

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs July 15, 2026

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Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DEMANDE CLAUDE

Appeal from the Criminal Court for Davidson County
No. 2021-B-973 Cheryl A. Blackburn, Judge

No. M2025-01220-CCA-R3-CD

The Defendant, Demande Claude, was charged with three counts of rape arising from his sexual congress with the adult victim in late 2019. A jury convicted the Defendant of one count of rape and acquitted the Defendant of the remaining charges. The trial court sentenced the Defendant to serve twelve years in prison. In this direct appeal, the Defendant contends that the trial court erred by admitting excerpts of the Defendant's interview with the police; that the evidence is not sufficient to support his conviction; and that the trial court erred by excluding a statement made by a police officer. Upon our review, we affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

CAMILLE R. McMULLEN, J., delivered the opinion of the court, in which JILL BARTEE AYERS and TOM GREENHOLTZ, JJ., joined.

Nate Cate, Nashville, Tennessee, for the appellant, Demande Claude.

Jonathan Skrmetti, Attorney General and Reporter; Leslie Renee Byrd, Assistant Attorney General; Glenn R. Funk, District Attorney General; and Amy Hunter, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

The Defendant was charged in June 2021 with three counts of rape arising out of his sexual congress with the adult victim J.B.¹ during the latter months of 2019. The Defendant was tried before a jury, and the following proof was adduced.

¹ This Court identifies the victims of sexual crimes by their initials.

J.B. testified that, in December 2019, she was living in an apartment with her daughter. She began conversing with the Defendant and gave him her telephone number. She had seen the Defendant previously at her church. With her permission, the Defendant visited her in her apartment while two of her male cousins were also there. The Defendant began watching television and listening to “worship music.” J.B. sat next to the Defendant on her couch. She had wrapped a blanket around herself. After J.B.’s cousins left, the Defendant asked if J.B.’s daughter was there. When J.B. said no, the Defendant “proceeded to try to go at [her] shirt.” She told him that she did not want to engage in any sexual activity prior to marriage. When the Defendant put his mouth on her breast, she again told him “no” and moved away from him.

J.B. testified that the Defendant then stood up from the couch and faced her. The Defendant pulled his pants down and then grabbed J.B.’s legs, pulling them up “in the air.” J.B.’s back was now positioned on the seat cushions of the couch. She said, “no, no, stop, stop,” and tried to move out of the Defendant’s grasp, but the Defendant dropped to his knees and “perform[ed] oral sex” on J.B. J.B. continued to protest, both verbally and physically, but the Defendant pulled her from the couch onto the floor. The Defendant then forced his penis into her vagina. When J.B. continued to struggle, the Defendant got up and yelled at J.B., “what is wrong with you? You’re supposed to be my woman. You’re supposed to be my woman. What’s wrong with you? This is how my brothers got their wife.”

J.B. told the Defendant that he needed to leave and backed away from him. The Defendant accosted her again, and he again inserted his penis into her vagina. When J.B. realized that the Defendant was about to ejaculate, she managed to push him off of her. The Defendant ejaculated on the floor and then got up and resumed watching television. J.B. again told the Defendant that he needed to leave, but he stayed until he got a phone call, after which he left J.B.’s apartment.

J.B. testified that she did not immediately call the police, citing “shock,” “trauma,” and “[e]mbarrassment.” She was also reluctant to get the Defendant into trouble, until she realized that the Defendant might “do it to someone else.” She also became concerned about her daughter because the Defendant continued to come around her apartment. J.B. testified that she called the police a day or two after the attack.

After speaking with the police, J.B. decided to record a phone conversation between herself and the Defendant that she placed four days after their encounter. The recording she made was admitted into evidence and played for the jury. The jury was also provided with a transcript of the recording and instructed to heed the recording itself over the transcript in the event of discrepancies.

During the phone call, the Defendant asked to come over to J.B.'s apartment. J.B. expressed reluctance, saying "How, how do I know it's not gonna happen?" The Defendant responded that "it's not gonna happen." J.B. stated, "I said no and you didn't listen to me last time though." The Defendant responded, "I told you I'm sorry for what happened." Later in the conversation, J.B. asked, "So do you think like rape is okay?" and the Defendant answered, "No. It's not, it's not fine. I was wrong." J.B. then asked, "Why would you do that?" and the Defendant answered, "I don't know it just happened that day." Later in the conversation, the following was said:

J.B.: You are so intelligent. You speak so many languages, but you don't know what no means? No is pretty, you know?

Defendant: But, but I'm sorry. I'm, I didn't realize that you meant-

J.B.: Ah!

Defendant: You, you, you meant what you sayin'.

J.B.: Ah!

Defendant: You know?

J.B.: Really?

Defendant: This is what I'm, listen, this is what I'm tryin' to explain to you.

