In the Missouri Court of Appeals
Eastern District

DIVISION TWO

STATE OF MISSOURI, Respondent, v. JAMES C. ARMSTRONG, Appellant.	)))))))))	ED113515 Filed: September 1, 2026

Appeal from the Circuit Court of the City of St. Louis
The Honorable Annette Llewellyn, Judge

INTRODUCTION

James C. Armstrong (Appellant) appeals from the trial court's judgment entered upon a jury's verdict convicting him of involuntary manslaughter in the first degree, attempted robbery in the first degree, and the unclassified felony of armed criminal action. He was sentenced to fifteen years respectively for attempted robbery and armed criminal action with a concurrent sentence of ten years for involuntary manslaughter. We affirm.

BACKGROUND

On February 8, 2023, Appellant was living in a federal halfway house on supervised parole when video surveillance showed him entering the driver's seat of a red Buick SUV. Appellant said the car was "packed" with his cousin's friends, whom Appellant claimed he did not know. However, he admitted they had been gambling together the night before and refused to name them because he was afraid for his life. He did not see any weapons in the vehicle but felt uncomfortable. Real Time Crime Center cameras followed the SUV along city streets to a Mobil gas station at I-70 and Union Boulevard about two miles away.

The Mobil station surveillance video showed the SUV drive past before making a U-turn to circle the lot and pull up to a gas pump catty-corner from where Victim was pumping gas into a light-colored truck. Two armed men from the SUV approached Victim while a third stood at a gas pump across from his truck. After an altercation one suspect shot Victim, who died of his injuries. All three ran to the SUV, which drove off at a high rate of speed, running a red light and swerving between lanes as it drove toward St. Louis County. The surveillance video did not show the driver of the SUV but cell phone records showed Appellant's phone connected to cell towers in the vicinity of the Mobil station at the time and along the route the SUV took after the shooting.

Appellant testified Victim "was like a best friend to me" and they had known each other since he was ten or eleven years old. To his knowledge, Victim dealt marijuana. Appellant had distanced himself from Victim after serving time in prison because he

could not be around "people who were in the streets," meaning "drugs, guns and stuff like that." Yet Appellant denied he was present because he dropped himself off to get high on prescription pills and fentanyl – in violation of his parole – immediately before Victim was shot. He thought the car was still moving when he got out but admitted he did not remember who or how someone took his place in the driver's seat. In closing the prosecutor argued the SUV was only out of the Mobil surveillance video for seven or eight seconds; thus, there was no way Appellant was able to get out of the car and a passenger take his place in the driver's seat.

The trial court denied Appellant's motion for judgment of acquittal at the close of the state's evidence and again at the close of all the evidence. The jury found Appellant guilty of attempted robbery in the first degree, armed criminal action, and involuntary manslaughter in the first degree. The court sentenced him as a prior and persistent offender to ten years for involuntary manslaughter, to run concurrent to consecutive sentences of ten years for attempted robbery and five years for armed criminal action. This appeal follows.

DISCUSSION

Appellant raises two points on appeal, alleging the trial court abused its discretion in admitting the state's surveillance videos without proper foundation, and in entering judgment and sentencing Appellant without sufficient evidence to support the verdicts.

Point One

In his first point on appeal, Appellant alleges the trial court abused its discretion in admitting surveillance camera videos in exhibits one through three. He claims the state

failed to lay a proper foundation for their admission because no witness testified the surveillance videos were fair and accurate representations of what occurred, nor did any witness satisfy the factors necessary to admit the surveillance videos without personal observation.

Additional Facts

Detective Timothy Hollman (Detective Hollman), testified he was one of the primary responding detectives to the Mobil station crime scene at I-70 and Union. He found several cameras facing the parking lot recording onto devices behind the counter inside the gas station. He reviewed the equipment as well as various recordings, and testified it was working properly. He determined the time stamp was about two hours off from real time. Using a USB drive, he downloaded the pertinent video evidence. He subsequently reviewed the video and concluded it was accurate. Defense counsel objected for lack of foundation. The trial court overruled the objection and admitted the videos.

Standard of Review

The question of whether a sufficient foundation has been established to support the admission of evidence is subject to the trial court's broad discretion. *State v. Hosier*, 454 S.W.3d 883, 899 (Mo. banc 2015). "A trial court abuses its discretion when its ruling is clearly against the logic of the circumstances then before the court and is so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration." *State v. Taylor*, 134 S.W.3d 21, 26 (Mo. banc 2004) (quoting *In re Care and Treatment of Spencer*, 123 S.W.3d 166, 167-69 (Mo. banc 2003)). We view the evidence in a light

most favorable to the verdict. *State v. Baumruk*, 280 S.W.3d 600, 607 (Mo. banc 2009). "The party offering a videotape in evidence must show that it is an accurate and faithful representation of what it purports to show." *State v. Minner*, 256 S.W.3d 92, 97 (Mo. banc 2008) (quoting *Phiropoulos v. Bi-State Dev. Agency*, 908 S.W.2d 712, 714 (Mo. App. E.D. 1995)).

