

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY ANDREW PARKER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86577-COA

FILED

APR 19 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

Timothy Andrew Parker appeals from a judgment of conviction, pursuant to a jury verdict, of one count of child abuse resulting in substantial bodily harm. Second Judicial District Court, Washoe County; Lynne K. Jones, Judge.

In February 2022, K.P., a three-month-old infant, arrived at the emergency room to be examined for a possible broken arm.<sup>1</sup> K.P.'s x-rays revealed an upper arm fracture, a femur fracture, and healing fractures on her forearm and ribs. The examining doctor reported her suspicions of abuse, and the Reno Police Department (RPD) and Washoe County Human Services Agency (WCHSA) opened an investigation into K.P.'s parents, Parker and Katherine Heflen.

Parker agreed to be interviewed by RPD Detective Chad Crow. At the beginning of his interview, Parker explained that he, Heflen, and K.P. shared a 400-square-foot studio apartment with two other roommates, James Klein and Garret Hatfield. Parker said that he woke up early that morning to care for K.P., and while he was tightly swaddling her, her arm got stuck. As he pulled K.P.'s arm out, he heard a "pop." Then, K.P. began to cry. Parker said it was clear that K.P. was injured because her arm was

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<sup>1</sup>We recount the facts only as necessary for our disposition.

limp. Parker woke Heflen, who was asleep at the time, and they took K.P. to the hospital.

Thereafter, Detective Crow told Parker that K.P. had multiple injuries in various stages of healing, including “the new broken bone this morning from [Parker].” Parker described past instances where his handling of K.P. was rough, such as tightly swaddling her, slamming her in her bassinet, and “thrust[ing]” her out of his arms. But Parker said that K.P. never gave a sign that she was injured, until he “physically heard her arm pop.” Detective Crow later repeated Parker’s admission to causing K.P.’s upper arm fracture and asked him if he could have caused her other injuries. In response, Parker acknowledged that he “probably” caused K.P.’s femur fracture but denied causing any other injuries.

During the interview, Detective Crow spoke about a fictitious investigation with a similar fact pattern to Parker’s case. Detective Crow later testified that he used this fictitious investigation to introduce a “theme” to develop a rapport with Parker and elicit an admission. At the end of the interview, Detective Crow asked Parker about an allegation Heflen had made, where she claimed to have once found K.P. with a pale white face after leaving her in Parker’s care. Parker stated that was likely from swaddling K.P. too tightly.

Parker was charged by information with one count of child abuse resulting in substantial bodily harm in violation of NRS 200.508(1)(a)(2) (providing that “[a] person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse . . . [i]f substantial bodily or mental harm results . . . is guilty of a category B felony”). It alleged that Parker “did squeeze and/or throw the baby down and/or handle the baby in a rough manner resulting in injuries to the baby including a broken arm and numerous fractures.”

Before his trial, Parker subpoenaed WCHSA for “any and all” child protective services (CPS) records involving Heflen, who had other children previously removed from her care. WCHSA moved to quash the subpoena. Parker contended that Heflen’s CPS records were material to his defense because they would show that her other children were removed from her care for similar conduct; alternatively, he asked that the records be disclosed to the district court for an in camera review. The district court quashed Parker’s subpoena without conducting an in camera review, finding that Parker failed to demonstrate the requested records were either material or relevant.

Parker’s five-day jury trial commenced in February 2023. Before opening statements, the State indicated that it planned to introduce a redacted recording of Parker’s interview. Parker did not object to that procedure or the admission of the interview at that time.

The first witnesses were Parker’s roommates, Klein and Hatfield. Both testified that on the morning of K.P.’s upper arm fracture, they were awoken by a “pop” and a crying baby, then they immediately heard Parker mention going to the hospital. Both also testified that Parker was “rough” handling K.P., particularly when swaddling her.

