In the Missouri Court of Appeals
Eastern District

DIVISION ONE

STATE OF MISSOURI,	)	No. ED112427
	)	
Respondent,	)	
	)	
v.	)	
	)	
DAIRIUS KINNIE,	)	
	)	
Appellant.	)	Filed: November 25, 2025

Appeal from the Circuit Court of St. Louis County
The Honorable Judge Brian H. May, Judge

Dairius Kinnie ("Defendant") appeals the judgment, following a jury trial, finding him guilty of one count of first-degree murder, one count of first-degree assault, two counts of armed criminal action, and one count of resisting arrest. The Circuit Court of St. Louis County ("trial court") sentenced Defendant to life imprisonment without the possibility of parole for first-degree murder, ten years of imprisonment for first-degree assault, three years of imprisonment for each count of armed criminal action, and four years of imprisonment for resisting arrest, with all sentences to run concurrently. We affirm.

Factual and Procedural Background

Defendant was charged with the above crimes for killing Victim T.B. with a gun, shooting T.B.'s mother, and subsequently fleeing from police. Viewed in the light most favorable to the jury's verdicts in this case, the following relevant evidence was presented at Defendant's trial.[1]

Defendant and T.B. first met in 2018 when Defendant was approximately seventeen years old and T.B. was approximately sixteen years old. They later dated on and off for approximately two years. Over the course of their relationship, T.B.'s mother observed and interacted with Defendant several times, including when T.B.'s mother would drive Defendant and T.B. places and when Defendant would hang out at T.B.'s house in Jennings, Missouri.

In 2019, T.B.'s mother began noticing "red flags" in Defendant and no longer allowed him inside the house or near the family. Defendant was not allowed at the house for the next couple of years, including on March 24, 2021, the day of T.B.'s murder. However, on multiple occasions and without permission, Defendant showed up at T.B.'s house. Each time Defendant showed up without permission at T.B.'s house, T.B.'s mother told Defendant not to come back. Defendant and T.B.'s relationship officially ended in late 2020.

On March 24, 2021, T.B. and T.B.'s mother were both at home when T.B. told her mother she was going outside to feed the cats and take some pictures. T.B. exited

[1] *See State v. Dallas*, 713 S.W.3d 301, 305 (Mo. App. E.D. 2025) (citing *State v. Hall*, 982 S.W.2d 675, 680 (Mo. banc 1998)).

through the door in the kitchen and entered the patio. Shortly thereafter, T.B.'s mother heard T.B. say, "[W]hat the 'F' are you doing over here? Why are you over here?" T.B.'s mother thought T.B. was talking on the phone, but when T.B. continued yelling, T.B.'s mother walked toward the patio to see what was happening. When T.B.'s mother looked outside, she saw Defendant and realized T.B. was yelling at him. Defendant was standing eight feet from T.B. and had his hands in his hoodie pocket, and it was later revealed he was concealing a semi-automatic Glock pistol. T.B.'s mother went outside and stood between Defendant and T.B. in an attempt to calm T.B. down. T.B.'s mother also began yelling at Defendant to leave. Defendant stood calmly with a scowl on his face, keeping his focus on T.B. Over defense counsel's objection at trial, T.B.'s mother testified Defendant had a mean expression on his face, "[l]ike, he was saying in his mind, I'm going to get you."

T.B.'s sister was inside the house when she heard T.B.'s mother and T.B. yelling outside. T.B.'s sister went outside to see what was happening. T.B.'s mother yelled for T.B.'s sister to call the police, but because she was scared, she was unable to. Then, Defendant pulled his hands out of his pocket, revealing the pistol, and began shooting at T.B. and T.B.'s mother. T.B.'s mother attempted to grab the pistol from Defendant, but was unsuccessful as Defendant shot her and she fell to the ground. At the same time, T.B. screamed and fell to the ground. T.B.'s mother pretended she was dead, hoping Defendant would not shoot her again. Defendant then fired two more shots at T.B. T.B.'s sister ran back into the house after the shooting. Defendant followed her to the door, peeked inside, then walked very slowly back towards his truck and drove away.

Defendant fired a total of sixteen gunshots at T.B. and T.B.'s mother, which were detected and recorded by ShotSpotter, a satellite that records gunshots in the Jennings, Missouri area. Victim T.B. was shot a total of fourteen times by Defendant, with bullet entrance wounds in multiple parts of her body, including her chest. The medical examiner, Dr. Gershom Norfleet ("Dr. Norfleet"), who performed T.B.'s autopsy, testified T.B.'s cause and manner of death were gunshot wounds to the chest and homicide, respectively. In establishing the cause and manner of T.B.'s death, Dr. Norfleet used several autopsy photographs during his testimony, which were admitted into evidence over defense counsel's objection.

