In the Missouri Court of Appeals
Eastern District

DIVISION FOUR

STATE OF MISSOURI, Respondent, v. JOSHUA WOOTEN, Appellant.	))))))))	ED113976 Filed: July 21, 2026

Appeal from the Circuit Court of St. Louis County
The Honorable Ellen H. Ribaudo

Introduction

Joshua Wooten (Defendant) appeals the judgment entered upon his conviction by jury of one count of rape in the second degree. He argues the trial court erred in excluding evidence of a prior rape allegation made by the victim (Victim). Finding no abuse of discretion by the trial court in excluding this evidence, we affirm.

Factual and Procedural Background

The State charged Defendant with one count of first-degree rape and one count of attempted first-degree sodomy for events occurring in the early hours of May 1, 2023. At trial, the jury heard the following evidence.

Defendant is Victim's cousin. In April of 2023, Victim had been living with her mother. Victim and her mother had a small altercation, and Victim and Defendant agreed that Victim could move into Defendant's apartment. The evening of April 30, 2023, when Victim had been living there approximately one week, she and Defendant and a friend of theirs decided to celebrate that evening because Victim had gotten a job. Victim was drinking margarita mix with no alcohol in it because she did not drink, while Defendant was drinking alcohol. When they finished celebrating, Victim took a shower and went to bed.

Victim testified that she woke up at approximately 3:00 a.m. in her bed, face down with Defendant on top of her. She had gone to bed with underwear and pajamas on, but both were at her feet, and Defendant's penis was penetrating Victim's vagina. Victim asked Defendant to stop multiple times, and he would not. He told her "just let me finish." Victim tried to get away, but she was unable to move because Defendant was on top of her. Victim also testified Defendant attempted anal intercourse with her but was not successful. She said at some point the assault stopped, and she ran away. She drove to an empty church parking lot and called her sister (Sister). Sister met Victim there and they "watched [Defendant] blow [Victim's] phone up." Victim called Defendant back at some point, and she recorded the conversation with Defendant using Sister's phone. The conversation included the following:

Defendant: Hello.

Victim: Yeah.

Defendant: [Victim], I'm sorry. Hear me?

Victim: I heard you.

Defendant: This is for real like deep down. Something like that wasn't supposed to happen. You supposed to come over here and feel comfort, not – not now what you're feeling. The trouble is it's – it's – it's f***ed up. I was trying to (inaudible) please, at least get back to the house come talk to me, I promise I won't put my hands on you.

Victim: Why did you do it in the first place?

Defendant: [Victim], you know what, I have no f***ing idea … I stopped when you said stop.

Victim: No you didn't.

Defendant: [Victim], okay, you know what, [Victim], maybe you're right, you're right, [Victim]. Can you please just get out here so we can talk…I will not f*** up again?

Victim: I don't know if I can talk to you. … You supposed to give me a sense of comfort and you know what I just went through.

Defendant: I know, I know, [Victim], I know, I know. And I really apologize. And I f***ed up…

[Victim], I promise you I will (inaudible) and not hurt you, I am very sorry.

Victim testified she went to the hospital the same day or the day after and underwent a sexual assault examination. A forensic DNA analyst detected Defendant's DNA as the result of a presumptive test for the presence of seminal fluid in two samples from Victim: a swab of her external genitalia and a swab from a tampon Victim was wearing when she arrived at the hospital. Additional microscopic analysis, performed approximately one and a half years later, intended as a confirmatory test for the presence

of semen (as opposed to the presumptive test performed previously) found no presence of sperm cells. The DNA analyst testified that could be due to the passage of time, the portion of the sample tested, or "just very low sperm present."

Defendant did not testify or present any evidence. On the count of first-degree rape, the jury found Defendant guilty of the lesser-included offense of second-degree rape; and on the count of attempted first-degree sodomy, the jury found Defendant not guilty. The trial court sentenced Defendant as a prior offender to seven years' imprisonment.

