

MEMORANDUM DECISION

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IN THE Court of Appeals of Indiana

William G. Shannon,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



August 29, 2024

Court of Appeals Case No.
23A-CR-2744

Appeal from the Madison Circuit Court

The Honorable Mark Dudley, Judge

Trial Court Cause No.
48C06-2303-F4-957

Memorandum Decision by Judge Kenworthy
Judges May and Vaidik concur.

Kenworthy, Judge.

Case Summary

- [1] William G. Shannon appeals his convictions for Level 6 felony strangulation¹ and Level 6 felony domestic battery in the presence of a child.² He presents one issue for our review: Did the trial court err in admitting screenshots of a Facebook Messenger conversation between Shannon and the victim in which the victim “unsent” (that is, deleted) some of her messages after Shannon responded to them? Concluding any error in their admission was harmless, we affirm.

Facts and Procedural History

- [2] On March 16, 2023, Crystal Jenkins was living in a house on Delaware Street in Anderson with her then-boyfriend, Shannon. That afternoon, they went to the grocery store, where Jenkins purchased beer and gin for Shannon. When they returned home, Shannon started drinking while Jenkins put away the groceries, made dinner, and played with her two-year-old granddaughter, A.G., who was visiting.
- [3] Around 10:00 p.m., after Shannon consumed about six beers and half a bottle of gin, he and Jenkins began to argue. The argument extended over a few

¹ Ind. Code § 35-42-2-9(c) (2020).

² I.C. § 35-42-2-1.3(a)(1) & (b)(2) (2021).

hours and eventually became physical. After midnight, Shannon punched Jenkins “[o]ver three” times in the head, held her against a wall, slapped her, pinned her on the bed, and choked her with his hand until she was “gasping for air.” *Tr. Vol. 2* at 42. At one point, she tried to call the police, but she could not get control of her cell phone. Shannon told Jenkins “he would kill [her] and that he wanted [her] dead and [she] didn’t deserve to be here.” *Id.* at 44.

[4] After Shannon stopped attacking her, Jenkins woke up A.G. Jenkins tried to get herself and A.G. dressed to leave the house. While Shannon was in the bathroom, Jenkins took A.G. and fled through the front door wearing only a nightgown. She planned to run across the street to a neighbor’s house, but instead jumped into the back seat of a running car she saw parked outside, saying to the driver and passenger, “help me help me somebody is trying to kill me.” *Id.* at 137. Alarmed, the passenger first tried to stop her from getting in the car. But on seeing the baby, he agreed to take them to the fire station at the end of the road. After the driver dropped them off and drove away, Jenkins realized no one was at the firehouse. She flagged down another car, and that driver took her and A.G. to a police station. After she made a report, the police took photographs showing a scratch on Jenkins’ shoulder and redness around her neck. She declined medical attention at the station but went to the hospital the next day due to pain in her head, neck, and rib cage.

[5] The State charged Shannon with criminal confinement resulting in moderate bodily injury, strangulation, domestic battery resulting in moderate bodily injury, and domestic battery in the presence of a child.

[6] The case proceeded to a jury trial. At trial, the State sought to introduce screenshots of a Facebook Messenger conversation between Jenkins and Shannon. The screenshots, taken by Jenkins, showed she “unsent” several messages so that some of her original messages were permanently deleted from the conversation and replaced with the phrase “*You unsent a message.*” For example:

Shannon: U call the police on me

Jenkins: No

Do you remember what you did to me?? Honestly??

Shannon: Nope

Jenkins: *You unsent a message*

Shannon: I left

Ex. Vol. 1 at 175. Citing Indiana Evidence Rule 403, Shannon objected to the evidence as incomplete and misleading to the jury because Jenkins manipulated the conversation to remove some of her statements, leaving only Shannon’s responses without context. The trial court overruled the objection.

[7] The State also introduced into evidence audio recordings of four phone calls Shannon made to Jenkins from jail. In them, Shannon admits grabbing Jenkins around the neck and pushing her on the bed, apologizes to her, and blames her

for provoking him while he was drunk. He also begs her not to testify against him in court.

- [8] The jury found Shannon guilty of strangulation and domestic battery in the presence of a child, and not guilty of the other charges. The trial court sentenced Shannon to concurrent sentences of two years on each offense, to be served in the Indiana Department of Correction.

