IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 51971

STATE OF IDAHO,	)	
	)	**Filed: November 2, 2026**
Plaintiff-Respondent,	)	
	)	**Melanie Gagnepain, Clerk**
v.	)	
	)	
ZACHARIAH JOHN ROGER WOOD,	)	
	)	
Defendant-Appellant.	)	
	)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Annie O. McDevitt, District Judge.

The judgment of conviction for one count of grand theft and six counts of forgery, affirmed.

Erik R. Lehtinen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant. Jenny C. Swinford argued.

Hon. Raúl R. Labrador, Attorney General; T. Michael MacEgan, Deputy Attorney General, Boise, for respondent. T. Michael MacEgan argued.

PETTY, Judge

Zachariah John Roger Wood appeals from his judgment of conviction for one count of grand theft and six counts of forgery. Wood contends that the district court erred by excluding impeachment testimony that a witness was on parole, and that the district court's error was not harmless. We affirm.

I.
FACTUAL AND PROCEDURAL BACKGROUND

Wood was charged with grand theft, Idaho Code §§ 18-2403(1), 18-2407(1)(b), 18-2409, 18-204; six counts of forgery, I.C. §§ 18-3601, 19-304(2); and a persistent violator sentencing enhancement, I.C. § 19-2514. These charges arose after Wood deposited fraudulent checks into the co-defendant's bank account, transferred the money to another bank account owned by the co-defendant, withdrew the money through an ATM, and purchased items with the co-defendant's

debit card. The co-defendant was also charged with grand theft. Because both Wood and the co-defendant were charged, an important issue was whether Wood could be identified in the surveillance videos.

Before trial, the State listed the co-defendant as a potential witness against Wood. The co-defendant had two prior felony convictions: a 2016 conviction for burglary and a 2020 conviction for felony possession of a controlled substance. The co-defendant was still on parole for the felony possession of a controlled substance conviction. Because of this, Wood filed a notice of intent to impeach the co-defendant with his criminal convictions and "motive to testify untruthfully."

During trial, outside the presence of the jury, the district court took up the impeachment issues. First, it precluded testimony of the co-defendant's conviction for possession of a controlled substance because it found that this testimony was not relevant to the co-defendant's truthfulness under Idaho Rule of Evidence 609. That decision is not challenged on appeal.

Second, the district court considered whether testimony about the co-defendant's parole was admissible. Wood argued that the jury needed to evaluate the "impact of [the co-defendant's] parole status. . . . [a]nd how the impact of his parole status may affect his prior statements and his current testimony." The State argued that no offer was made to the co-defendant in consideration for his cooperation during Wood's trial and that the co-defendant's parole had "absolutely nothing to do with motive or credibility" of the co-defendant's testimony because the Idaho Department of Correction ("IDOC"), not the prosecutor, "decides [what] to do with him."

The district court found that the co-defendant's parole was not relevant to his credibility as a witness for two reasons. First, the district court found it difficult to assume that the Idaho Commission of Pardons and Parole ("Parole Commission") would favorably respond to the co-defendant after his cooperation with the prosecutor. The district court stated:

> I think it's bit of a stretch--no offense to the Prosecutor's Office--but to assume that the parole commission will put significant weight into what [the Prosecutor's Office] does in this case, I think is just too attenuated to link the motive as it relates to his parole case.

Second, the district court found that there was no promise made to the co-defendant in exchange for the co-defendant's cooperation, and stated:

> And, again, [the co-defendant] received no specific consideration. And so I don't think it's relevant to say, well, he has two prior felonies to bolster at all any type of motivation when the State hasn't even promised a specific result in this case.

> So I think that's what I understood part of the argument to be is that the priors paint the full picture of [the co-defendant's] story, and I'm unpersuaded by that argument with the prior convictions, especially in light of the fact that there's been no specific deal made. And so the probative value of them is substantially outweighed by unfair prejudice.

Next, the district court found that the probative value of the co-defendant's parole was substantially outweighed by the danger of unfair prejudice and confusion of the issues. In reaching this finding, the district court reasoned: (1) there was only a small chance of the co-defendant receiving favorable treatment at his parole hearing from the Parole Commission; (2) the possibility of the prosecutor recommending the sentences that the co-defendant was facing should run concurrently was not persuasive; and (3) the remaining prison time the co-defendant had left to serve on his possession of a controlled substance conviction was significantly less and "completely consume[d]" by the pending grand theft charges that he was facing. Consequently, the district court did not permit any testimony about the co-defendant's parole. The district court did, however, decide that parties could elicit testimony about the co-defendant's burglary conviction.