Defendant's attorney had filed a pre-trial motion pursuant to Section 491.015,[1] seeking to introduce evidence of a rape allegation Victim had made in the months preceding this incident. The trial court held a hearing on the motion before trial, at which Victim testified that she enrolled in the University of Tulsa for college in the fall of 2022. She testified that during her second semester, in March or April of 2023, she was raped. She reported the incident to the police and the university. The university held a Title IX hearing, where one of Victim's friends testified in support of Victim, and another person testified that Victim made up the rape allegation. The university did not pursue any charges against the alleged perpetrator, and Victim decided to drop out of college. She came back to St. Louis to live with her mother, but then she had an altercation with her mother, shortly after which she moved in with Defendant.

[1] All statutory references are to RSMo. Cum. Supp. 2023, unless otherwise indicated.

Victim further testified she had filed a petition for an order of protection against the student who raped her in Tulsa, but she did not appear at the court hearing on the order of protection because she did not know she was supposed to go to court for it. She said she was following the instructions of the university staff and was more focused on the Title IX hearing at the school. Victim testified that she had also filed a petition for an order of protection against Defendant, and she did appear at the hearing for that petition, but she was informed at that time that Defendant had not been served. Victim stated she chose not to go to the next court date, after Defendant had been served, because she was afraid.

Defendant's mother also testified at the pre-trial hearing. She stated that she had obtained the incident report from the Tulsa police regarding the alleged rape Victim had reported there. The report stated that its status was "unfounded." The assistant prosecuting attorney (prosecutor) objected to the report as hearsay, and further argued that there was no evidence regarding what "unfounded" meant. The prosecutor stated his investigator called the Tulsa police department and was told that the police submitted the case to the prosecuting attorney's office in Tulsa where they declined to file charges, to which defense counsel objected as hearsay. The trial court stated it would allow the testimony as an offer of proof but would not utilize it for any inadmissible purpose. Following the hearing, the trial court concluded that Defendant had failed to establish that Victim's prior allegation was false, and therefore Defendant could not introduce evidence of the prior allegation at trial.

Discussion

Each of Defendant's four points on appeal concerns the trial court's exclusion of Victim's prior allegation of rape. In Point One, he argues the trial court abused its discretion in excluding the evidence of Victim's prior allegation because it was relevant to the issue of Victim's credibility and its exclusion deprived Defendant of a fair trial. In Point Two, he argues that two exceptions to Section 491.015, Missouri's rape shield law, applied to the evidence here of Victim's prior allegation of rape, thus the trial court erred in failing to allow Defendant to introduce it. In Point Three, Defendant argues the State opened the door to evidence of Victim's prior rape allegation when it introduced the recorded phone call into evidence. Finally, Defendant argues in Point Four that he should have been permitted to introduce evidence of the prior rape allegation to establish that Victim had a motive here to fabricate her allegation against Defendant.

Standard of Review

The State argues as an initial matter that none of Defendant's points on appeal are preserved, because after obtaining the court's pre-trial ruling excluding his proffered evidence, Defendant did not attempt to submit the evidence during trial, and thus failed to allow the trial court to make a final ruling and preserve the issue for appeal. Under the circumstances here, we disagree with the State.

A trial court's pre-trial ruling excluding a party's proffered evidence is interlocutory, and as such, preserves nothing for appeal. *State v. Marshall*, 131 S.W.3d 375, 377 (Mo. App. E.D. 2004). Rather, to preserve the issue, a party must attempt to present the excluded evidence at trial, and if the trial court sustains an objection to the evidence, the proponent must make an offer of proof so that the trial court has an

opportunity to reconsider its ruling "against the backdrop of the evidence adduced at trial." *Id.*; *State v. Boyd*, 992 S.W.2d 213, 218 (Mo. App. E.D. 1999). Our courts have noted that offers of proof made before trial do not suffice. *Id.*

