

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
January 10, 2023 Session

FILED

02/28/2023

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. KEVIN MEADOWS

Appeal from the Criminal Court for Jackson County
No. 18-CR-22 Brody N. Kane, Judge

No. M2021-01357-CCA-R3-CD

Defendant, Kevin Meadows, was convicted as charged by a Jackson County Criminal Court jury of felony murder, aggravated arson, theft of property valued between \$1,000 and \$2,500, and two counts of tampering with evidence. The trial court imposed an effective life sentence. On appeal, Defendant argues that the trial court erred in admitting Facebook Messenger communications when the State failed to properly authenticate the messages by establishing that the account belonged to Defendant. Following our review, we affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed

TIMOTHY L. EASTER, J., delivered the opinion of the court, in which ROBERT L. HOLLOWAY, JR., and JILL BARTEE AYERS, JJ., joined.

Kendall Stivers Jones (on appeal), Assistant Public Defender—Appellate Division; Thomas Bilbrey and Joe McLerran (at trial), Assistant District Public Defenders, for the appellant, Kevin Meadows.

Herbert H. Slatery III, Attorney General and Reporter; Benjamin A. Ball, Senior Assistant Attorney General; Tom P. Thompson, Jr., District Attorney General; and Jason Lawson and Ian Bratton, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

Facts

The victim, Solomon Minder, was 71 years old at the time of his death and lived in a mobile home on McCoinsville Road. His son, Stanley Minder, testified that the victim had gout and rheumatoid arthritis and had trouble getting around.

Maggie Caudill's parents were the victim's neighbors. She testified that the victim "had gotten sick," and they took care of the victim's dog while the victim was hospitalized. They also took the victim meals when he returned home. Ms. Caudill said the victim had "attacks where he would be paralyzed, . . . and he couldn't get up off the ground." At the time of the victim's death, Ms. Caudill believed that his health had worsened to the point that he could not live alone. On several occasions, Ms. Caudill had to assist the victim in getting up after he had fallen.

On one occasion, an ambulance was called to the victim's home, and the victim was wearing the same grass-stained clothes Ms. Caudill had seen him wearing when she helped him up after a fall in his yard two days earlier. Lloyd Walker¹ and his mother, Lois Walker, were at the victim's house when the ambulance arrived. Before the paramedics left to transport the victim to the hospital, the victim asked Ms. Caudill to bring him his keys and wallet. She found the victim's keys, but his wallet was not where he usually kept it. The victim was "very upset" and "insistent" that she find it, but she was not able to locate his wallet.

The victim drove a tan van. Ms. Caudill saw a black vehicle with a boat on top at the victim's house for two or three nights during the week of the victim's death. She stated that one or two nights after the black car had left, the victim's van was also gone.

Ricky Elmer, who worked at the Liquor Cabinet, testified that the victim frequented the store. Mr. Elmer often assisted the victim with his purchases in the parking lot so the victim did not have to get out of his vehicle. Mr. Elmer had also previously provided the victim transportation and taken him groceries. On one occasion, Defendant visited the Liquor Cabinet to buy a bottle of vodka and remarked that he was buying it for the victim. Mr. Elmer did not recall having seen Defendant in the store before. Mr. Elmer identified Defendant in a photo lineup and at trial.

Christopher Bolin owned the mobile home the victim rented. On May 11, 2018, Mr. Bolin visited the mobile home and saw water running out from underneath the home. He pushed open the back door and found the victim slumped against the wall. Mr. Bolin smelled "smoke and soot everywhere" inside the trailer. Mr. Bolin later discovered that a fire had burned a hole through the floor and "melted the water pipe[.]"

¹ Mr. Walker was deceased at the time of Defendant's trial.

Jackson County Sheriff Marty Hinson arrived at the scene and discovered the victim deceased. Sheriff Hinson called the Tennessee Bureau of Investigation (“TBI”) to process the scene and assist with the investigation. Sheriff Hinson secured the scene and waited for TBI agents to arrive.