J.B.: But you know I was pushin' you, right?

Defendant: I know. But, but, but –

J.B.: Hold on. But pushin' you off and sayin' "No" does not mean "No"?

Defendant: What I can say is that happened. I told you to, to, to, to, to forgive and to forget. But in my mind, I thought you're mine. And, you know, I thought even, even, we, we never, we never sayin' about getting married or getting relationship you never say anything to anybody but in my, in my mind I thought maybe you may be my future.

On cross-examination, J.B. explained that she had met the Defendant approximately one month prior to this incident.

The Defendant testified that he came to this country from the Republic of Congo. Although he spoke “some” English, his native languages were Kubamba, his “village language,” and Swahili. He testified at trial through an interpreter.

The Defendant testified that he first met J.B. in October 2019 while he was outside the door of his apartment playing the guitar. He lived in the same apartment complex as J.B. They also saw one another at church. They spent time together during the month of October, going shopping, going “out,” and talking and texting over the phone.

The Defendant stated that, during the month of October, he went to J.B.’s apartment at her request. She asked him to come into her bedroom and sit on her bed. The Defendant testified that, at this point in his life, at age twenty-nine, he was a virgin. J.B. began showing him pornography on her phone. J.B. then undressed herself and began kissing him. He asked her, “What do you want us to do?” According to the Defendant, she “asked me that we make love.” The Defendant told her that he “cannot do anything before marriage.” J.B. got a condom and put it on the Defendant. J.B. then pushed the Defendant down on the bed and got on top of him. They had sex with her on top. The Defendant denied that he ever licked her. He also denied that J.B. ever told him “no.”

The Defendant recalled the phone call that J.B. had recorded. He was not aware that she was recording it. He testified that he did not know the definition of the word rape at the time that phone conversation occurred. Having since learned the definition, the Defendant testified that he did not rape J.B.

The Defendant testified that he drove himself to the police station and spoke with a police officer about the allegations. The Defendant testified that he tried his best to communicate with the detective in English, but he stressed that he “was not able to tell everything [he was] saying now . . . [b]ecause of the difficulty in language.”

On cross-examination, the Defendant stated that he did not understand the meaning of the word “rape” at the time he was talking to the detective about this incident. He denied acknowledging during the recorded phone call that he raped J.B. He also denied that his sexual encounter with J.B. occurred in December 2019.

Over the Defendant’s objection, the State engaged in multiple attempts to impeach the Defendant’s testimony by asking him about statements he made to the investigating detective. The record reflects that the Defendant’s interview was video recorded. On each of its attempts to impeach the Defendant, the State would ask the Defendant about

something he said during his statement. In response to the Defendant's answer, the State would then play the relevant portion of the recorded interview for the jury. However, the audio portion of the recording was not transcribed, and the record does not contain a copy of the recording.

On redirect examination, the Defendant testified that he had told the detective, prior to beginning his actual statement, that English was not his primary language. He stated that the detective "was aware that [the Defendant] was not from here and . . . didn't know English." The Defendant testified that, with the benefit of interpreters in court, he was "able to more clearly talk about what happened."

After considering this proof, the jury convicted the Defendant of rape as charged in Count 2 of the indictment, which referred to the first instance of the Defendant penetrating J.B. with his penis. The jury acquitted the Defendant of the rapes and their lesser-included offenses charged in Counts 1 and 3 of the indictment which referred to, respectively, the Defendant engaging in cunnilingus and his second act of penetrating J.B. with his penis. After a hearing, the trial court sentenced the Defendant to serve twelve years incarcerated.

The Defendant timely filed a motion for new trial, which the trial court denied. This appeal followed.

ANALYSIS

I. Admission of the Defendant's English-Language Statement to Police. The Defendant first contends that the trial court erred by allowing the State to impeach his testimony with excerpts from his recorded interview with the investigating detective. He argues that, because he spoke limited English and the interview was conducted without a Swahili interpreter, the statements were unreliable, misleading to the jury, and should have been excluded under Tennessee Rule of Evidence 403.

During the cross-examination of the Defendant, the State used portions of the Defendant's recorded interview with Detective Dixon to impeach his testimony. However, as set forth above, the record contains neither a verbatim transcript of the Defendant's statement to the detective nor a copy of the actual recording or excerpts from it that were played for the jury.² Accordingly, this issue is not properly preserved for appellate review.