Standard of Review

- [9] Shannon appeals his convictions on the grounds the trial court should have excluded the screenshots of the Facebook Messenger conversation because they were incomplete and misleading to the jury. Generally, relevant evidence is admissible in a criminal trial. Ind. Evidence Rule 402. But a “court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, or needlessly presenting cumulative evidence.” Evid. R. 403. We review the admissibility of evidence under Rule 403 for an abuse of discretion. *Marcum v. State*, 725 N.E.2d 852, 862 (Ind. 2000). We reverse a conviction only if the trial court’s ruling was clearly against the logic and effect of the facts and circumstances before it and the error affects a party’s substantial rights. *Hall v. State*, 177 N.E.3d 1183, 1193 (Ind. 2021).

Any error in the admission of the evidence was harmless.

[10] Shannon contends the trial court should have excluded the Messenger conversation because the “screenshots were of such misleading quality that the jury was left to speculate as to their contents and meaning.” *Appellant’s Br.* at 16. Shannon’s argument relies heavily on *Lamar v. State*, 282 N.E.2d 795 (Ind. 1972). At Lamar’s trial for voluntary manslaughter, the jury heard a tape recording of his in-custody police interrogation. *Id.* at 796. On appeal, our Supreme Court noted the quality of the recording was “so poor as to negate whatever probative value it might otherwise have had.” *Id.* at 799. Beyond the lack of probative value, the Court was more concerned with “the obvious prospects for confusion that such exposure [to the jury] might engender.” *Id.* The Court determined “it would be altogether logical for the jury to assume that it contained information prejudicial to the defense” simply because it had “been introduced into evidence by the prosecution.” *Id.* at 799–800. The Court therefore held the recording’s introduction placed Lamar “in a position of grave peril to which he should not have been subjected” and reversed his conviction. *Id.* at 800.

[11] Shannon likens the screenshots of the Messenger conversation to the audio recordings in *Lamar*, contending “the jury here was left to make the same forbidden inference” and would “logically assume that the deleted text messages must contain information prejudicial to his defense or otherwise the prosecution would not have introduced the manipulated text exchanges.” *Appellant’s Br.* at 16–17.

- [12] But *Lamar* is not as analogous as Shannon argues. In *Lamar*, the unintelligibility stemmed from the poor quality of the audio recording; the Court was only able to understand the contents through “extremely careful listening, under ideal conditions, by replaying portions numerous times and with assistance from the reporter’s typewritten transcription, which [the Court presumed] must have been obtained by the same tedious method.” *Lamar*, 282 N.E.2d at 799. Here, the jury could easily read the printed screenshots of the Messenger conversation. Any gap in the conversation and alleged lack of clarity stems from the victim’s deletion of her sent messages and general informality of the writing, not the quality of the reproduction.³ As to Jenkins’ deletions, we agree with the State “a better analogy is a writing or recording with redactions.” *Appellee’s Br.* at 12.
- [13] Under the doctrine of completeness, “a party may place the remainder of a statement or document before the jury after the opposing party has introduced a portion of that statement or document into evidence.” *Evans v. State*, 643 N.E.2d 877, 881 (Ind. 1994); *see also* Evid. R. 106 (“If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part—or any other writing or recorded statement—that in fairness ought to be considered at the same time.”). The doctrine “prevents one party from misleading the jury by presenting statements

³ As one might expect in a text message-type conversation, the writers use shorthand and abbreviations, there are some misspellings, and the conversation lacks punctuation.

out of context.” *Evans*, 643 N.E.2d at 881. The omitted portions are still subject to the normal rules of admissibility, such that any portions found to be immaterial, irrelevant, or prejudicial must be redacted. *Id.*

[14] The State suggests Shannon could have introduced any deleted messages to add context under the doctrine of completeness. But as Shannon points out, Jenkins’ action of “unsending” the messages deleted them on both the sender’s and recipient’s phones and therefore they are permanently gone. *See Appellant’s Reply Br.* at 10 (explaining Facebook Messenger functionality). This, he contends, placed him in grave peril because he had no way—beyond cross-examination of Jenkins or testifying himself—to fill in the gaps.