TBI Special Agent Luke Webb arrived at the scene around noon on May 11, 2018. Special Agent Webb did not see any evidence of a fire outside of the trailer, and he saw no signs of forced entry. Inside the trailer, he observed “an obvious hole in the floor where somebody had tried to burn it,” and there was “debris” and “a thin layer of soot . . . everywhere.” Special Agent Webb identified several photographs of the crime scene. He testified that the victim appeared to have been deceased for “a while, days,” because the victim’s hands were bloated, blood had pooled in his legs, and there were insects and maggots on and around the victim’s body.

Agents collected a lighter found in the yard outside the trailer and two cigarette butts, one found on the front porch and another inside the home. DNA testing revealed that Defendant’s DNA was present on both cigarette butts. Latent fingerprint examination did not reveal the presence of latent prints on the lighter. Agents also collected a piece of paper, a plate, a walker, and swabs from the carpet and wall, which all contained reddish brown stains. DNA testing revealed that the stains were blood containing the victim’s DNA. Agents collected an empty Smirnoff vodka bottle and an energy drink can. Defendant’s DNA and fingerprints were present on the can.

Detective Jesse Wade of the Jackson County Sheriff’s Office responded to a burned-out van behind an abandoned house on Lock Branch Road. He collected a hammer, the driver side door handle that appeared to have been “ripped off the vehicle,” a tin can top, an energy drink can, a cigarette butt, and a Slim Jim wrapper.

TBI Special Agent Jason Poore, an expert in fire investigation, examined the victim’s mobile home. He testified there was no “heavy fire damage” visible on the exterior, but he observed soot around the window in the door. He concluded that the fire likely originated in a pile of clothing and towels and burned down through the floor below it. The fire extinguished due to oxygen deficiency. Special Agent Poore ruled out an accidental cause of the fire and concluded that the source of the fire was an “open flame source” such as a lighter or match. Special Agent Poore testified that a K-9 trained in accelerant detection did not indicate the presence of an accelerant. He concluded that the fire was arson.

Special Agent Poore also examined the burned-out van and determined that the fire originated inside the vehicle and not in the engine compartment. He ruled out that it was caused by an electrical source.

On May 4, 2018, the victim received a settlement check in the amount of \$3,834.87. TBI Special Agent Joshua Savley testified that Mr. Walker went with the victim to an attorney's office to pick up the check. The following day, Defendant could be seen on security cameras cashing the check at the Bank of Putnam County. The surveillance video showed Defendant arrive alone at the bank and leave alone in a black vehicle. Shortly after cashing the check, Defendant sent a photograph of cash strapped in a Bank of Putnam County band to a person named Amanda Allen through Facebook Messenger. On May 5, 2018, Defendant messaged Elmus Winningham, "Call me on cell 9313104738," which is the cell phone number Defendant later gave as his during an interview with investigators.

A series of communications sent between Defendant and Mr. Walker through Facebook Messenger were admitted as an exhibit. On May 2, 2018, Defendant messaged Mr. Walker, "Was gonna have u see if Solomon got the money. I need gas lol[.]" On May 4, Mr. Walker messaged Defendant, "We got the check today. Can't cash until the morning. 3900.00\$!"

On May 9, 2018, Mr. Walker messaged Defendant asking if he had seen the victim, and Defendant replied, "No not for a few days[.] I been trying to get ahold of him[.]" Defendant's cell phone records indicated that there were several calls between Defendant and the victim between May 4-7, with the last call being from the victim to Defendant at 12:30 a.m. on May 7. This call lasted for two seconds.

Special Agent Savley interviewed Defendant on May 17, 2018. Defendant acknowledged that he drove a black car and that he sometimes had a boat strapped on top of it. Defendant stated that he had not seen the victim since May 6. He said that he went to the victim's trailer to pick up Mr. Walker, who had spent the night there. When asked about the victim's settlement check, Defendant stated that he had taken the victim to the bank to cash the check, that the victim stayed in the car, and that Defendant gave the victim his cash when they left the bank. Defendant initially agreed to give a DNA sample but declined when Special Agent Savley read him the consent form. When Special Agent Savley confronted Defendant about the truth of Defendant's statements, Defendant ended the interview.