Consistent with this ruling, the co-defendant was called to testify against Wood. The co-defendant testified that he had been criminally charged along with Wood for these crimes, had a prior burglary conviction, had spent time in prison, and was afraid to return to prison. Wood testified that in conversations with law enforcement he had not been entirely truthful. The jury found Wood guilty of one count of grand theft and six counts of forgery. Wood then pled guilty to the persistent violator sentencing enhancement. Wood appeals.

II.
STANDARD OF REVIEW

A mixed standard of review applies to questions about the admissibility of evidence. *State v. Shackelford*, 150 Idaho 355, 363, 247 P.3d 582, 590 (2010). We review questions of relevance de novo. *State v. Jones*, 167 Idaho 353, 358, 470 P.3d 1162, 1167 (2020); *State v. Aguilar*, 154 Idaho 201, 203, 296 P.3d 407, 409 (Ct. App. 2012). A trial court's determination under I.R.E. 403 will not be disturbed on appeal unless it is shown to be an abuse of discretion. *State v. Enno*, 119 Idaho 392, 406, 807 P.2d 610, 624 (1991); *State v. Clark*, 115 Idaho 1056, 1059, 772 P.2d 263, 266 (Ct. App. 1989). When a trial court's discretionary decision is reviewed on appeal, the appellate court conducts a multi-tiered inquiry to determine whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the boundaries of such discretion;

(3) acted consistently with any legal standards applicable to the specific choices before it; and (4) reached its decision by an exercise of reason. *State v. Herrera*, 164 Idaho 261, 270, 429 P.3d 149, 158 (2018).

III.
ANALYSIS

Wood argues that the district court erred in excluding testimony that the co-defendant was on parole and facing a parole revocation proceeding because the testimony was relevant to the co-defendant's credibility as a witness. Wood also asserts that this error was not harmless. The State argues that even if the district court erred in precluding this evidence, the error was harmless.

A. Evidence that the co-defendant was on parole was admissible for impeachment purposes.

On appeal, Wood argues that the district court erred by precluding testimony about the co-defendant's parole because it was relevant and its probative value was not substantially outweighed by the danger of unfair prejudice or confusion of the issues. The State responds that the district court did not err because it was unlikely that the Parole Commission would give weight to the prosecutor's actions in this case. We hold that the co-defendant's parole was relevant to his credibility and the probative value of this testimony was not substantially outweighed by the danger of unfair prejudice or confusion of the issues.

1. The co-defendant's parole was relevant.

Wood argues that the district court incorrectly prevented him from fully cross-examining the co-defendant to show a bias or motive to testify favorably for the State. Wood asserts the co-defendant's parole was relevant to the co-defendant's credibility because it was a bias or motive to "lie in the State's favor in the hopes of protecting his parole status." The State recognized that questions in a similar context, such as a witness's pending charges or probation status, are typically relevant to witness credibility, but asserted that parole has not been directly recognized by Idaho courts as relevant to a witness's credibility.

Part of the constitutional right of confrontation is the opportunity to cross-examine witnesses. *Davis v. Alaska*, 415 U.S. 308, 315-16 (1974). The Idaho Rules of Evidence recognize the scope of cross-examination to include "matters affecting the witness's credibility" and that "any party . . . may attack the witness's credibility." I.R.E. 607, 611(b). Consequently, witness bias is always relevant to credibility and weight of the witness's testimony. *State v. Green*, 136

Idaho 553, 556, 38 P.3d 132, 135 (Ct. App. 2001). In fact, the Idaho Supreme Court recognized that "a defendant's right of confrontation will be violated by a restriction on cross-examination which precludes inquiry into a matter clearly relevant to the credibility of a prosecution witness." *State v. Radue*, 175 Idaho 297,564 P.3d 1230, 1248 (2025) (citing *Olden v. Kentucky*, 488 U.S. 227, 231-32 (1988). This Court has also acknowledged that "the right of confrontation includes the right to attack the credibility of adverse witnesses . . . including the opportunity to show bias in favor of the prosecution." *Green*, 136 Idaho at 556, 38 P.3d at 135; *see Davis*, 415 U.S. at 316; *see also United States v. Abel*, 469 U.S. 45, 50 (1984).