The state argues Appellant's point is not preserved because his objection at trial did not specifically identify how the state failed to properly establish a foundation to admit the video evidence, but merely argued a lack of foundation. We agree.

"[A]n allegation that evidence was admitted without a foundation can mean a number of things in context, such as that the evidence lacked authentication, identification, logical relevance, or legal relevance." *Michaud Mitigation, Inc. v. Beckett*, 630 S.W.3d 795, 800 (Mo. App. E.D. 2021) (citing *Kappel v. Prater*, 599 S.W.3d 189, 192 n.2 (Mo. banc 2020)). Therefore, "a general allegation of a lack of foundation is not sufficiently specific to draw a court's attention as to what aspect of the foundation is allegedly lacking." *Id*. (internal citation omitted). "It is incumbent on the objecting party to make the basis of his objection reasonably apparent to the court in order to provide the opponent an opportunity to correct the error and the court to correctly rule on it." *State v. Boydston*, 198 S.W.3d 671, 674 (Mo. App. S.D. 2006) (quoting *State v. Schuster*, 92 S.W.3d 816, 823 (Mo. App. S.D. 2003)).

"Missouri courts strictly apply these principles based on the notion that trial judges should be given an opportunity to reconsider their prior rulings against the backdrop of the evidence actually adduced and in light of the circumstances that exist when the

questioned evidence is actually proffered." *State v. McCullum*, 63 S.W.3d 242, 259 (Mo. App. S.D. 2001) (internal citations omitted). The party seeking plain error review bears the burden to show an "evident, obvious, and clear" error occurred and it resulted in a manifest injustice or miscarriage of justice. Missouri Supreme Court Rule 30.20 (2025); *State v. Jones*, 725 S.W.3d 577, 583 (Mo. banc 2025) (internal quotations omitted).

Here, we find the general lack of foundation objection did not sufficiently apprise the court as to what the state was missing to rectify an alleged issue in admitting the challenged evidence. Given these facts and circumstances, Appellant has not shown "evident, obvious, and clear" error resulting in a manifest injustice or a miscarriage of justice. As a result, we decline to exercise our discretionary authority to review for plain error. *Id.* at 584.

Analysis

Our courts have long held the foundation for the admission of video recordings may be established through the testimony of any witness who is familiar with the subject matter of the video and competent to testify from personal observation. *Minner*, 256 S.W.3d at 97 (citing *State v. Powers*, 148 S.W.3d 830, 832 (Mo. App. E.D. 2004))). When video evidence is probative with a strong indicia of reliability but fails to meet the traditional standard of admissibility because it lacks a witness to personally testify the video is an accurate depiction of the event at issue, then traditional rules governing the admission of video evidence become "too restrictive and illogical to apply." *State v. Whittier*, 591 S.W.3d 19, 27 (Mo. App. E.D. 2019) (internal citation omitted). As a result, similar to traditional video evidence, upon proper authentication, a video

independent of a sponsoring witness "may be received as evidence having inherent probative value and such credibility and weight as the trier of fact deems appropriate." *State v. Moyle*, 532 S.W.3d 733, 738 (Mo. App. W.D. 2017) (adopting the "silent witness" theory).

We find *State v. Whittier* instructive because, as argued by the state here, the error was not properly preserved. In *Whittier*, our court found even if the trial court erroneously admitted video evidence, "Appellant would still have the burden of establishing he was prejudiced." 591 S.W.3d at 27. Thus, we concluded, "[w]ithout any suggestion the State would have been unable to lay a proper foundation for the [video] footage, it is questionable whether Appellant can establish any resulting prejudice, much less the higher burden he now bears of showing a manifest injustice resulted." *Id.* (citing *see Kulhanek v. State*, 560 S.W.3d 94, 104 (Mo. App. E.D. 2018).

As in *Whittier*, we conclude the trial court admitted video evidence which was "highly probative and otherwise displayed a strong indicia of reliability." *Id.* Appellant did not show the trial court committed "evident, obvious, or clear" error in admitting the video, or that it resulted in a manifest injustice or miscarriage of justice. *Jones*, 725 S.W.3d at 583. Thus, we decline to exercise plain error review pursuant to Rule 30.20. Appellant's first point on appeal is denied.

Point Two

In his second point, Appellant alleges the trial court erred in entering judgment and sentencing him for attempted robbery in the first degree, armed criminal action, and involuntary manslaughter, because the state failed to prove beyond a reasonable doubt an

attempted robbery occurred or he acted with the purpose of promoting or aiding the commission of the offense. Appellant argues without proof of the predicate felony and accomplice liability, the derivative offenses cannot stand.