After the shooting on March 24, 2021, Officer Andrew Johnson ("Officer Johnson") was on duty, patrolling the city limits of Bellefontaine Neighbors, which is adjacent to Jennings, Missouri. While on patrol, Officer Johnson received a radio dispatch indicating "a black Dodge Ram pickup truck [] was seen leaving the area [of a shooting in Jennings, Missouri] at a high rate of speed, believed to be involved." Shortly after receiving this dispatch, Officer Johnson spotted a black Dodge Ram pickup truck ("suspect vehicle") matching the dispatched description and followed the suspect vehicle. Subsequently, the suspect vehicle started driving erratically and accelerated at a high-rate of speed. Officer Johnson believed the suspect vehicle he was following was attempting to flee from him. Turning his police lights and sirens on, Officer Johnson continued to follow the suspect vehicle. The suspect vehicle eventually crashed and the suspect exited the vehicle. Officer Johnson observed a gun in the suspect's hands and began giving

verbal commands for the driver to drop it. The suspect driver, later identified as Defendant, complied with the commands and was subsequently placed under arrest.

After hearing the above evidence, a jury found Defendant guilty of one count of first-degree murder, one count of first-degree assault, two counts of armed criminal action, and one count of resisting arrest. Defendant subsequently filed a motion for new trial asserting that, *inter alia*, the trial court erred in: (1) admitting multiple autopsy photographs of Victim T.B.; and (2) admitting T.B.'s mother's testimony about Defendant's demeanor on the day of the shooting incident. The trial court denied the motion for new trial and sentenced Defendant to life imprisonment without the possibility of parole for first-degree murder, ten years of imprisonment for first-degree assault, three years of imprisonment for each count of armed criminal action, and four years of imprisonment for resisting arrest, with all sentences to run concurrently. This appeal followed.[2]

Discussion

Defendant's Points on Appeal and the General Standard of Review

Defendant raises two points on appeal: (1) the trial court committed reversible error in admitting multiple autopsy photographs of Victim T.B.; and (2) the trial court committed reversible error in admitting T.B.'s mother's testimony that her impression of Defendant, moments before Defendant began shooting at T.B., was that "… he was saying in his mind, I'm going to get you." It is undisputed both of these arguments are

[2] To avoid unnecessary repetition, additional facts and procedural posture relevant to Defendant's points on appeal will be set forth below.

preserved for appeal because Defendant objected to the challenged evidence at the time it was admitted at trial and argued the admission of the evidence was erroneous in his motion for new trial. *See State v. Loper*, 609 S.W.3d 725, 732 (Mo. banc 2020). Because Defendant's arguments are preserved, we review the trial court's admission of the evidence challenged in this appeal for an abuse of discretion. *See State v. Miller*, 372 S.W.3d 455, 473 (Mo. banc 2012). An abuse of discretion occurs when the trial court's decision is clearly against the logic of the existing circumstances and is so arbitrary and unreasonable that it shocks the sense of justice and indicates a lack of careful consideration. *State v. Hughes*, 469 S.W.3d 894, 902 (Mo. App. E.D. 2015).

We will reverse a trial court's evidentiary ruling only if an abuse of discretion occurs and the error was so prejudicial that it deprived the defendant of a fair trial, i.e., only if the error was outcome determinative. *See State v. Matlock*, 717 S.W.3d 277, 283 (Mo. App. E.D. 2025). "Outcome determinative error occurs when erroneously admitted evidence so influenced the jury that there is a reasonable probability that the jury would have acquitted but for the erroneously admitted evidence." *State v. Oshia*, 700 S.W.3d 605, 612 (Mo. App. E.D. 2024) (citations and internal quotation marks omitted).

Point One: The Trial Court Did Not Commit Reversible Error in Admitting Autopsy Photographs of T.B.

In Defendant's first point on appeal, he argues the trial court committed reversible error in admitting sixteen autopsy photographs of T.B.[3] Specifically, Defendant claims the photographs were inadmissible because: (1) it was uncontested T.B. died as a result of being shot by Defendant; (2) they did not prove any element of any charged crime; and (3) they did not assist the jury in understanding the medical examiner's testimony. However, Defendant has failed to demonstrate the trial court's admission of the sixteen autopsy photographs was both an abuse of discretion and sufficiently prejudicial to his case. *See Matlock*, 717 S.W.3d at 283.