Amanda Foster testified that she was "doing drugs" with Defendant at a house on Fifth Street when Defendant told her that he had an altercation with an "old man." Defendant told Ms. Foster that the man "swung on him," and that Defendant "retaliated and beat him to death with a Mag flashlight." Ms. Foster overheard another conversation

between Defendant and Keith Anderson in which Defendant stated that he saw “flames in the window as he walked away.” Ms. Foster recalled that Defendant said he “did something” with the victim’s van and “they would never find it.” Ms. Foster also said she had communicated with Defendant through Facebook Messenger and agreed that they later spoke in person about their Facebook communications. Ms. Foster had no reason to believe that she was communicating with anyone other than Defendant through his Facebook account.

On cross-examination, Ms. Foster agreed that she was “doing a lot of meth” in May, 2018. She testified that she did not report what Defendant had told her because she “didn’t believe him.” Ms. Foster drove Defendant to the TBI office in Cookeville for his interview on May 17. She said Defendant was “aggravated” when they left and that he threw “one of his phones” out of the car window.

TBI Agent Robert Simmons located Defendant’s two-door black Honda Civic and obtained a search warrant for the vehicle. Among the items found inside the vehicle were three Monster energy drink cans in the same flavor as the one found inside the victim’s trailer and a Maglite flashlight. Agent Simmons also executed a search warrant for Defendant’s DNA sample.

Agent Simmons spoke to Lloyd Walker, who provided copies of his communications with Defendant through Facebook Messenger. Agent Simmons obtained a search warrant for the Facebook account belonging to Defendant. The Facebook page associated with the account contained photos of Defendant. Agent Simmons never received any information that would lead him to believe anyone other than Defendant used the Facebook account. Agent Simmons testified that Facebook provided a “certificate of authenticity of domestic records of regularly conducted activity from Facebook.” Defense counsel objected, arguing that Facebook was “not a reliable source of information and there are many ways that people can be deceived, accounts can be hacked, . . .” The State responded that the communications through Facebook Messenger authenticated that Defendant was the user of the Facebook account. The trial court overruled defense counsel’s objection, finding that the authenticity of the account went “to the weight of the evidence, not to the admissibility.” On cross-examination, Agent Simmons acknowledged that “Facebook accounts get duplicated and hacked.”

TBI Special Agent Andrew Vallee testified as an expert in the analysis of electronic communication data. He determined that Defendant’s cell phone was within the area of the victim’s trailer and cell phone at 12:30 a.m. on May 7, 2018. At 5:55 p.m. that day, Defendant’s cell phone was in the vicinity of the location where the victim’s van was found.

Medical Examiner David Zimmerman conducted the victim's autopsy. The victim's body was in the early stages of decomposition when it was discovered. The victim had blunt force trauma above his right eye. He had black soot that extended from the larynx, through the trachea, and into the bronchi in the lungs. The victim's red blood cells contained a fatal amount of carbon monoxide. Lab testing also revealed that the victim had used methamphetamine. Dr. Zimmerman determined that the victim's cause of death was smoke inhalation and the manner of death was homicide.

Defendant did not testify or present any other proof. The jury found Defendant guilty of felony murder, aggravated arson, theft of property valued at between \$1,000 and \$2,500, and two counts of tampering with evidence. Following a sentencing hearing, the trial court imposed an effective life sentence. The trial court denied Defendant's motion for new trial. Defendant timely appealed.

Analysis

The sole issue in this appeal is whether the trial court erred by admitting Facebook Messenger communications into evidence. Defendant argues that the State failed to properly authenticate the messages because there was no testimony from witnesses with personal knowledge that the account belonged to Defendant, nor were there distinctive characteristics as to establish the authenticity of the account. The State responds that the trial court properly admitted the evidence.

