

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON  
March 7, 2023 Session

FILED

06/05/2023

Clerk of the  
Appellate Courts

**STATE OF TENNESSEE v. CHRISTOPHER OBERTON CURRY, JR.**

**Appeal from the Circuit Court for Madison County**  
**No. 21-634                  Roy B. Morgan, Jr., Judge**

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**No. W2022-00814-CCA-R3-CD**

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A Madison County jury convicted the Defendant, Christopher Oberton Curry, Jr., of being a convicted felon in possession of a firearm, evading arrest while operating a motor vehicle, reckless driving, driving while unlicensed, violation of the registration law, and disobeying a stop sign. The trial court sentenced the Defendant to an effective sentence of ten years. On appeal, the Defendant contends that the evidence is insufficient to support his conviction for felony possession of a weapon and that an item of evidence was erroneously admitted. He further contends that the jury instructions were inaccurate and incomplete. After review, we affirm the trial court's judgments.

**Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed**

ROBERT W. WEDEMEYER, J., delivered the opinion of the Court, in which CAMILLE R. MCMULLEN and ROBERT H. MONTGOMERY, JR., JJ., joined.

Jeremy B. Epperson, District Public Defender; Parker O. Dixon (at trial), Assistant District Public Defender, Jackson, Tennessee; and Brian D. Wilson (on appeal), Assistant Public Defender – Appellate Division, Franklin, Tennessee, for the appellant, Christopher Oberton Curry, Jr.

Jonathan Skrmetti, Attorney General and Reporter; Edwin Alan Groves, Jr., Assistant Attorney General; Jody S. Pickens, District Attorney General; and Lee R. Sparks, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

**I. Background and Facts**

This case arises from an attempted traffic stop of the Defendant, who fled law enforcement in his vehicle which he later abandoned in the woods before disappearing.

Law enforcement eventually found a discarded weapon near the Defendant's vehicle, and the Defendant was arrested two weeks later. A Madison County grand jury indicted the Defendant for: being a convicted felon in possession of a firearm (Count 1), evading arrest while operating a motor vehicle (Count 2), reckless driving (Count 3), driving while unlicensed (Count 4), violation of the registration law (Count 5), and disobeying a stop sign (Count 6).

### **A. Trial**

The following evidence was presented at the Defendant's trial: Zachary Cobb, a Jackson Police Department ("JPD") officer, testified that he was on patrol on August 20, 2021. Officer Cobb observed a white Honda Accord fail to stop at an intersection and illegally pass another vehicle in the middle of the intersection. Officer Cobb activated his police lights and pursued the Honda Accord, but the driver failed to yield. Officer Cobb activated his police siren and pursued the vehicle further until the vehicle crashed. Officer Cobb observed the driver "bail out" of the vehicle and flee into the nearby woods. Officer Cobb was not able to apprehend the driver at that time. A dashboard camera video of the traffic violations and the officer's pursuit were played for the jury.

After the driver fled the scene of the vehicle crash, Officer Cobb searched the vehicle and found a wallet in the center console with the Defendant's Social Security card inside. Using that, Officer Cobb checked the motor vehicle database for the Defendant's driver's license information, which revealed that the Defendant did not have a driver's license. Officer Cobb also found a cell phone in the vehicle's floorboard with a picture of the Defendant on the screen. The license plate on the vehicle was expired.

Ashley Robertson testified that he was an investigator with the JPD and that he assisted in executing an arrest warrant, issued for the August 20, 2021 charge for evading arrest, on the Defendant on September 7, 2021. Investigator Robertson came into contact with the Defendant in his driveway, where he was arrested, and where the Honda Accord was also parked. The Defendant admitted to him that he had fled Officer Cobb's attempt to pull him over in August.

Ronald Dewald, an officer with the JPD, testified that he witnessed the Defendant's statement to Investigator Robertson and that the Defendant admitted he was the driver of the Honda Accord on August 20, 2021.