Standard of Review and Applicable Law

"A trial court has broad discretion in the admission of photographs." *State v. Forster*, 616 S.W.3d 436, 446 (Mo. App. E.D. 2020) (citation omitted). Photographs are relevant and admissible when they, *inter alia*, depict the nature and extent of the victim's wounds or otherwise assist the jury in understanding the testimony at trial or constitute

[3] Defendant asserts in his first point relied on that the trial court committed reversible error in admitting twenty-three autopsy photographs. However, upon review of the record, only twenty-two autopsy photographs were admitted into evidence (sixteen of which depict T.B.'s body and six of which only depict bullet fragments taken from T.B.'s body). In the argument section of his first point, Defendant does not substantively argue, or even refer to, the six photographs which only depict bullet fragments taken from T.B.'s body. We do not decide issues not developed on appeal. *See Firestone v. VanHolt*, 186 S.W.3d 319, 324 (Mo. App. W.D. 2005). Therefore, we consider only whether admission of the sixteen photographs depicting T.B.'s body constituted reversible error.

proof of an element of the crime. *See State v. Aaron*, 665 S.W.3d 401, 405 (Mo. App. E.D. 2023) (citing *State v. Rousan*, 961 S.W.2d 831, 844 (Mo. banc 1998)).

In addition, relevant photographs are not inadmissible merely because they may be inflammatory, because other evidence describes what is shown in the photographs, or because a defendant does not contest some of the issues implicated in the photographs. *State v. Hawkins*, 58 S.W.3d 12, 24 (Mo. App. E.D. 2001); *see also State v. Emery*, 701 S.W.3d 585, 601 (Mo. banc 2024) ("[i]t is well established that if photographs are gruesome, it is simply because the crime itself was gruesome") (citations and internal quotation marks omitted). Moreover, like any other evidence, relevant photographs should not be excluded from evidence unless their prejudicial effect outweighs their probative value. *State v. Rothwell*, 689 S.W.3d 260, 268 (Mo. App. E.D. 2024); *see also State v. Prince*, 534 S.W.3d 813, 818 (Mo. banc 2017).

Analysis

Here, the sixteen autopsy photographs of T.B. at issue on appeal were relevant and admissible because they showed the nature and extent of bullet entrance wounds on T.B.'s body which assisted the jury in understanding medical examiner Dr. Norfleet's testimony. *See Aaron*, 665 S.W.3d at 405 (citing *Rousan*, 961 S.W.3d at 844); *see also Prince*, 534 S.W.3d at 817 (evidence must be both logically and legally relevant to be admissible).

During Dr. Norfleet's testimony, the sixteen autopsy photographs admitted into evidence were used to walk the jury through Dr. Norfleet's autopsy examination of T.B. and to portray where bullet entrance and exit wounds were present on T.B.'s body. For

purposes of ascertaining the cause and manner of death in a shooting victim, Dr. Norfleet explained how it is important to "… determine the direction that the bullet goes through the body …" and "… describe how the bullet moves through … skin, bone, [and] organs …." For example, when describing the contents of Exhibit 12C (one of the autopsy photographs at issue on appeal), Dr. Norfleet described a bullet entrance wound on the side of T.B.'s right breast:

> [The bullet] moved via the skin, soft tissue, the sternum, which is a bone in the central portion of the chest, the pericardium, which is the tissue that surrounds the heart, the left ventricle and right ventricle of the heart, lower lobe of the left lung, the left sixth rib, to exit the skin of the lateral surface of the left back.

The above information was significant for the jury to understand exactly how a bullet can disrupt major internal organs, ultimately causing death. At the end of Dr. Norfleet's testimony, he concluded, "The most significant injuries [to T.B.'s internal organs] [were the] disruption, destruction, [and] severing of the tissue and important organs of the lungs and heart." Furthermore, Dr. Norfleet stated, "Anytime those particular [organs] are traumatized, in those particular fashions, …" maintaining life is near impossible.