Here, Defendant made an offer of proof at the pre-trial hearing on his motion to submit the evidence of Victim's prior rape allegation. At trial, prior to the State's submission of the recorded phone call between Victim and Defendant, Defendant's counsel objected due to lack of foundation. The trial court then asked whether counsel was "also objecting based on [his] previous motions that were filed[,]" and the following took place:

> Counsel: Absolutely. I was going to do that. I want to do that. Yes, I am.
>
> The Court: And you want that to be continuing?
>
> Counsel: A continuing objection. And I was going to take this up at my cross, and I was going to try to offer all that information in. Do you want me to get up and do this again, or do you just want to have a continuing objection and object to all of it under 491.015?
>
> The Court: I mean, I just want to make sure you feel like you've had an opportunity to preserve. If you think you need to do more, that's fine. If you think that's good, I'm fine with that, too.
>
> Counsel: Okay. Well, right now I'm objecting to introducing the phone call. I believe it lets in all kinds of other information. The phone call specifically says, you know, after all I've been through – he's introducing that. I should be able to cross examine that. The Court has limited me in my cross-examination. I just think I ask that this all be preserved on appeal.

The Court: The Court understands and the Court's previous ruling with regards to what you're allowed to ask about what she said. You are allowed limited inquiry.

We find this sufficient here to preserve Defendant's argument on appeal. In the cases cited above, the defendants' counsels did not attempt to introduce the evidence at trial. *See Marshall*, 131 S.W.3d at 377; *Boyd*, 922 S.W.2d at 218-19. Here, while Defendant's counsel did not make an additional offer of proof at trial, he made clear he intended to try to introduce the same evidence during his cross-examination and gave the trial court an opportunity to reconsider its prior ruling. The trial court likewise made clear that the court's prior ruling would stand, and both of them indicated their intention to preserve the issue for appeal. Under the circumstances, Defendant should not have been compelled to make an additional offer of proof here; "[t]he law does not compel the undertaking of a useless act for the lone aim of complying with a technical requirement." *State v. Long*, 140 S.W.3d 27, 32 n.7 (Mo. banc 2004) (finding defense's decision not to cross-examine victim does not bar defendant from introducing relevant evidence of prior allegations shown to be false where trial court had made clear it would not allow evidence and attempts to cross-examine victim would therefore be futile).

Therefore, because each of Defendant's points on appeal dispute the trial court's evidentiary ruling, we review them for abuse of discretion. *State v. Kemp*, 212 S.W.3d 135, 145 (Mo. banc 2007). An abuse of discretion occurs when the trial court's ruling is clearly against the logic of the circumstances and is so unreasonable as to indicate a lack of careful consideration. *Id.* Moreover, we review for prejudice, not mere error, and we

will reverse only if the error was so prejudicial that it deprived the defendant of a fair trial, in that there is a reasonable probability that the trial court's error affected the outcome of the trial. *Id.*

Point One – Defendant Failed to Establish Victim's Prior Rape Allegation was False

In Point One, Defendant argues the trial court abused its discretion in excluding evidence of Victim's prior rape allegation because it was relevant to impeach her credibility. We disagree.

Missouri's rape shield statute, Section 491.015.1, prohibits "opinion and reputation evidence of a victim's prior sexual conduct, acts, or practices" in any prosecution of offenses related to sexual conduct under chapter 566 or 568.[2] The evidence prohibited by Section 491.015.1 includes a victim's prior complaints of sexual assault when such complaints are inherently premised upon prior sexual conduct. *State v. Stiff*, 626 S.W.3d 916, 923 (Mo. App. E.D. 2021). However, Section 491.015 does not bar evidence of prior complaints premised upon false allegations, which the victim knows to be false, and which are legally relevant. *Long*, 140 S.W.3d at 30 n.3, 31-32. Extrinsic evidence of a prior false allegation may be admissible to refute the credibility of a witness. *See State v. Brown*, 717 S.W.3d 589, 595 (Mo. App. S.D. 2025).