In a bifurcated proceeding for presentation of evidence related to Count 1, Officer Cobb testified that, after searching the Defendant's vehicle at the scene of the crash on August 20, he called another officer to use his police dog to track the Defendant, who had fled into the woods. Officer Dewald arrived at the scene with his police dog and the two

men and the police dog proceeded to walk into the woods. During the dog's track, the officers located a 9-millimeter handgun with one round in the chamber. It was laying on the ground close to the Defendant's vehicle. After securing the weapon, the track continued and, thirty yards from the weapon's location, the men discovered the weapon's magazine with ammunition inside. Officer Cobb testified that the weapon had mud on it and that the area where it was discovered was freshly muddy.

Investigator Robertson testified that, on the day of the Defendant's arrest, the Defendant told him that the reason he had fled from Officer Cobb was "because he had a handgun in [his] vehicle that he knew he was not able to possess because he was a convicted felon." The Defendant told Investigator Robertson that he had possessed the gun for approximately two weeks and that it had been purchased from an Academy Sports by an acquaintance.

On cross-examination, Investigator Robertson agreed that a request for a trace on the weapon, an "E-trace," was submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF").

Officer Dewald testified about the events of August 20, when he responded to the radio call regarding the Defendant's vehicle crash. Upon arriving at the scene, Officer Dewald deployed his police dog and discovered the weapon and magazine in the vicinity. Officer Dewald testified that he witnessed the Defendant state at the scene of his arrest that he wanted to get rid of the weapon because he knew he was not supposed to have one.

Makenzie Van Nes was called by the State, and the Defendant objected to her testimony about the "E-trace" report she had obtained for the weapon. He objected on the grounds that the report was an "ATF document" not generated by the JPD. The State maintained that Ms. Van Nes would be able to properly authenticate the document during her testimony, and the trial court allowed the State to proceed.

Ms. Van Nes testified that she was employed by the JPD as a technician for the National Integrated Ballistic Information Network ("NIBIN"), meaning that she oversaw NIBIN database of weapons and ammunition processed by the department and was tasked with obtaining trace reports on all the weapons that came into the department's possession. Her duties included taking pictures of all the casings received and entering them into the trace database, operated by the ATF, which she stated was a database of all manufactured weapons. She stated that she was a certified NIBIN technician and was also qualified by the ATF to conduct the traces on the weapons. She testified that the tracing in this case was done in the normal course of business.

Ms. Van Nes identified the trace report, which reflected that the weapon was

purchased from an Academy Sports on May 29, 2021 by Caitlyn Hertow.

The State introduced a certified judgment of conviction for the Defendant's July 17, 2017 conviction for robbery, a Class C felony.

Based on this evidence, the jury convicted the Defendant of being a convicted felon in possession of a firearm (Count 1), evading arrest while operating a motor vehicle (Count 2), reckless driving (Count 3), driving while unlicensed (Count 4), violation of the registration law (Count 5), and disobeying a stop sign (Count 6). The trial court imposed a ten-year sentence for the possession of a firearm conviction, and it imposed concurrent sentences for each of the remaining convictions as follows: a two-year sentence for evading arrest while operating a motor vehicle conviction; a six-month sentence for the reckless driving conviction; a thirty-day sentence for the driving while unlicensed conviction; a thirty-day sentence for the violation of the registration law conviction; and a thirty-day sentence for the disobeying a stop sign conviction. This resulted in an effective sentence of ten years to be served in the Tennessee Department of Correction. It is from these judgments that the Defendant now appeals.

## **II. Analysis**

### **A. Sufficiency of Evidence**

On appeal, the Defendant contends that the evidence is insufficient to support his conviction for being a felon in possession of a firearm, found at Tennessee Code Annotated section 39-17-1307(b)(1)(A), because the underlying conviction, robbery, is not a crime of violence as defined by Tennessee Code Annotated section 39-17-1301(3). The State responds that there is sufficient evidence to establish the "predicate felony crime of violence," even if it does not appear in the statutory definition which the State contends is not an exclusive list of crimes. The State urges us to examine the omitted term to "determine whether it may fairly be included among the non-exclusive terms listed" in section 39-17-1302(3). The Defendant responds that robbery is not always accomplished by violence and thus its omission from 39-17-1301, as opposed to violent robberies such as aggravated robbery, was an intentional omission by the legislature. He maintains that there was insufficient proof at trial that the underlying robbery was violent in nature.