Two cases are instructive here. First, in *Green*, the district court let Green question a witness about consideration the witness had already received in exchange for his cooperation. *Green*, 136 Idaho at 556, 38 P.3d at 135. The district court would not, however, let Green question the witness about a pending felony charge that "might motivate [the witness] to give testimony favorable to the State in the *hope* of receiving leniency even if there was no express agreement or promise of such consideration." *Id.* This Court held that the district court's restriction violated Green's constitutional right of confrontation and recognized that, to fully benefit from witness cross-examination, a defendant is entitled to show facts that could lead a jury to reach their own conclusions about a witness's bias. *Id.* at 557, 38 P.3d at 136.

Second, in *State v. Gomez*, 137 Idaho 671, 674, 52 P.3d 315, 318 (2002), Gomez sought to impeach witnesses for bias because the police found marijuana at the witnesses' home during a search, and there was evidence that the witnesses would not be prosecuted in exchange for their cooperation. The district court excluded the impeachment because it did not see any motive for the cooperation. *Gomez*, 137 Idaho at 675, 52 P.3d at 319. The district court stated: "I don't find anything here that would establish a motive here prompting the cooperation with the police from the fact that there were marijuana plants on the property." *Id.* The Idaho Supreme Court found that questions about the presence of marijuana were relevant because the jury could infer that an agreement took place even though the witnesses denied an agreement existed. *Id.*

Here, like in *Green* and *Gomez*, the district court evaluated the relevancy of the evidence based on whether the court was convinced the witness would receive a favorable outcome for cooperating with the State, which is not the correct analysis. The district court should have evaluated whether the testifying co-defendant may have hoped for, or expected a benefit for, cooperating with the State and, therefore, had a motive or bias in favor of the State. In this case,

the co-defendant was facing grand theft charges and a parole revocation proceeding.[1] While there was no formal agreement for the co-defendant's cooperation and testimony, the State had agreed that it would consider the co-defendant's testimony in deciding how to resolve the new charges against him. If the co-defendant received a favorable outcome for his new charges in exchange for his cooperation in this case, the co-defendant may have also hoped for a more favorable outcome in the parole revocation proceeding. The co-defendant may have expected that a dismissal of the charges, a reduction of the charges, or a favorable sentencing recommendation would help the co-defendant before the Parole Commission. In the same way, a more severe outcome in this case, may affect the co-defendant's expected outcome in the parole revocation proceeding. During cross-examination, the co-defendant even alluded to this. He acknowledged that the prosecutor had "promised not to use any new information against [him]" and that the prosecutor had "promised to consider [his] cooperation in evaluating how to handle [the] charge of grand theft." The co-defendant testified that he feared "going back to prison" and he admitted to "hoping for consideration" from the prosecutor and recognized that this could include "a lesser charge," "a dismissal of [his] case," or "a beneficial sentencing recommendation." Thus, the co-defendant had a potential bias in favor of the State to testify favorably in order to obtain a better outcome for himself.

Evidence that the co-defendant was on parole and facing a parole revocation proceeding was relevant to the co-defendant's credibility as a witness.

2. The probative value of evidence about the co-defendant's parole was not substantially outweighed by the danger of unfair prejudice or confusion of the issues.

On appeal, Wood argues that the district court did not exercise reason in ruling that the probative value of the co-defendant's parole was substantially outweighed by dangers of unfair prejudice and confusion of the issues. The State presents no argument in support of the district court's analysis and simply argues that any error was harmless.

"The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative

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[1] When the district court made its ruling, it said, "What we don't know is all the various allegations of the parole hold."

evidence." I.R.E. 403. As recognized by the Idaho Supreme Court, "[this rule] does not require the exclusion of prejudicial evidence. Most evidence offered to prove a defendant's guilt is inherently prejudicial. The rule only applies to evidence that is unfairly prejudicial because it tends to suggest that the jury should base its decision on an improper basis." *State v. Folk*, 162 Idaho 620, 627, 402 P.3d 1073, 1080 (2017) (quoting *State v. Rawlings*, 159 Idaho 498, 506, 363 P.3d 339, 347 (2015)). "The determination of whether the risk of unfair prejudice substantially outweighs the probative value of the evidence is within the discretion of the trial court." *Jones*, 167 Idaho at 358, 470 P.3d at 1167 (quoting *State v. Cross*, 132 Idaho 667, 670, 978 P.2d 227, 230 (1999)).