In order for evidence of Victim's prior allegations to be relevant to refute Victim's credibility here, Defendant had to establish by a preponderance of the evidence that

[2] Defendant's charges were first-degree rape in violation of Section 566.030 and first-degree attempted sodomy in violation of Section 566.060. The jury convicted Defendant of second-degree rape in violation of Section 566.031.

Victim's allegations were false and that Victim knew they were false. *Id.* at 32. Failure to make such a showing renders such evidence properly excluded under Section 491.015.1. *State v. Brown*, 717 S.W.3d 589, 595 (Mo. App. S.D. 2025) ("prior allegation must be proven false or there is no error in excluding evidence"); *State v. Parry*, 703 S.W.3d 706, 713 (Mo. App. S.D. 2024) (rape shield statute barred evidence of victim's prior allegations where no showing allegations were false). Defendant failed to show Victim's prior allegations were false here.

At the pre-trial hearing, the State asked Victim directly whether she made up the allegations, and she said "[n]o," and "[i]t happened to me." Defendant relies on two hearsay statements from the pre-trial hearing to refute Victim's testimony regarding the prior incident: (1) Victim's testimony that one witness at the Title IX hearing testified that Victim made up the prior rape allegation; and (2) an unauthenticated incident report from Tulsa police, noting the status of Victim's complaint was "unfounded." Both statements were offered to prove the truth of the matter asserted, and neither fit under a hearsay exception. *See State v. Hollowell*, 643 S.W.3d 329, 337 (Mo. banc 2022) (hearsay statements are inadmissible unless recognized exception to rule against hearsay applies).

Regardless, even if these statements were admissible as evidence, they do not establish Victim's prior rape allegation was false, though these statements together may come close. "The fact that an agency determined that a witness's prior allegations were unfounded does not alone demonstrate that those allegations were false." *State v. Thompson*, 341 S.W.3d 723, 733 (Mo. App. E.D. 2011). Similarly, the fact that the

university did not take disciplinary action against the alleged perpetrator does not establish Victim's complaint was false. *Cf. Brown*, 717 S.W.3d at 595-96 (even acquittal of criminal charge does not prove defendant is innocent, nor is it "a finding of any fact" including that allegation was false).

Because Defendant failed to establish by a preponderance of the evidence that Victim made a prior false allegation and she was aware of its falsity, Defendant could not show the evidence of Victim's prior allegation was relevant for impugning Victim's credibility. Moreover, because the prior allegation was inherently intertwined with Victim's prior sexual conduct, in that she testified "[i]t happened," Section 491.015.1 barred admission of this evidence unless an exception applied, which we address in our discussion of Point Two. *See State v. Kelley*, 83 S.W.3d 36, (Mo. App. W.D. 2002) (where victim answered "no" when asked during offer of proof if prior allegations were false, evidence included prior sexual conduct and was barred by rape shield statute).[3]

The trial court did not err in excluding the evidence of Victim's prior allegation on the basis asserted in Point One. Point denied.

Point Two – No Exception to the Rape Shield Statute Applies

[3] We note the standard for introducing evidence of a prior rape allegation is very high, in that a victim would have to admit the prior allegation was false or there would have to be some other, clear evidence establishing Victim made a false allegation and knew it was false. While the rape shield statute is unquestionably essential for protecting victims, it can shift the burden of proof onto a defendant, who has to rely on a victim to admit a previous lie to overcome the statute's high bar.

Defendant argues in Point Two that even if Section 491.015.1 applies to Defendant's proffered evidence regarding Victim's prior allegation, two exceptions apply, rendering the evidence admissible here. We disagree.