When an accused challenges the sufficiency of the evidence, this court's standard of review is whether, after considering the evidence in the light most favorable to the State, "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); see Tenn. R. App. P. 13(e); *State v. Goodwin*, 143 S.W.3d 771, 775 (Tenn. 2004) (citing *State v. Reid*, 91 S.W.3d 247, 276 (Tenn. 2002)). This standard applies to findings of guilt based upon direct

evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *State v. Pendergrass*, 13 S.W.3d 389, 392-93 (Tenn. Crim. App. 1999) (citing *State v. Dykes*, 803 S.W.2d 250, 253 (Tenn. Crim. App. 1990)). In the absence of direct evidence, a criminal offense may be established exclusively by circumstantial evidence. *Duchac v. State*, 505 S.W.2d 237, 241 (Tenn. 1973). “The jury decides the weight to be given to circumstantial evidence, and ‘[t]he inferences to be drawn from such evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence, are questions primarily for the jury.’” *State v. Rice*, 184 S.W.3d 646, 662 (Tenn. 2006) (quoting *Marable v. State*, 313 S.W.2d 451, 457 (Tenn. 1958)). “The standard of review [for sufficiency of the evidence] ‘is the same whether the conviction is based upon direct or circumstantial evidence.’” *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011) (quoting *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009)).

In determining the sufficiency of the evidence, this court should not re-weigh or reevaluate the evidence. *State v. Matthews*, 805 S.W.2d 776, 779 (Tenn. Crim. App. 1990). Nor may this Court substitute its inferences for those drawn by the trier of fact from the evidence. *State v. Buggs*, 995 S.W.2d 102, 105 (Tenn. 1999) (citing *Liakas v. State*, 286 S.W.2d 856, 859 (Tenn. 1956)). “Questions concerning the credibility of witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact.” *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997). “A guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of the State.” *State v. Grace*, 493 S.W.2d 474, 476 (Tenn. 1973). The Tennessee Supreme Court stated the rationale for this rule:

This well-settled rule rests on a sound foundation. The trial judge and the jury see the witnesses face to face, hear their testimony and observe their demeanor on the stand. Thus the trial judge and jury are the primary instrumentality of justice to determine the weight and credibility to be given to the testimony of witnesses. In the trial forum alone is there human atmosphere and the totality of the evidence cannot be reproduced with a written record in this Court.

*Bolin v. State*, 405 S.W.2d 768, 771 (Tenn. 1966) (citing *Carroll v. State*, 370 S.W.2d 523, 527 (Tenn. 1963)). This court must afford the State of Tennessee the ““strongest legitimate view of the evidence”” contained in the record, as well as ““all reasonable and legitimate inferences”” that may be drawn from the evidence. *Goodwin*, 143 S.W.3d at 775 (quoting *State v. Smith*, 24 S.W.3d 274, 279 (Tenn. 2000)). Because a verdict of guilt against a defendant removes the presumption of innocence and raises a presumption of guilt, the convicted criminal defendant bears the burden of showing that the evidence was legally insufficient to sustain a guilty verdict. *State v. Carruthers*, 35 S.W.3d 516, 557-

58 (Tenn. 2000) (citations omitted). This standard is identical whether the conviction is predicated on direct or circumstantial evidence. *State v. Casper*, 297 S.W.3d 676, 683 (Tenn. 2009); *State v. Brown*, 551 S.W.2d 329, 331 (Tenn. 1977). In the absence of direct evidence, a criminal offense may be established entirely by circumstantial evidence. *State v. Majors*, 318 S.W.3d 850, 857 (Tenn. 2010) (citing *Duchac v. State*, 505 S.W.2d 237, 241 (Tenn. 1973); *Marable v. State*, 313 S.W.2d 451, 456-58 (1958)).