² We note, however, that in its written sentencing order, the trial court summarized the "segments of Defendant's interview with Metro Police detective Matthew Dixon following the incident" introduced by the State during cross-examination as follows: "In the interview, Defendant stated he ejaculated outside the victim, on the floor. When Detective Dixon asked Defendant what the 'rape' meant, Defendant replied that it meant having sex with someone when the other person did not want to. During the interview

Without the transcript or the excerpts from the recording of the Defendant's statement that were played for the jury, we have no way of assessing whether the trial court committed error in allowing the State to introduce portions of it to the jury. Under our Rules of Appellate Procedure, it is the Defendant's obligation to provide this Court with "a transcript of such part of the evidence or proceedings as is necessary to convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal." Tenn. R. App. P. 24(b). "Where . . . the record is incomplete, and does not contain a transcript of the proceedings relevant to an issue presented for review, or portions of the record upon which a party relies, this Court is precluded from considering the issue." State v. Roberts, 755 S.W.2d 833, 836 (Tenn. Crim. App. 1988) (citing State v. Groseclose, 615 S.W.2d 142, 147 (Tenn. 1981); State v. Jones, 623 S.W.2d 129, 131 (Tenn. Crim. App. 1981)). "In the absence of an adequate record on appeal, we must presume that the trial court's ruling was supported by the evidence." State v. Bibbs, 806 S.W.2d 786, 790 (Tenn. Crim. App. 1991) (citing Smith v. State, 584 S.W.2d 811, 812 (Tenn. Crim. App. 1979); Vermilye v. State, 584 S.W.2d 226, 230 (Tenn. Crim. App. 1979)). Even after the State placed the Defendant on notice of the absence of the transcript and recording from the record, the Defendant did not request to supplement the appellate record with the necessary material. Because the Defendant has not furnished a record that would permit us to consider whether the trial court abused its discretion, the Defendant has failed to establish that he is entitled to relief on this issue.

Additionally, the Defendant failed to adequately preserve this issue in his motion for new trial, which contained only a one-sentence assertion that the trial court erred in "overruling objections made by the defense" without any citation, legal basis, or reference to the record. At the motion for new trial hearing, the parties did not present evidence or argument. Issues not raised with specificity in a motion for new trial are waived. Tenn. R. App. P. 3(e); State v. Martin, 940 S.W.2d 567, 569 (Tenn. 1997).

II. Sufficiency of the Evidence. The Defendant next contends that the evidence is not sufficient to sustain his conviction. "Because a verdict of guilt removes the presumption of innocence and raises a presumption of guilt, the criminal defendant bears the burden on appeal of showing that the evidence was legally insufficient to sustain a guilty verdict." State v. Hanson, 279 S.W.3d 265, 275 (Tenn. 2009) (citing State v. Evans, 838 S.W.2d 185, 191 (Tenn. 1992)). "Appellate courts evaluating the sufficiency of the convicting evidence must determine 'whether, 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.'" State v. Wagner, 382 S.W.3d 289, 297 (Tenn. 2012) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)); see Tenn. R. App. P.

Defendant stated that the victim said 'no' at times during the encounter but also said yes; he added that if the victim truly did not want to have sex, she should have said 'no' before the encounter."

13(e). When this court evaluates the sufficiency of the evidence on appeal, the State is entitled to the strongest legitimate view of the evidence and all reasonable inferences that may be drawn from that evidence. State v. Davis, 354 S.W.3d 718, 729 (Tenn. 2011) (citing State v. Majors, 318 S.W.3d 850, 857 (Tenn. 2010)).

Guilt may be found beyond a reasonable doubt where there is direct evidence, circumstantial evidence, or a combination of the two. State v. Sutton, 166 S.W.3d 686, 691 (Tenn. 2005); State v. Hall, 976 S.W.2d 121, 140 (Tenn. 1998). 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 Hanson, 279 S.W.3d at 275). The jury as the trier of fact must evaluate the credibility of the witnesses, determine the weight given to witnesses’ testimony, and reconcile all conflicts in the evidence. State v. Campbell, 245 S.W.3d 331, 335 (Tenn. 2008) (citing Byrge v. State, 575 S.W.2d 292, 295 (Tenn. Crim. App. 1978)). Moreover, the jury determines the weight to be given to circumstantial evidence, and the inferences to be drawn from this evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence, are questions primarily for the jury. Dorantes, 331 S.W.3d at 379 (citing State v. Rice, 184 S.W.3d 646, 662 (Tenn. 2006)). When considering the sufficiency of the evidence, this court “neither re-weighs the evidence nor substitutes its inferences for those drawn by the jury.” Wagner, 382 S.W.3d at 297 (citing State v. Bland, 958 S.W.2d 651, 659 (Tenn. 1997)).

“Rape is unlawful sexual penetration of a victim by the defendant” where “[t]he sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent.” Tenn. Code Ann. § 39-13-503(a)(2) (2025). “Sexual penetration” is defined as “sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of the victim’s, the defendant’s, or any other person’s body, but emission of semen is not required.” Tenn. Code Ann. § 39-13-501(7) (2025).