First, Section 491.015.1 contains four exceptions that can render evidence of a victim's prior sexual conduct admissible "to the extent that the court finds the evidence relevant to a material fact or issue." Defendant argues the third exception applied here, specifically, "[e]vidence of immediate surrounding circumstances of the alleged crime." Section 491.015.1(3). Missouri courts have found this exception "is very similar to the theory of res gestae," which "includes circumstances, facts, and declarations incidental to the main fact or transaction, and necessary to illustrate its character, and acts, words, and declarations which are so closely connected to the main fact or transaction as to constitute a part of it." *Parry*, 703 S.W.3d at 711-12 (citing *State v. Rycraw*, 507 S.W.3d 47, 57 (Mo. App. E.D. 2016)). Thus, "acts under the res gestae exception are admissible only when they precede the offense immediately or by a short interval of time and tend, as background information, to elucidate a main fact in issue." *Id.*

In the present case, the evidence Defendant sought to introduce concerned a prior incident that took place at least one week, but more likely several weeks,[4] before the relevant incident here, when Victim lived in a different city. This prior incident was separate and distinct, and Defendant has not shown how it was in any way connected to

[4] Victim testified that the prior incident took place in March or April, she moved in with her Mother sometime in April, and then the incident here took place in the early morning hours of May 1, after she had been living with Defendant for about one week.

the incident here. *See Parry*, 703 S.W.3d at 712 (evidence of victim's allegations against others made around the same time she accused defendant was not admissible under Section 491.015.1(3) because defendant did not establish when any other alleged incidents occurred and whether they were immediately preceding or within short interval of time of defendant's incident); *Rycraw*, 507 S.W.3d at 58 (record did not support finding that alleged intercourse occurring within two-year period defendant was charged with committing crimes against victim was "intertwined" with events surrounding charged crimes, nor did it "precede the offense immediately or by a short interval of time"); *but see State v. Smith*, 157 S.W.3d 379, 383 (Mo. App. E.D. 2005) (finding video of victim masturbating taken by victim's boyfriend immediately prior to consensual sex with boyfriend, then immediately followed by alleged rape by defendant, fell under Section 491.015.1(3) because it occurred in same place on same evening and provided factfinder with complete and coherent picture of defendant's version of events to support his defense of consent).

Defendant further argues that the prior rape allegation was relevant under the third statutory exception to show why Victim knew not to shower before going to the hospital, which would elucidate a main fact in issue. As stated above, these events were not connected, defeating the applicability of Section 491.015.1(3). Regardless, Defendant's counsel could have made an argument about Victim's knowledge not to shower, but it would not have elucidated a main fact in issue. During the pre-trial hearing, the trial court told Defendant's counsel he would be permitted to ask Victim what she was referring to when she stated during the recorded phone call, "you know what I just went through."

The parties agreed that Victim would respond that she was referring to the prior incident of being raped in Oklahoma. The trial court said it would permit that testimony, but limited counsel from inquiring further into the details of that incident or producing extrinsic evidence about it. Thus, counsel could have elicited testimony about the prior rape incident and then made his argument to the jury that Victim therefore had some special knowledge not to shower, but he chose not to.

We find no abuse of discretion on the part of the trial court here. We fail to see first, how the additional extrinsic evidence Defendant proffered to show Victim's prior allegation was false is related to her knowledge not to shower before undergoing a rape examination; and second, how such knowledge not to shower tends to elucidate the fact of whether Defendant committed the charged acts. The key facts are whether DNA was present, and, in light of the DNA evidence, how it got there. The reason Victim did not shower prior to the examination does not elucidate those factual determinations for the jury, which is presumably one of the reasons Defendant's counsel chose not to pursue that line of questioning.

Apart from the statutory exceptions to Section 491.015.1, Defendant alternatively argues a judicially-created "fair trial" exception applies here. Defendant concedes he did not raise this with the trial court and requests that we review his argument for plain error under Rule 30.20. Such review involves considering first whether Defendant raises a "plain error," which is "evident, obvious, and clear," and which affects "substantial rights," in that "there are significant grounds for believing that the error is of the type from which manifest injustice or miscarriage of justice could result if left uncorrected."