“A person commits an offense who unlawfully possesses a firearm” and “has been convicted of a crime of violence.” T.C.A. § 39-17-1307(b)(1)(A). A “crime of violence includes any degree of murder, voluntary manslaughter, aggravated rape, rape, rape of a child, aggravated rape of a child, aggravated sexual battery, especially aggravated robbery, aggravated robbery, burglary, aggravated burglary, especially aggravated burglary. . . .” T.C.A. § 39-17-1301(3). As the Defendant notes, “Robbery” is not included in the list contained in Tennessee Code Annotated section 39-17-1301(3). This does not necessarily mean that the Legislature intended for robbery to not be considered a crime of violence for purposes of this statute. In light of its exclusion from the enumerated list in section 39-17-1301(3), the issue presented becomes one of statutory construction and a determination of the Legislature’s intent, which is a question of law. See *State v. Welch*, 595 S.W.3d 615, 621 (Tenn. 2020); *State v. Smith*, 436 S.W.3d 751, 761-62 (Tenn. 2014). Appellate courts review questions of law *de novo*. *State v. Walls*, 62 S.W.3d 119, 121 (Tenn. 2001).

In addressing the enumerated lists of crimes in a statutory definition, our supreme court has stated “[w]hen a statutory definition provides that it ‘includes’ specific items, . . . the ‘enumerated items are illustrative, not exclusive.’” *State v. Marshall*, 319 S.W.3d 558, 561 (Tenn. 2010)). In construing a statute, this court must “ascertain and give effect to the legislative intent without unduly restricting or expanding a statute’s coverage beyond its intended scope.” *Welch*, 595 S.W.3d at 621 (quoting *State v. Howard*, 504 S.W.3d 260, 269 (Tenn. 2016)). This court has previously considered the legislature’s intent on the issue of whether certain crimes are included as crimes of violence despite not being in the enumerated list in section -1301. This court recently noted that:

any “crime of violence,” as defined in section 39-17-1301(3), necessarily fits the definition of a crime “involving the use of . . . violence[.]” Tenn. Code Ann. § 39-17-1307(b)(1)(A) (2017). Moreover, no binding precedent exists requiring either strict adherence to the enumerated list in section 39-17-1301(3) or that evidence be presented at trial regarding the details of the underlying felony “involving the use or attempted use of force, violence, or a deadly weapon.”

*State v. Jesse D. Moses*, No. E2021-00231-CCA-R3-CD, 2022 WL 1038383, at \*4 (Tenn. Crim. App., at Knoxville, April 6, 2022), *no perm. app. filed*. In so keeping, we have held

that all classes of burglary are crimes of violence. *See Moses*, 2022 WL 1038383, at \*4. We have concluded that facilitation of first-degree murder based on the act of assisting or promoting a murder is a crime of violence. *See State v. Brandon Dewayne Theus*, No. W2016-01626-CCA-R3-CD, 2017 WL 2972231, at \*8 (Tenn. Crim. App., at Jackson, July 12, 2017), *perm. app. denied* (Tenn. 2017). In both *Moses* and *Theus*, the State introduced certified judgments of conviction of the defendants' underlying crime of violence and this court, citing *Marshall*, reiterated that the statutory list of crimes of violence was not an exclusive list but merely illustrative. *See Moses* and *Marshall*; *see also State v. Rhonda Lorraine Hanke*, No. 03C01-9707-CC-00254, 1998 WL 695452, at \*1 (Tenn. Crim. App. Knoxville, Aug. 20, 1998) (citing *State v. Linda Howard (Jackson)*, No. 02C01-9112-CR-388, slip op. at \*4 (Tenn. Crim. App., at Knoxville, Oct. 22, 1992)) (stating that, for the purposes of Community Corrections eligibility, a prior conviction for robbery was a crime of violence), *perm. app. denied* (Tenn. 1993)).

Additionally, Tennessee Code Annotated section 39-12-301 provides a definition for crimes of force or violence that specifically includes robbery as such a crime. T.C.A. § 39-12-301(2)(B). Furthermore, the Tennessee Pattern Jury Instructions for the crime of robbery state that, in the context of a defendant who takes property from an individual by the “use of violence or by putting the person in fear[,]” the element of fear is defined as “fear of present personal peril from violence offered or impending.” *See T.P.I.—Crim. § 9.01(4)* (2021).