Additionally, the sixteen autopsy photographs of T.B. at issue on appeal were relevant and admissible because they showed the nature and extent of bullet entrance wounds on T.B.'s body which aided the State in establishing the element of deliberation in first-degree murder. *See Aaron*, 665 S.W.3d at 405 (citing *Rousan*, 961 S.W.3d at

844); *see also Prince*, 534 S.W.3d at 817 (evidence must be both logically and legally relevant to be admissible); section 565.020.1.[4]

The element of deliberation ensures the jury believes the defendant acted deliberately and consciously, not reflexively. *State v. Brock*, 699 S.W.3d 778, 780 (Mo. App. E.D. 2024). "Deliberation … can be proved by circumstantial evidence, i.e., evidence giving rise to a reasonable inference of guilt." *State v. Winter*, 719 S.W.3d 738, 748 (Mo. banc 2025). Here, Dr. Norfleet indicated that under the circumstances of this case, the nature and extent of the bullet entrance wounds, specifically the ones inflicted upon T.B.'s chest area, were associated with little to no chance of survival. *See State v. Sokolic*, 660 S.W.3d 54, 58 (Mo. App. E.D. 2023) (deliberation can be inferred from the defendant's use of a deadly weapon on some vital part of a victim's body). Further, with the aid of the autopsy photographs, Dr. Norfleet was able to show how each of the fourteen bullets entered and exited T.B.'s body. *See id*. (deliberation can be inferred when there is evidence the defendant inflicted a victim with multiple wounds). Accordingly, the trial court did not abuse its discretion in admitting the autopsy photographs at issue in this appeal.

Furthermore, we are not convinced the trial court's admission of the autopsy photographs at issue on appeal was so prejudicial as to deprive Defendant of a fair trial because the record reveals there is not a reasonable probability the jury would have acquitted Defendant but for the admission of the evidence. *See Oshia*, 700 S.W.3d at

[4] All statutory references are to RSMo 2016 (effective from July 13, 2016, to the present).

612; *Matlock*, 717 S.W.3d at 283. The State provided an ample amount of evidence, aside from the autopsy photographs, supporting Defendant's conviction of first-degree murder. As acknowledged by Defendant, it was uncontested T.B. died as a result of being shot by Defendant. Additionally, there was an overwhelming amount of evidence and reasonable inferences therefrom demonstrating Defendant's deliberation in T.B.'s murder, including evidence that: (1) before the shooting, Defendant and T.B. had been in a romantic relationship, had broken up, and Defendant was no longer welcome at T.B.'s house; (2) Defendant brought a loaded pistol with him to T.B.'s house on the day of the shooting; (3) Defendant had a scowl on his face just minutes before shooting T.B.; (4) Defendant continued shooting T.B. even after she screamed and fell to the ground; (5) Defendant fired his pistol directly at T.B. approximately fourteen times; and (6) after shooting T.B., Defendant retreated back to his truck and drove away. *See e.g., State v. Roberts*, 948 S.W.2d 577, 589-90 (Mo. banc 1997) and *State v. Redmond*, 686 S.W.3d 333, 339 (Mo. App. E.D. 2024) and *State v. Perkins*, 600 S.W.3d 838, 847 (Mo. App. E.D. 2020) and *State v. Meine*, 469 S.W.3d 491, 497 (Mo. App. E.D. 2015) and *State v. Foote*, 791 S.W.2d 879, 884 (Mo. App. E.D. 1990) (collectively holding such evidence supports an inference of deliberation).

Based on the foregoing, the trial court did not commit reversible error in admitting the sixteen autopsy photographs of Victim T.B. *See Matlock*, 717 S.W.3d at 283. Defendant's first point on appeal is denied.

Point Two: The Trial Court Did Not Commit Reversible Error in Admitting a Portion of Testimony from T.B.'s Mother

In Defendant's second and final point on appeal, he argues the trial court committed reversible error in admitting T.B.'s mother's testimony that her impression of Defendant, moments before Defendant began shooting at T.B., was that "… he was saying in his mind, I'm going to get you." Specifically, Defendant claims T.B.'s mother's testimony was inadmissible because it was speculative as to Defendant's state of mind and invaded the province of the jury. However, Defendant has failed to demonstrate the trial court's admission of T.B.'s mother's testimony was both an abuse of discretion and sufficiently prejudicial to his case. *See id*.

Standard of Review and Applicable Law

Trial courts have broad discretion in admitting lay witness testimony into evidence. *State v. Sander*, 682 S.W.3d 85, 96 (Mo. App. W.D. 2023) (citing *State v. Presberry*, 128 S.W.3d 80, 86 (Mo. App. E.D. 2003)). Generally, a lay witness may not testify regarding her opinion on a contested matter, and instead must testify to facts from which the jury can form its own opinions. *Sander*, 682 S.W.3d at 96 (citing *State v. Starkey*, 380 S.W.3d 636, 647 (Mo. App. E.D. 2012)). "However, a witness who personally observed events may testify to [her] matter of fact comprehension of what [she] has seen in a descriptive manner which is actually a conclusion, opinion or inference, if the inference is common and accords with the ordinary experiences of everyday life." *Sander*, 682 S.W.3d at 96-97 (quoting *State v. Davidson*, 242 S.W.3d 409, 414 (Mo. App. E.D. 2007) (internal quotation marks omitted)). Furthermore, a lay

witness may testify to her impressions regarding a defendant's mental or emotional state if the impressions "… are based on personal observation, do not address an ultimate issue, and are consistent with common experience." *Sander*, 682 S.W.3d at 97.