State v. Estes, 716 S.W.3d 333, 343 (Mo. App. S.D. 2025). Second, we determine whether such manifest injustice or miscarriage of justice actually occurred. *Id.*

Missouri courts have found that the rape shield statute "may not be applied so strictly as to deprive the defendant of the fair trial comprehended by the concept of due process." *Parry*, 703 S.W.3d at 712 (quoting *State v. Samuels*, 88 S.W.3d 71, 82 (Mo. App. W.D. 2002)). This exception is narrowly interpreted, and applies only where the State has introduced evidence to show a defendant's guilt and prohibiting a defendant's contrary evidence under the rape shield statute would violate a defendant's constitutional right to a fair trial. *Id.* (citing *State v. Cooper*, 581 S.W.3d 677, 681 (Mo. App. S.D. 2019)). "As a result, the judicially created 'right to fair trial' exception to section 491.015 does not apply when the evidence is relevant merely to impeach a victim's credibility and does not directly refute evidence that tends to show a defendant's guilt." *Id.*

Here, Defendant seeks to introduce evidence of Victim's prior allegation primarily to attack her credibility, which is not a purpose to which the fair-trial exception applies. Beyond the issue of credibility, Defendant relies on *State v. Estes*, which found the "fair trial" exception applied and the trial court's exclusion of evidence constituted plain error. 716 S.W.3d at 343-44. In *Estes*, there was evidence the victim had asked her stepmother to get a pregnancy test because she feared she had become pregnant as a result of the defendant's rape. *Id.* The trial court excluded evidence that the victim had told the defendant's daughter that she was concerned she had become pregnant due to unprotected sex with her boyfriend. *Id.* at 344. There was no forensic evidence or eyewitness testimony corroborating the victim's rape allegations, and the excluded evidence directly

refuted the victim's testimony concerning why she feared she was pregnant. *Id.* The State moreover had argued the victim had no motive to lie. *Id.* The Court of Appeals found that under the circumstances, where the evidence was "she-said, he-said" and the excluded evidence provided a motive to fabricate the rape allegation, the rape shield statute had deprived the defendant of a fair trial, and the exclusion of the evidence was plain error. *Id.*

Unlike in *Estes*, the evidence here of Victim's prior allegation does not directly refute the evidence she offered to establish Defendant raped her. Defendant argues the evidence was relevant to explain Victim's statement in the phone call to Defendant that he knew "what [she] just went through," and to explain why Victim did not shower after the incident with Defendant. Neither the prior incident, Defendant's knowledge thereof, nor whether Victim showered were facts tending to prove Defendant's guilt that Defendant had to refute. Further, the question regarding the truth of Victim's prior rape allegation did not directly refute Victim's testimony that Defendant raped her or the physical evidence presented to the jury.

Because neither exception to Section 491.015.1 applied here, the trial court did not err in excluding the evidence of Victim's prior allegation on the bases asserted in Point Two. Point denied.

Point Three – The State Did Not Open the Door to the Disputed Evidence

Finally, Defendant argues the trial court erred in excluding Defendant's proffered evidence of Victim's prior rape allegation because the State opened the door by introducing the recording of Victim's phone call with Defendant, in which she states,

"you know what I just went through." Defendant argues he was therefore entitled to cross-examine Victim about that statement and to introduce evidence of her prior allegation, which he argues also would clarify that he said "I'm sorry" out of sympathy for what happened to her previously rather than as an admission of guilt. We disagree.

In this argument, Defendant invokes the "curative admissibility doctrine." *See State v. Middleton*, 998 S.W.2d 520, 528 (Mo. banc 1999). The general rule is that "[a] party may not … introduce inadmissible evidence to rebut inferences raised by the introduction of admissible evidence during cross-examination." *Id.* However, if one party introduces inadmissible evidence, the "curative admissibility doctrine" allows the opposing party to "introduce otherwise inadmissible evidence of its own to rebut or explain inferences raised by the first party's evidence." *Id.* (citing *State v. Shurn*, 866 S.W.2d 447, 458 (Mo. banc 1993)).

