MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,
RESPONDENT

vs.

MARCUS SIMMS,
APPELLANT

DOCKET NUMBER WD83422

DATE: JULY 27, 2021

Appeal from:

The Circuit Court of Clay County, Missouri
The Honorable Janet L. Sutton, Judge

Appellate Judges:

Division Three: Edward R. Ardini, Jr., Presiding Judge, Mark D. Pfeiffer. Judge and W. Douglas Thomson, Judge

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Attorneys:

Gregory L. Barnes, for Respondent

Annette M. Wallace, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, RESPONDENT,
v.
MARCUS SIMMS, APPELLANT.

WD83422 Clay County

Before Division Three Judges: Edward R. Ardini, Jr., Presiding Judge, Mark D. Pfeiffer, Judge, and W. Douglas Thomson, Judge

On the morning of April 30, 2014, Marcus Simms returned home from work to the apartment he shared with his girlfriend, Michelle Boldridge. Shortly thereafter Simms stabbed Boldridge multiple times and removed her right eyeball. Simms found an unlocked car in the apartment parking lot and unsuccessfully attempted to start the vehicle, damaging it in the process. He took off his clothes and shoes and left them in the vehicle, along with Boldridge's eyeball. Simms then took Boldridge's car and drove away from the scene.

Meanwhile, police had been dispatched to the apartment complex after receiving reports of a naked man, covered in blood, running through the parking lot. After finding Simms's identification card in the parking lot, officers went to his apartment and found Boldridge dead in a closet.

Later that morning, an individual who did not know Simms encountered him in his driveway. Simms asked for help, and told the man "[t]hey're coming for me" and "[t]hey killed my girlfriend." The man called the police, but Simms drove away before they arrived. Simms ran out of gas and abandoned Boldridge's car near the Liberty Schools "bus barn." He ran through the bus barn, prompting an employee there to call 911. Simms found an unlocked minivan with its keys inside, and drove away in the vehicle. In Parkville, Missouri, Simms failed to navigate a turn and drove off the highway and into a field. Police arrested Simms at the scene.

Simms was charged with one count each of first-degree murder, armed criminal action, and tampering with a motor vehicle (the minivan). Prior to trial, Simms underwent two competency evaluations; both doctors found Simms competent. Additionally, the trial court conducted a competency hearing and concluded Simms was competent to stand trial. On the morning of the first day of trial, defense counsel requested a trial continuance based on Simms's medical condition. The trial court denied the request. On the second day of trial—after Simms's head "hit the table"—defense counsel requested a trial continuance or mistrial, which was denied. Later that day, defense counsel again requested a mistrial after Simms attempted to "pitch himself out of his seat." That request was also denied.

On the third day of trial, Simms testified in his own defense. Simms stated that on the morning of April 30, 2014, five mask-wearing individuals with guns invaded his apartment, demanding money. They beat Simms unconscious, then took him out to the woods to kill him. He escaped, and took Boldridge's car to seek help from Boldridge's brother-in-law who was a "KCPD" police officer that lived in Liberty, Missouri.

At the conclusion of the trial, the jury found Simms guilty of the crimes charged. This appeal followed.

AFFIRMED.

Division Three holds:

(1) Substantial evidence supported that Simms was competent to stand trial, and thus the trial court did not abuse its discretion in denying Simms's requests for a trial continuance or mistrial on the second day of trial. The medical evidence and the trial court's observations of Simms's behavior supported the trial court's finding of competence, and Simms did not present evidence that refuted the doctors' findings or otherwise demonstrated he lacked the capacity to understand the proceedings or assist in his own defense. Additionally, Simms provided detailed testimony at trial, his answers were responsive to the questions posed, and he testified that he was competent.

(2) The trial court did not commit plain error in denying Simms's request for a continuance on the first day of trial. Although Simms had been diagnosed with a mental disorder, this diagnosis was not grounds for continuing the trial in light of the trial court's finding that he was competent to proceed. Further, Simms failed to explain how his refusal to meet with defense counsel the weekend before trial deprived counsel the ability to effectively represent Simms or prepare for trial. Simms has not identified any defense he was unable to present at trial or any deficiency in his defense that would have been cured by additional time with counsel.

(3) The trial court did not abuse its discretion in overruling Simms's "asked and answered" objection when the State questioned him on cross-examination about his efforts to help Boldridge. Such evidence was probative of whether he deliberated before killing Boldridge, and the State was entitled to impeach Simms's testimony that he sought help for Boldridge after she had been killed. Additionally, Simms did not suffer prejudice from this questioning, as he had already testified on direct- and cross-examination about this topic, without objection.

Opinion by: Edward R. Ardini, Jr., Judge Date: July 27, 2021

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