Based on our review, we conclude that robbery, in addition to those offenses enumerated in section 39-17-1301, is a crime of violence. Moreover, the judgment of conviction for the underlying robbery at issue indicated that the Defendant was initially charged with aggravated robbery and also had a weapon seized by law enforcement as a condition of his guilty plea as evidence of violence being a part of the crime. Thus, in the present case, the State was not required to introduce any additional proof regarding the details of the Defendant's prior robbery conviction.

Turning to the issue of sufficiency, the evidence, viewed in the light most favorable to the State, was that following the Defendant's traffic violation, observed by a law enforcement officer, the Defendant fled in his vehicle and crashed the vehicle into the woods. The officer observed the Defendant flee the vehicle. Soon after, a weapon and ammunition were located close to the vehicle's stopping place in the woods. The Defendant later admitted to law enforcement that the weapon had been in his possession and that he attempted to get rid of it because his possession was unlawful. The Defendant had a prior conviction for a violent crime. Based on this, the evidence is sufficient to sustain the Defendant's conviction for being a convicted felon in possession of a firearm. The Defendant is not entitled to relief.

## B. ATF Report

The Defendant next contends that the trial court admitted the gun trace report in error because it was not authenticated and did not qualify to be admitted pursuant to a hearsay exception. The State responds that the Defendant has waived review of this issue by failing to obtain a definite ruling from the trial court on the Defendant's objection and by failing to renew his objection at the appropriate time. The State further claims that the Defendant has failed to establish that he is entitled to plain error relief.

We first address the State's argument that our review of this issue is waived because the Defendant failed to specifically state the basis upon which his objection to the report was made. Failure to object on a specific basis results in waiver of the issue on appeal. *See, e.g., State v. Weeden*, 733 S.W.2d 124, 126 (Tenn. Crim. App. 1987); *see also* Tenn. R. App. P. 3(e). The record reflects that the Defendant objected to the admission of the report by arguing that it was inadmissible hearsay and could not be or was not properly authenticated as a business record. The trial court concluded that the State's witness could potentially authenticate the document and left the issue open for further objection. The Defendant did not renew his objection on those specific grounds following the trial court's admission of the report, however, his motion for new trial properly preserved the issue for review by arguing that the report was inadmissible hearsay and could not be authenticated. As such, we decline to treat the issue as waived.

Generally, "[a]dmission of evidence is entrusted to the sound discretion of the trial court, and a trial court's ruling on evidence will be disturbed only upon a clear showing of abuse of discretion." *State v. Robinson*, 146 S.W.3d 469, 490 (Tenn. 2004). The Tennessee Rules of Evidence provide that all "relevant evidence is admissible," unless excluded by other evidentiary rules or applicable authority. Tenn. R. Evid. 402. Of course, "[e]vidence which is not relevant is not admissible." *Id.* Relevant evidence is defined as evidence "having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Tenn. R. Evid. 401. Even relevant evidence, however, "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Tenn. R. Evid. 403.

Regarding business records, Rule 803(6) of the Tennessee Rules of Evidence provides in pertinent part:

Records of Regularly Conducted Activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or



diagnoses made at or near the time by or from information transmitted by a person with knowledge and a business duty to record or transmit if kept in the course of a regularly conducted business activity and if it was the regular practice of that business activity to make the memorandum, report, record or data compilation, all as shown by the testimony of the custodian or other qualified witness or by certification that complies with Rule 902(11) or a statute permitting certification, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

As this court said in *State v. Dean*, 76 S.W.3d 352, 365 (Tenn. Crim. App. 2001):

“Rule 803(6) simply provides that the witness be the records ‘custodian or other qualified witness.’ Typically that witness will be in charge of maintaining records of the particular business, but other employees or officers or appropriately informed witnesses could be used as well. The key is that the witness have knowledge of the method of preparing and preserving the records. If no witness is available to testify, the records cannot be authenticated as business records, unless the parties stipulate to authentication.”

*Id.* (quoting NEIL P. COHEN ET AL., TENNESSEE LAW OF EVIDENCE, § 8.11[11] (4th ed.2000)).