Here, Defendant does not argue and has not demonstrated that the recorded phone call was inadmissible; he simply argues he should have been permitted to cross-examine Victim about her statement referring to what she "just went through." As noted above, during the pre-trial hearing, the trial court told Defendant's counsel he could ask Victim what she meant by that statement. The parties agreed Victim would essentially say she was referring to being raped in Oklahoma, and the court said it would permit that testimony, but limited counsel from inquiring further into the details of that incident or producing extrinsic evidence about it.

The trial court's ruling in this regard was not an abuse of discretion. As we have discussed, any further evidence was not relevant for impeachment purposes because

Defendant did not establish by a preponderance of the evidence Victim's previous allegation was false. However, the trial court stated the court would allow Defendant to develop his argument that he was apologizing out of sympathy for the prior incident, rather than of guilt. That line of argument actually implies the prior incident occurred, and further evidence that the prior allegation was false would not have lent weight to Defendant's argument regarding his apology. Defendant's counsel chose not to pursue that line of questioning, which appears strategic in that there may have been a low likelihood the jury would believe that argument.

We find no error in the trial court's exclusion of any further evidence of Victim's prior allegations on the basis of the curative admissibility doctrine. Point denied.

Point Four – The Trial Court Did Not Improperly Limit Defendant's Ability to Establish a Motive to Fabricate

In Point Four, Defendant argues the trial court's ruling excluding extrinsic evidence of Victim's prior rape allegations improperly limited Defendant's ability to show Victim had a motive to fabricate the allegations against Defendant. We disagree.

Defendant relies on *State v. Lampley*, 859 S.W.2d 909 (Mo. App. E.D. 1993), which held that evidence involving a victim's prior allegations can be relevant if the evidence shows a motive to make a false accusation against the defendant, so long as the questions posed to the victim are limited to the prior complaint without inquiry into any sexual conduct. *Id.* at 911. Defendant's proposed cross-examination of Victim here, based on that outlined by the court in *Lampley*, included asking Victim if she had made a prior complaint, if she had received a benefit from such prior complaint, and whether that

benefit, and nothing else, motivated her to make the complaint against Defendant here. *See id.* at 912. Defendant posits that the benefits Victim would testify she received were learning not to shower before going to the hospital and that the person she accused would be subjected to police questioning and a court process for an order of protection. Defendant argues he would have elicited that Victim did not like Defendant and thus had a motive to fabricate her allegations in light of what Defendant would have to endure because of them.

The trial court did not improperly limit Defendant's ability to make this argument. As discussed above, the trial court stated Defendant would be permitted to ask Victim what she meant by "what she had gone through," thus eliciting testimony about a prior rape incident. Defendant did not ask the trial court if he could then draw out whether Victim received any benefit from the process following that incident, whether she had a dislike for Defendant, and whether those things prompted her to fabricate the present allegations; but even if he had, there is no indication the trial court would have excluded those kinds of questions, none of which sought details of prior sexual conduct. The trial court was clear in its exclusion only of extrinsic evidence of the university's conclusions and the police report because neither established Victim's allegations were false and because during her offer of proof, Victim testified the prior rape occurred. However, the court specifically told Defendant he could elicit the fact of the prior incident. As stated previously, Defendant's counsel chose not to do so.[5] Point denied.

[5] Again here, this is presumably for good reason. Victim testified during her offer of proof that some friendships were damaged after the prior incident and she ended up

Conclusion

For the foregoing reasons, we conclude the trial court did not abuse its discretion in excluding Defendant's proffered evidence related to Victim's prior rape allegation. We affirm.



Gary M. Gaertner, Jr., Judge

Rebeca Navarro-McKelvey, Presiding Judge, and
James M. Dowd, Judge, concur.

leaving college shortly after it occurred. It appears unlikely Victim would have testified affirmatively when asked whether she received a benefit or something that made her happy from that experience.