Here, the district court erred by finding that evidence about the co-defendant's parole and revocation proceeding should be excluded under I.R.E. 403. For reasons stated above, this testimony was probative of the co-defendant's credibility as a witness. The probative value of this testimony is not substantially outweighed by the danger of unfair prejudice because this evidence would not suggest to the jury that it should make its decision on an improper basis. Also, testimony that the co-defendant was on parole and facing a parole revocation proceeding would not confuse the jury because it could understand this may cause the co-defendant to have a bias or motive to testify favorably for the State.

The district court erred by concluding that the probative value of testimony about the co-defendant's parole was substantially outweighed by the dangers of unfair prejudice and confusion of the issues.

B. The district court's error was harmless.

Wood argues that excluding the evidence about the co-defendant's parole was not harmless error. The State asserts that, in the event the district court erred in precluding testimony of the co-defendant's parole, the probative force of this error was "minimal" because the co-defendant's bias and character for truthfulness was already impeached before to the jury. The State also argued that there was sufficient "unchallenged evidence" establishing Wood's guilt even without of the co-defendant's testimony. We agree with the State.

Error is not reversible unless it is prejudicial. *State v. Stell*, 162 Idaho 827, 830, 405 P.3d 612, 615 (Ct. App. 2017). Where a criminal defendant shows an error based on a

contemporaneously objected-to, nonconstitutional violation[2], the State then has the burden of demonstrating to the appellate court beyond a reasonable doubt the error did not contribute to the jury's verdict. *State v. Montgomery*, 163 Idaho 40, 46, 408 P.3d 38, 44 (2017). Thus, we examine whether the alleged error complained of in the present case was harmless. *See id*. Harmless error is error unimportant in relation to everything else the jury considered on the issue in question, as revealed in the record. *Yates v. Evatt*, 500 U.S. 391, 403 (1991); *State v. Garcia*, 166 Idaho 661, 674, 462 P.3d 1125, 1138 (2020). This standard requires weighing the probative force of the record as a whole while excluding the erroneous evidence and at the same time comparing it against the probative force of the error. *Garcia*, 166 Idaho at 674, 462 P.3d at 1138. If the error's effect is minimal compared to the probative force of the record establishing guilt beyond a reasonable doubt without the error, then the error did not contribute to the verdict rendered and is harmless. *Id*. The reviewing court must take into account what effect the error had, or reasonably may have had, on the jury in the context of the total setting and in relation to all else that happened, which necessarily includes the evidence presented. *Kotteakos v. United States*, 328 U.S. 750, 764 (1946).

Applying these standards, the probative force of the district court's error is minimal compared to the probative force of the record establishing guilt beyond a reasonable doubt without the alleged error. First, the co-defendant was thoroughly impeached by his potential for bias and untruthful character. On direct examination, the co-defendant testified to currently facing charges in the same criminal matter. He also testified to misrepresenting the truth in initial conversations with a detective and admitted to "sometimes" being an honest man. In addition, on cross-examination, he testified that he feared "going back to prison" and disclosed promises he received from the prosecutor in relation to his new charges. The co-defendant acknowledged that he was "hoping for consideration" from the prosecutor that could include "a lesser charge," "a dismissal of the case," or "a beneficial sentencing recommendation." Finally, the co-defendant also revealed that he did time in prison because of a prior felony conviction for a burglary. All of this substantially impeached the co-defendant about his bias and untruthfulness, making any error harmless.

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[2] Wood did not raise a constitutional issue in this appeal.

Next, the State presented sufficient evidence to establish Wood's guilt beyond a reasonable doubt. The jury considered identification markers of Wood's vehicle, tattoos, and clothing. The State also presented evidence identifying Wood as the offender of the crime for each conviction.

Considering the record as a whole, the district court's error was harmless because it was minimal compared to the probative force of the record establishing guilt beyond a reasonable doubt without the alleged error.

IV.

CONCLUSION

Evidence that the testifying co-defendant was on parole and facing a parole revocation proceeding should not have been excluded by the district court because it was relevant and its probative value was not substantially outweighed by the dangers of unfair prejudice or confusion of the issues. Although Wood established an error in the challenged evidentiary rulings, the error was harmless. Accordingly, Wood's judgment of conviction for one count of grand theft and six counts of forgery is affirmed.

Chief Judge TRIBE and Judge FLEMING, **CONCUR**.