentioned, because Ky'ree had died before the start of trial, he was unavailable to be called as witness to rebut this theory. For these reasons, this Court should find the continual mentioning of Ky'ree was likely to prejudice the jury.

Second, because the trial judge in *Justice* immediately administered a curative instruction, this Court found that the lower court did not abuse its discretion in denying a motion for mistrial.¹¹⁶ Here, the only time the trial court ever instructed the jury to disregard remarks about Ky'ree was during Ms. Cordova's testimony.¹¹⁷ All other instances when Ky'ree was mentioned living with Mr. Williams, the court did not issue a curative instruction. As this Court has consistently held, jury instructions presumptively cure any prejudice created during a trial¹¹⁸ but because the curative instruction here was not adequate, this Court should not find that the prejudice Mr. Williams suffered was cured. As a result, this Court should find that the trial court abused its discretion when it failed to grant Mr. Williams a new trial.

¹¹⁶ *Justice*, 947 A.2d at 1101

¹¹⁷ Appx0483

¹¹⁸ *Justice*, 947 A.2d at 1100

CONCLUSION

The trial abused its discretion when it refused to grant Mr. Williams a mistrial after a State's witness had an outburst during the trial. This outburst prejudiced the jury and the trial court failed to provide an adequate jury instruction to amend the prejudice. The trial court also abused its discretion when it refused to grant Mr. Williams a mistrial after State's witnesses continually mentioned an individual that was not available to cross examine consequently violating Mr. Williams constitutional right to confront those who testify against him. These occurrences prejudiced the jury and the trial court failed to provide an adequate jury instruction to amend the prejudice. Mr Williams is requesting this Court agree with the aforementioned arguments and grant him a new trial.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

VS.

RONNIE C WILLIAMS

Alias: See attached list of alias names.

DOB: 04/27/1978

SBI: 00379632

CASE NUMBER:
N1909016936

IN AND FOR NEW CASTLE COUNTY
CRIMINAL ACTION NUMBER:

IN21-10-1360
RAPE 2ND WO CON(F)
IN21-10-1365
CONT SEX ABUSE(F)
IN21-10-1374
SEX SOLIC CHILD(F)
IN21-10-1367
USC <13(F)
IN21-10-1372
SEX ABUSE CHILD(F)

COMMITMENT

TIER 3

Nolle Prosequi on all remaining charges in this case

SENTENCE ORDER

NOW THIS 18TH DAY OF FEBRUARY, 2022, IT IS THE ORDER OF
THE COURT THAT:

The defendant is adjudged guilty of the offense(s) charged.
The defendant is to pay the costs of prosecution and all
statutory surcharges.

AS TO IN21-10-1360- : TIS
RAPE 2ND WO CON

Effective September 27, 2019 the defendant is sentenced
as follows:

- The defendant is placed in the custody of the Department
of Correction for 25 year(s) at supervision level 5
- Suspended after 10 year(s) at supervision level 5
- For 2 year(s) supervision level 3

The first 10 years of this sentence is a mandatory term
of incarceration pursuant to DE1107720a2aFB .

APPROVED ORDER 1 March 7, 2022 15:46

STATE OF DELAWARE

VS.

RONNIE C WILLIAMS

DOB: 04/27/1978

SBI: 00379632

Probation is concurrent to any probation now serving.

AS TO IN21-10-1365- : TIS

CONT SEX ABUSE

- The defendant is placed in the custody of the Department of Correction for 15 year(s) at supervision level 5

- Suspended after 5 year(s) at supervision level 5

- For 2 year(s) supervision level 3

The first 2 years of this sentence is a mandatory term of incarceration pursuant to DE110776000aFB .

Probation is concurrent to any probation now serving.

AS TO IN21-10-1374- : TIS

SEX SOLIC CHILD

- The defendant is placed in the custody of the Department of Correction for 15 year(s) at supervision level 5

- Suspended after 3 year(s) at supervision level 5

- For 2 year(s) supervision level 3

Probation is concurrent to any probation now serving.

AS TO IN21-10-1367- : TIS

USC <13

- The defendant is placed in the custody of the Department of Correction for 8 year(s) at supervision level 5

- Suspended after 2 year(s) at supervision level 5

- For 2 year(s) supervision level 3

Probation is concurrent to any probation now serving.

AS TO IN21-10-1372- : TIS

SEX ABUSE CHILD

- The defendant is placed in the custody of the Department of Correction for 8 year(s) at supervision level 5

- Suspended after 2 year(s) at supervision level 5

STATE OF DELAWARE

VS.

RONNIE C WILLIAMS

DOB: 04/27/1978

SBI: 00379632

- For 2 year(s) supervision level 3

Probation is concurrent to any probation now serving.

SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE
VS.
RONNIE C WILLIAMS
DOB: 04/27/1978
SBI: 00379632

CASE NUMBER:
1909016936

The defendant shall pay any monetary assessments ordered during the period of probation pursuant to a schedule of payments which the probation officer will establish.

Pursuant to 29 Del.C. 4713(b)(1), the defendant having been convicted of a sex offense, it is a condition of the defendant's probation that the defendant shall provide a DNA sample at the time of the first meeting with the defendant's probation officer. See statute.

The defendant is to register as sex offender pursuant to statute.

Have no contact with any of the victims.

Have no contact with victims families.

Perform 25 hour(s) of community service during the probationary period.

Defendant shall receive mental health evaluation and comply with all recommendations for counseling and treatment deemed appropriate.

Defendant shall complete Sexual Disorders counseling treatment program.

See Notes

For the purposes of ensuring the payment of costs, fines, restitution and the enforcement of any orders imposed, the Court shall retain jurisdiction over the convicted person until any fine or restitution imposed shall have been paid in full. This includes the entry of a civil judgment pursuant to 11 Del.C. 4101 without further hearing.

NOTES

APPROVED ORDER

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March 7, 2022 15:46

STATE OF DELAWARE

VS.

RONNIE C WILLIAMS

DOB: 04/27/1978

SBI: 00379632

- Mr. Williams is to receive mental health treatment while serving his level V sentence.
- Mr. Williams' community service must not involve children under the age of 18 years of age.

JUDGE DIANE C STREETT

FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
RONNIE C WILLIAMS
DOB: 04/27/1978
SBI: 00379632

CASE NUMBER:
1909016936

SENTENCE CONTINUED:

TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	
SHERIFF, NCCO ORDERED	
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	
PROSECUTION FEE ORDERED	100.00
VICTIM'S COM ORDERED	
VIDEOPHONE FEE ORDERED	5.00
DELJIS FEE ORDERED	5.00
SECURITY FEE ORDERED	50.00
TRANSPORTATION SURCHARGE ORDERED	
FUND TO COMBAT VIOLENT CRIMES FEE	75.00
SENIOR TRUST FUND FEE	
AMBULANCE FUND FEE	
<hr/>	
TOTAL	235.00

LIST OF ALIAS NAMES

STATE OF DELAWARE

VS.

RONNIE C WILLIAMS

DOB: 04/27/1978

SBI: 00379632

CASE NUMBER:

1909016936

RONALD C WILLIAMS

RONALD WILLIAMS

AGGRAVATING-MITIGATING

STATE OF DELAWARE
VS.
RONNIE C WILLIAMS
DOB: 04/27/1978
SBI: 00379632

CASE NUMBER:
1909016936

AGGRAVATING

OFFENSE AGAINST A CHILD
NEED FOR CORRECTIONAL TREATMENT
VULNERABILITY OF VICTIM
LACK OF REMORSE