Tennessee Rule of Evidence 901 governs the authentication of evidence. Rule 901(a) provides that "[t]he requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to the court to support a finding by the trier of fact that the matter in question is what its proponent claims." Whether evidence has been sufficiently authenticated is within the trial court's sound discretion, and its decision will not be overturned absent an abuse of discretion. *See State v. Mickens*, 123 S.W.3d 355, 376 (Tenn. Crim. App. 2003).

Determining whether "social media evidence has been authenticated requires a fact-specific analysis." *State v. Jabriel Linzy*, No. E2016-01052-CCA-R3-CD, 2017 WL 3575871, at *12 (Tenn. Crim. App. Aug. 18, 2017), *perm. app. denied*, (Tenn. Nov. 16, 2017). In *Jabriel Linzy*, the State sought to introduce messages found on Facebook and Twitter that reflected the defendant and the victim were members of rival gangs and that the defendant had issued threats against the victim. *Id.* at *13. The defendant argued that the comments could not be attributed to him; in other words, the comments could not be authenticated. *Id.* at *11. A panel of this Court stated that "evidence from social media

and emails was authenticated when the prosecution offered corroborating circumstantial evidence.” *Id.* at *12. The corroborating circumstantial evidence in that case consisted of a witness who knew the defendant’s Twitter account, a witness who knew the victim’s Twitter account, and witnesses who had seen certain photographs on the defendant’s and the victim’s Facebook pages. *Id.* at *13. Examining cases from other jurisdictions, the panel in *Jabriel Linzy* concluded that the defendant’s challenge to the State’s authentication of the messages ““goes to the weight of the evidence, not its admissibility.”” *Id.* at *12 (quoting *State v. Vermaine M. Burns*, No. M2014-00357-CCA-R3-CD, 2015 WL 2105543, at *12 (Tenn. Crim. App. May 5, 2015) (holding that there was sufficient circumstantial evidence to authenticate Facebook chats and email), *no perm. app. filed*).

In *State v. Timothy Dwayne Ison, Alias*, another panel of this Court determined that the circumstantial evidence connecting the defendant to the Facebook account was sufficient for the trial court to admit the evidence. No. E2018-02122-CCA-R3-CD, 2020 WL 3263384, at *10 (Tenn. Crim. App. June 17, 2020), *no perm. app. filed*. The panel held that “any argument someone other than the [d]efendant could have authored these social media posts was a matter of the weight of the evidence.” *Id.*

Here, the Facebook Messenger account bore Defendant’s name and photographs. The content of the messages contained details specific to Defendant, such as his cell phone number, and the messages referenced people associated with Defendant, including the victim and Mr. Walker. Amanda Foster testified that she had communicated with Defendant through his Facebook Messenger account and had no reason to believe that it was anyone other than Defendant communicating with her. She testified that she spoke to Defendant in person and Defendant acknowledged conversations they had had through Messenger.

Defendant contests the State’s assertion that Ms. Foster had “personal knowledge of the account” because Ms. Foster did not testify that the account through which she communicated with Defendant was the same account that Mr. Walker showed Agent Simmons. Defendant contends that the authentication certification from Facebook certifies only that the messages between Defendant and Mr. Walker were associated with that account and “did not verify that the account belonged to [Defendant.]” However, as this Court explained in the cases cited above, the State is not required to affirmatively prove that a defendant was the author of a social media communication to authenticate it, and Defendant’s challenge to the account’s authenticity “goes to the weight of the evidence, not its admissibility.” *Jabriel Linzy*, 2017 WL 3575871, at *12.

We conclude that the circumstances were sufficient to establish that Defendant authored the Facebook messages. The trial court did not abuse its discretion in admitting the messages. Defendant is not entitled to relief.

CONCLUSION

Finding no error, we affirm the judgments of the trial court.

TIMOTHY L. EASTER, JUDGE