[15] But we need not decide whether the trial court abused its discretion in admitting screenshots of a permanently redacted conversation because any error in their admission was harmless in this case. “An error is harmless when it results in no prejudice to the ‘substantial rights’ of a party.” *Hall*, 177 N.E.3d at 1197 (quoting *Durden v. State*, 99 N.E.3d 645, 652 (Ind. 2018)); *see also* Ind. Trial Rule 61; Ind. Appellate Rule 66(A). The harmless-error rule is practical at its core, and “the basic premise holds that a conviction may stand when the error had no bearing on the outcome of the case.” *Durden*, 99 N.E.3d at 652. When engaging in a harmless error analysis, we consider factors such as “the presence or absence of other, corroborating evidence on material points; whether the impermissibly admitted evidence was cumulative; the overall strength of the prosecution’s case; the importance of the impermissible evidence in the prosecution’s case; and the extent of cross-examination or questioning on the

impermissibly admitted evidence.” *Zanders v. State*, 118 N.E.3d 736, 745–46 (Ind. 2019).

[16] Here, the State introduced jail calls Shannon made to Jenkins in May 2023. In them, Shannon repeatedly apologizes for his conduct while blaming Jenkins for causing it. In the first call, Jenkins recounts Shannon hit her in her face with balled up fists, made her mouth bleed, and told her she could die. Shannon responds, “And I’m so sorry that all that transpired,” but explains he was “blacked out” and blames Jenkins for provoking him while he was drunk. *Exhibit 34, 05-09-23 1921 hrs_redacted* at 13:22–14:05. In a second call, he admits, “I know I had grabbed you by the neck and pushed you on the bed. You sayin’ that I hit you with a closed fist. I probably was in motion and made a mistake and hit you.” *Id., 05-09-23 1949 hrs_redacted* at 12:40–12:51.

[17] During closing arguments, the State relied mostly on the jail phone calls as evidence of Shannon’s admissions. But when the State brought up the Messenger conversation, it relied only on the following unredacted exchange as evidence of an admission by Shannon:

Shannon: I’m sorry baby

Jenkins: You Not tho

Shannon: I’m am I was just drunk

Jenkins: I’m not even mad about the situation. I’M HURT

Shannon: I'm sorry u hurt

Fr

Jenkins: You repeatedly said you'll KILL ME

Shannon: And I want [sic]

Jenkins: Well you tried to that night

Shannon: Don't remember I was fuck up

Jenkins: How do you really feel about me you said a lot of things. Told me I can die & everything

Shannon: My bad baby don't mean it

Just was drunk

Ex. Vol. 1 at 181–82 (emojis omitted). Jenkins did not “unsend” any portion of this thread.

[18] In rebuttal, defense counsel argued the messages were not admissions “to the extent that the State wants to say are made.” *Tr. Vol. 2* at 223. Counsel pointed out Shannon merely apologizes and does not admit to specific conduct except being drunk. To defense counsel’s point, Shannon’s responses in these messages were less specific than in the jail calls, where Shannon admits grabbing Jenkins’ throat and pushing her on the bed. We trust the jury could

review the evidence and draw its own conclusions as to the degree to which this string of messages constituted an admission.

[19] Shannon also contends the messages were all the more problematic given the lack of corroborating evidence on material points. But in addition to Jenkins' testimony Shannon strangled her, the State introduced photographs the police took that night showing redness around her neck. As to domestic battery in the presence of a child, the passenger of the first car testified Jenkins jumped into his car in the middle of the night dressed only in a nightgown while holding a baby and "freaking out screaming talking about . . . 'somebody is trying to kill me.'" *Id.* at 137. The driver of the second car described Jenkins' demeanor as "scared, frightened, hysterical." *Id.* at 133. The State was not without corroborating evidence in this case.

[20] In assessing the messages' impact on the case outcome, we also look to the relative importance of the evidence to the State's overall case. *Zanders*, 118 N.E.3d at 745. Shannon contends a jury could only assume the omitted messages were "devastating" to his case. *Appellant's Reply Br.* at 13. But it was just as likely the jury judged Jenkins' credibility negatively for having "unsent" certain messages, speculating on what she may be hiding. In other words, the State invited additional scrutiny of the victim's credibility by introducing the text messages, thus minimizing their importance to the prosecution's case.

[21] Our review of the record shows the Facebook messages—to the extent they constitute admissions—were cumulative of Shannon's more specific admissions

in the jail calls and of low importance to the State's case. Therefore, any error in their admission was harmless.

Conclusion

[22] Because any error in the trial court's admission of the incomplete Facebook Messenger conversation was harmless in this case, we affirm Shannon's convictions.

[23] Affirmed.

May, J., and Vaidik, J., concur.

ATTORNEY FOR APPELLANT

Mark K. Leeman
Leeman Law Offices
Logansport, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General
Jesse R. Drum
Assistant Section Chief, Criminal Appeals
Indianapolis, Indiana