Next, Heflen testified. She had a similar account of what occurred that morning and agreed that Parker could be rough when caring for K.P. Heflen added that one time when she left K.P. in Parker’s care, she returned to find K.P. “pale white” and “ice cold.” Parker did not object to those statements. Heflen further testified that she had two children previously removed by CPS, though she did not know why. WCHSA permanency worker Whitney Hoote later testified that Heflen’s other children were removed from her care but not because Heflen abused them.

Detective Crow testified as well. During Detective Crow’s testimony, the State moved to admit Parker’s recorded interview. Parker

objected and, without identifying any particular statements, argued that his recorded interview contained inadmissible hearsay and unqualified expert testimony and was unfairly prejudicial. The State responded that Detective Crow's interview statements were necessary to provide context under the rule of completion. The district court overruled Parker's objection and admitted his interview with the State's redactions. Parker did not object to any specific statements while the interview was played for the jury.

Next, Doctors Jennifer Horan and Sachin Shroff, K.P.'s treating physicians, testified. Dr. Horan testified as to K.P.'s injuries, including her upper arm fracture, which initially caused Dr. Horan to suspect abuse and order further medical testing. Dr. Shroff, the radiologist who interpreted K.P.'s x-rays, testified that she had an upper arm fracture, a femur fracture, a healing forearm fracture, and approximately ten healing rib fractures. Both Drs. Horan and Shroff agreed that K.P.'s injuries were indicative of physical abuse, and Dr. Shroff specified that excessive force would have been required to break K.P.'s bones.

Parker was found guilty of child abuse resulting in substantial bodily harm and sentenced to 48 to 150 months in prison. On appeal, Parker argues that the district court abused its discretion by failing to conduct an in camera review of Heflen's CPS records and by admitting his recorded police interview. He also contends that his conviction was not supported by sufficient evidence. We address each argument in turn.

*Parker did not establish that Heflen's CPS records were material*

Citing *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987), Parker first argues that the district court abused its discretion when it failed to conduct an in camera review of Heflen's CPS records. The State responds that Parker did not demonstrate materiality, so any error in declining to review the requested records in camera was harmless.

This court reviews “the district court’s resolution of discovery disputes for an abuse of discretion.” *Means v. State*, 120 Nev. 1001, 1007, 103 P.3d 25, 29 (2004). A defendant is not entitled to an in camera review of confidential records until they establish a basis as to how the requested evidence is material to their defense. *Ritchie*, 480 U.S. at 58 n.15 (“Ritchie, of course, may not require the trial court to search through the [CPS] file without first establishing a basis for his claim that it contains material evidence.”); *Roberts v. State*, 110 Nev. 1121, 1134-35, 881 P.2d 1, 9 (1994) (“[O]nce a defendant has articulated a substantial basis for claiming materiality in seeking particular evidence, the prosecutor bears the burden of avoiding discovery by seeking in camera review.”), *overruled on other grounds by Foster v. State*, 116 Nev. 1088, 1091-93, 13 P.3d 61, 63-64 (2000).

Evidence is considered material “only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Ritchie*, 480 U.S. at 57 (internal quotation marks omitted); *see also Roberts*, 110 Nev. at 1132, 881 P.2d at 8 (adopting a materiality analysis “that reflects the ‘concern that the suppressed evidence *might have affected the outcome of the trial*’” (quoting *United States v. Agurs*, 427 U.S. 97, 104 (1976))).

Parker did not establish that any of Heflen’s CPS records were material. Parker initially claimed that the records related to Heflen’s other children were material to show her history of abuse, but Hoote testified at trial that Heflen’s other children were not removed due to abuse. Additionally, during his interview, Parker conceded that he was responsible for K.P.’s fractured arm (which popped when he pulled it out of the swaddle), and his description of the incident was corroborated at trial by Heflen, Klein, and Hatfield. K.P.’s treating physicians testified that the resulting upper arm fracture was consistent with physical abuse, with Dr. Shroff noting that

excessive force was necessary to break the bone. In addition, Parker admitted to handling K.P. in a rough manner and stated that he probably caused K.P.'s femur fracture. Considering this overwhelming evidence, Parker did not establish that "had the [CPS records] been disclosed to the defense, the result of the proceeding would have been different." *Ritchie*, 480 U.S. at 57. Accordingly, Parker did not demonstrate that the evidence was material or that the district court erred by declining to conduct an in camera review, and he is not entitled to relief.