As the Defendant recognizes in his brief, the only disputed issue in this case was J.B.’s consent. The Defendant argues that, because the jury acquitted him of two of the three rapes he was accused of committing during his episode of sexual contact with J.B., and because there was no corroborating evidence supporting the single rape of which he was convicted, the evidence was not sufficient to support his conviction. We disagree. The jury was free to believe portions of J.B.’s testimony while rejecting other portions. See e.g., State v. Thorpe, 463 S.W.3d 851, 862-63 (Tenn. 2015) (recognizing that a jury may accredit portions of a victim’s testimony while being simultaneously “free to reject any evidence offered by the State, no matter how uncontroverted or uncontested a particular fact or element may appear”) (quoting State v. Richmond, 90 S.W.3d 648, 660 (Tenn.

2002)). Viewing the evidence in the light most favorable to the State, the record contains ample evidence from which a rational juror could find lack of consent and knowledge thereof. J.B. testified that the Defendant repeatedly ignored her verbal protests, physical resistance, and efforts to stop him during the first act of penetration. She repeatedly said “no,” tried to move away, attempted to hold her legs together, and struggled against him. The Defendant nevertheless proceeded until she pushed him off. Her testimony directly supported each statutory element of rape as charged in Count 2. The jury was entitled to credit her testimony in whole or in part.

Additionally, the recorded phone call between the Defendant and J.B., played for the jury, further corroborated J.B.’s account. In that conversation, the Defendant acknowledged J.B.’s prior resistance, her saying “no,” and his wrongdoing, stating, “I was wrong,” and apologizing. These admissions reasonably support the jury’s determination that he knew she did not consent. Based on the above evidence and all reasonable inferences drawn therefrom, a rational juror could conclude beyond a reasonable doubt that the Defendant forcibly penetrated J.B. without her consent. Accordingly, the Defendant is not entitled to relief.

III. Exclusion of Detective’s Statement (“you are not in the wrong”). The Defendant finally argues that the trial court erred by excluding his testimony that the detective told him, “you are not in the wrong.” He contends the statement was not offered for its truth, but rather to show its effect on him as the listener and to illuminate his understanding of the encounter. He further asserts that excluding the statement impaired his right to present a complete defense.

This claim also fails on multiple grounds. First, we note, once again, that this claim is waived. As previously discussed, in his motion for new trial, the Defendant merely asserted that the court “erred in granting the State’s objections” without identifying the specific objection, citing legal authority, or referring to the record. Under Tenn. R. App. P. 3(e), issues not specifically raised are waived. He is not entitled to relief.

Waiver notwithstanding, we conclude that the trial court properly excluded the statement. The record shows the detective did not testify at trial, and the statement was offered through the Defendant’s own testimony. When defense counsel asked the Defendant, “Did that police officer, that you spoke with, arrest you?” the Defendant replied, “The policeman said you are not in the wrong.” Upon hearing the Defendant’s answer, the State objected, and the trial court sustained the objection and instructed the jury to disregard it. Defense counsel then stated, “I wasn’t trying to go there.” In the order denying the motion for new trial, the trial court stated that the Defendant’s comment “invaded the province of the jury to determine whether the State had established the elements of the charged offense.” The trial court also observed that defense counsel, with

his response to the unsolicited comment, seemed to recognize the impropriety of the Defendant's testimony and retreated from the line of questioning.

While the Defendant's unsolicited comment may well have invaded the province of the jury, see State v. Zagorski, 701 S.W.2d 808, 814 (Tenn. 1985), cert. denied 478 U.S. 1010, 106 S. Ct. 3309, 92 L. Ed. 2d 722 (1986), it is more reasonable to interpret the Defendant's purpose in making the unsolicited comment as offering it for the truth of the matter asserted—that the detective believed the Defendant had done nothing wrong. His statement is by definition hearsay, Tenn. R. Evid. 801(c), unless an exception applies. No such exception exists on this record.

Moreover, the comment was not relevant. The issue at trial was whether the Defendant knew, at the time of the sexual encounter, that J.B. did not consent. The detective's comment—made days later and based on no personal knowledge of the event—had no bearing on the Defendant's contemporaneous state of mind. Evidence is relevant only if it has any tendency to make a consequential fact more or less probable. Tenn. R. Evid. 401-402. The Defendant's unsolicited testimony regarding the detective's comment does not meet that standard.

Finally, the exclusion of the Defendant's testimony did not violate the Defendant's constitutional right to present a defense. Established rules of evidence apply to both the State and the defense, and excluding irrelevant or unreliable statements does not infringe upon due-process rights. See State v. Flood, 219 S.W.3d 307, 316-317 (Tenn. 2007). This issue, whether waived or analyzed on the merits, does not entitle the Defendant to relief.

CONCLUSION

We affirm the judgment of the trial court.

s/ *Camille R. McMullen*

CAMILLE R. MCMULLEN, JUDGE