Additional Facts

St. Louis Metropolitan Police Department (SLMPD) Detective David Rudolph (Detective Rudolph) testified the hallmarks of a robbery include a stolen car, no license plate, casing/circling an area expected to be robbed, parking in a location where it is easy to escape, approaching someone in a vulnerable position especially a gas station where the person's attention is directed to pumping gas or someplace else, and approaching a victim from multiple different angles with guns readily available.

Standard of Review

An appellate court reviews the denial of a motion for judgment of acquittal in the light most favorable to the verdict to determine if there is sufficient evidence from which a reasonable jury could have found the essential elements of the crime such that the defendant was guilty beyond a reasonable doubt. *State v. McClain*, 685 S.W.3d 35, 38-39 (Mo. App. E.D. 2024) (quoting *State v. Minor*, 648 S.W.3d 721, 736 (Mo. banc 2022), and citing *see also Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). We do "not act as a 'super juror' with veto powers, but give[] great deference to the trier of fact." *Id.* (quoting *State v. Nash*, 339 S.W.3d 500, 509 (Mo. banc 2011) (internal quotation omitted)).

Analysis

To establish the offense of first-degree involuntary manslaughter, a person "recklessly causes the death of another person." Section 565.024.1 RSMo (Cum. Supp. 2017).[1] This statute does not depend on any other associated felony. "Proof of any form of participation by defendant in the crime is enough to support a conviction and his presence at the scene, his championship and conduct before and after the offense, are circumstances from which one's participation in the crime may be inferred." *State v. Gonzalez-Gongora*, 673 S.W.2d 811, 813 (Mo. App. S.D. 1984).

A person commits the crime of attempted robbery in the first degree if he forcibly steals property and in the course thereof, he or she or another participant in the offense is armed with a deadly weapon. Section 570.023.1(2). An attempt to commit the offense occurs when a person performs any act which is a substantial step toward the commission of the offense, with the purpose of committing the offense. Section 562.012.1. A "substantial step" is defined as "conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the crime." *Id.* Armed criminal action under Section 571.015 occurs with knowing use, assistance or aid of a deadly weapon in the commission of any felony.

In *State v. Brown*, the court found sufficient evidence to support a conviction for attempted robbery in the second degree, because a reasonable jury could infer the defendant and his accomplices would have completed the offense by taking property if

[1] All further statutory references are to RSMo (Cum. Supp. 2017).

the victim wife had not screamed for help after they knocked her husband unconscious. 558 S.W.3d 105, 111-12 (Mo. App. E.D. 2018). The men fled the scene without taking anything from the husband, but the court found they performed a substantial step toward the commission of the crime and the requisite intent to commit a robbery was proven under the theory of accomplice liability. *Id.*

Upon reviewing the entire record, we find the evidence shows Appellant was driving the SUV in the surveillance videos on its way to the Mobil station where Victim was killed. Our standard of review requires us to disregard his claim he jumped out of the vehicle while it was still moving during a very brief time the vehicle was not seen in any surveillance footage, as it is contrary to the judgment and unfavorable to the state. *See Nash*, 339 S.W.3d at 509. The jury's verdict indicates it found Appellant's testimony implausible and we defer to that determination. "[T]he factfinder is entitled to consider a party's dishonesty about a material fact as affirmative evidence of guilt." *State v. Woods*, 284 S.W.3d 630, 640-41 (Mo. App. W.D. 2009) (quoting *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 147 (2000)).

The surveillance videos, phone records, and circumstances satisfy the hallmarks of a gas station robbery. Detective Rudolph's uncontroverted testimony included reference to the suspect vehicle without a front license plate and a torn off back temporary tag circling the area prior to approaching Victim in a vulnerable position at a gas station where he could be approached from multiple angles by armed individuals. This evidence was sufficient to sustain a conviction finding Appellant worked in concert with the other individuals in the SUV to attempt a robbery and which resulted in the death of Victim,

his childhood best friend he knew dealt marijuana. Appellant associated with the same persons while gambling the night before despite claiming he did not know them and would not give their names out of fear he would be killed. They fled from the gas station scene after multiple shots were fired.

Similar to *Brown*, Appellant and his accomplices did not take Victim's property, but they performed substantial steps to complete a robbery if the shooting had not occurred first. *Brown*, 558 S.W.3d at 111-12. Accordingly, we find sufficient evidence to support the predicate felony and accomplice liability to sustain convictions for the derivative offense. The trial court did not err in entering judgment and sentencing Appellant for involuntary manslaughter in the first degree, attempted robbery in the first degree, and armed criminal action. Appellant's second point is denied.

CONCLUSION

The trial court's judgment is affirmed.

Lisa P. Page, Presiding Judge

Rebeca Navarro-McKelvey, Judge
Kathleen S. Hamilton, Judge concur.