Analysis

Here, T.B.'s mother's testimony that "… [Defendant] was saying in his mind, I'm going to get you[,]" was both relevant and admissible because it was based on her personal, first-hand observations of Defendant and was a natural inference based on her impression of Defendant moments before Defendant began shooting at T.B. *See Sander*, 682 S.W.3d at 97 (holding lay witness testimony constituting a practical and convenient "short-hand rendition" of a composite situation is permissible); *see also Davidson*, 242 S.W.3d at 414.

As of the time of the shooting incident, T.B.'s mother had known Defendant for approximately three years and had observed Defendant several times, including when T.B.'s mother would drive Defendant and T.B. places and when Defendant would hang out at T.B.'s house. The trial court did not abuse its discretion when it reasoned that T.B.'s mother's testimony challenged on appeal was "… not indicating [] what [Defendant] was thinking…" but instead described her "… impression of the look that she saw [on Defendant's face] and her understanding of it [before Defendant began shooting]." We find it is common for individuals to form impressions about others based on demeanor and conduct, including when individuals are already acquainted with each other. *See Sander*, 682 S.W.3d at 97 ("[i]ndividuals commonly form impressions of the

emotional state of persons with whom they interact, based on a host of factors which may be difficult to individually identify and describe").

Additionally, T.B.'s mother's testimony that "… [Defendant] was saying in his mind, I'm going to get you[,]" was amplified by the subsequent question from the prosecutor and response from T.B.'s mother:

[Prosecutor]:	Tell the jurors what happened next.
[T.B.'s mother]:	… [H]e just started shooting, and I hear[d] bullets, and that's when I tried to stop him from shooting at [T.B.].

See State v. Gray, 731 S.W.2d 275, 285 (Mo. App. W.D. 1987). T.B.'s mother's thinking that Defendant "was going to get [T.B.]" was, in fact, a permissible "short-hand rendition" of the tragic murder that took place at the hands of Defendant. *See id.*; *see also Sander*, 682 S.W.3d at 97; *Davidson*, 242 S.W.3d at 414.

Furthermore, the State charged Defendant with first-degree murder, which includes the essential element of deliberation. *See* section 565.020.1; *Winter*, 719 S.W.3d at 748. While Defendant argues it was uncontested that T.B. died as a result of being shot by Defendant, the State was still required to show, beyond a reasonable doubt, evidence that Defendant caused T.B.'s death after deliberating on the matter. *See Winter*, 719 S.W.3d at 748; *see also* section 565.020.1. As previously stated, "[d]eliberation … can be proved by circumstantial evidence, i.e., evidence giving rise to a reasonable inference of guilt." *Winter*, 719 S.W.3d at 748. Here, T.B.'s mother testified that Defendant's expression moments before Defendant began shooting at T.B., "… was like a scowl on his face … it was like a mean look. … [l]ike, he was saying in his mind, I'm

going to get you." Defendant's deliberation in causing T.B.'s death could be reasonably inferred by T.B.'s mother's impression of Defendant's emotional state and demeanor in the minutes before Defendant began shooting at T.B. *See Brock*, 699 S.W.3d at 780 (indicating deliberation is inferred when, *inter alia*, the defendant appears angry and irritated before causing the victim's death).

Moreover, we are not convinced the trial court's admission of the portion of T.B.'s mother's testimony at issue on appeal was so prejudicial as to deprive Defendant of a fair trial because the record reveals there is not a reasonable probability the jury would have acquitted Defendant but for the admission of the evidence. *See Oshia*, 700 S.W.3d at 612; *Matlock*, 717 S.W.3d at 283. As discussed in detail in this Court's analysis of Defendant's first point on appeal, there was an ample amount of evidence, aside from the evidence challenged on appeal, supporting Defendant's conviction of first-degree murder.

Based on the foregoing, the trial court did not commit reversible error in admitting the portion of T.B.'s mother's testimony challenged on appeal. *See Matlock*, 717 S.W.3d at 283. Defendant's second point on appeal is denied.

Conclusion

The trial court's judgment is affirmed.



Robert M. Clayton III, Presiding Judge

Lisa P. Page, Judge and
Michael E. Gardner, Judge, concur.