*Any error in admitting Parker's interview was harmless*

Parker next argues that the district court erred in admitting Detective Crow's statements that were contained in his recorded interview because his statements (1) constituted inadmissible hearsay, (2) amounted to unqualified expert testimony, and (3) were unfairly prejudicial. The State responds that Detective Crow's statements were offered for context, not the truth of the matter asserted, and thus were not hearsay. The State further contends that any evidentiary error was harmless.

This court reviews the district court's decision to admit or exclude evidence for an abuse of discretion. *Collins v. State*, 133 Nev. 717, 724, 405 P.3d 657, 664 (2017). "A nonconstitutional error, such as the erroneous admission of evidence, is deemed harmless unless it had a substantial and injurious effect or influence in determining the jury's verdict." *Newman v. State*, 129 Nev. 222, 236, 298 P.3d 1171, 1181 (2013) (internal quotation marks omitted); see also NRS 178.598. To be admissible, the probative value of evidence must not be substantially outweighed by the danger of unfair prejudice. NRS 48.035(1); see also *Krause Inc. v. Little*, 117 Nev. 929, 935, 34 P.3d 566, 570 (2001) (defining unfair prejudice as an appeal "to the emotional and sympathetic tendencies of a jury, rather than the jury's intellectual ability to evaluate evidence").

Even assuming for the sake of argument that Detective Crow's statements on the recorded interview were erroneously admitted, Parker did not establish that the error substantially or injuriously impacted the jury's verdict in light of the overwhelming independent evidence of guilt presented at trial. As noted above, K.P.'s treating physicians agreed that her broken arm was indicative of physical abuse and Dr. Shroff testified that excessive force was required for such an injury. In his interview, Parker admitted that he was handling K.P. when her arm broke; specifically, he stated that he heard a "pop" when he pulled K.P.'s arm out of her swaddle. Parker also acknowledged that his swaddling likely caused K.P.'s femur fracture. And notably, Parker concedes that his own interview statements contained on the recording were admissible. NRS 51.035(3)(a).

Therefore, we conclude that any error in admitting the challenged portions of Parker's recorded interview was harmless. *See Weber v. State*, 121 Nev. 554, 579-80, 119 P.3d 107, 124 (2005) (concluding that the erroneous admission of hearsay was harmless due to "overwhelming independent evidence" of the defendant's guilt); *Lord v. State*, 107 Nev. 28, 33-34, 806 P.2d 548, 551 (1991) (concluding that a detective's erroneous testimony as to the medical causation of an injury did not affect the defendant's substantial rights given the "other strong evidence of guilt"). And for the same reason, Parker does not demonstrate that Detective Crow's interview statements had any prejudicial effect on the jury's ability to evaluate the evidence.<sup>2</sup>

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<sup>2</sup>Parker also alleges that during the recorded interview, Detective Crow made a comment that implicated Parker in a prior bad act. However, without deprecating the prejudicial nature of bad act evidence, Parker raised the issue in a single-sentence footnote in his opening brief and thus did not present a cogent argument. *See Maresca v. State*, 103 Nev. 669, 673,

*Parker's conviction was supported by sufficient evidence*

Lastly, Parker argues that there was insufficient evidence to support his conviction. This court, however, will find that substantial evidence supports a jury verdict if it determines, "after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). In this case, there was sufficient evidence to support Parker's conviction. Parker's own statements, coupled with the corroborating testimony from his roommates and the supporting medical testimony, provided overwhelming evidence for a reasonable juror to conclude Parker committed the offense of child abuse resulting in substantial bodily harm.

Accordingly, we

ORDER the judgment of conviction AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Lynne K. Jones, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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748 P.2d 3, 6 (1987) (noting that this court need not consider issues for which the appellant does not "present relevant authority" or "cogent argument").

<sup>3</sup>Insofar as Parker has raised other arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.