Ms. Van Ness testified that she was certified by the ATF to produce this type of report and did so in the course of her regular duties as the police department’s weapons and ammunition database technician. Her testimony established that she had “knowledge of the method of preparing and preserving the records,” as is required for authentication when admitting a record of this kind. *See Dean*, 76 S.W.3d at 365. Based on this, we conclude that the trial court did not abuse its discretion when it allowed the report to be introduced into evidence. The Defendant is not entitled to relief.

### **C. Jury Instructions**

Following oral arguments, this court filed an order directing the parties to file supplemental briefs on the issue of whether the jury instructions properly defined the term “crime of violence.” The Defendant contends that the trial court did not properly instruct the jury because it failed to define the term “crime of violence” and did not list the crimes enumerated in section 39-17-1301(3). The State responds that, as the issue was waived, it should be reviewed for plain error and that none exists. The State further contends that because this issue is one of first impression, the Defendant cannot prove that a clear and unequivocal rule of law was breached as required for the grant of plain error relief. We

agree with the State.

An appellate court need not grant relief where party failed to take reasonably available action to prevent or nullify an error. *See* Tenn. R. App. P. 36(a). When a defendant raises an issue for the first time on appeal, the issue will generally be deemed waived and will be considered only within the limited parameters of an appellate court's discretionary plain error review. *See State v. Banks*, 271 S.W.3d 90, 119 (2008). We will grant relief for plain error only when five prerequisites are met: "(1) the record clearly establishes what occurred in the trial court, (2) a clear and unequivocal rule of law was breached, (3) a substantial right of the accused was adversely affected, (4) the accused did not waive the issue for tactical reasons, and (5) consideration of the error is necessary to do substantial justice." *Id.* at 119-20. It is a defendant's burden to convince this court that plain error exists, and we need not consider all five factors "when it is clear from the record that at least one of them cannot be satisfied." *State v. Bledsoe*, 226 S.W.3d 349, 355 (Tenn. 2007).

A trial court has the duty to fully instruct the jury on the general principles of law relevant to the issues raised by the evidence. *See State v. Burns*, 6 S.W.3d 453, 464 (Tenn. 1999); *State v. Harbison*, 704 S.W.2d 314, 319 (Tenn. 1986); *State v. Elder*, 982 S.W.2d 871, 876 (Tenn. Crim. App. 1998). Nothing short of a "clear and distinct exposition of the law" satisfies a defendant's constitutional right to trial by jury. *State v. Phipps*, 883 S.W.2d 138, 150 (Tenn. Crim. App. 1994) (quoting *State v. McAfee*, 737 S.W.2d 304 (Tenn. Crim. App. 1987)). In other words, the trial court must instruct the jury on those principles closely and openly connected with the facts before the court, which are necessary for the jury's understanding of the case. *Elder*, 982 S.W.2d at 876. A jury instruction is considered "prejudicially erroneous," only "if it fails to fairly submit the legal issues or if it misleads the jury as to the applicable law." *State v. Hodges*, 944 S.W.2d 346, 352 (Tenn. 1997) (citing *State v. Stephenson*, 878 S.W.2d 530, 555 (Tenn. 1994)).

Here, the trial court instructed the jury, in the bifurcated proceeding, that it was to determine the Defendant's guilt as to "convicted felon in possession of a firearm after being convicted of a felony crime of violence, that being robbery, as charged in Count 1 of the indictment." This is consistent with the pattern jury instructions and represents a "complete and correct charge of the law" to which the Defendant is entitled. *See State v. Faulkner*, 154 S.W.3d 48, 58 (Tenn. 2005); *State v. Farner*, 66 S.W.3d 188, 204 (Tenn. 2001); *State v. Garrison*, 40 S.W.3d 426, 432 (Tenn. 2000). After reviewing the supplemental briefs and applying a plain error analysis, we conclude that no clear and unequivocal rule of law has been breached pertaining to this issue. Accordingly, the Defendant is not entitled to relief on this issue.

### **III. Conclusion**

After a thorough review of the record, arguments, and relevant authorities, we affirm the trial court's judgments.

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ROBERT W. WEDEMEYER, JUDGE