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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1740-15T2

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

RAHEEM J. JAMISON, a/k/a JAMAR JAIMSON,
RAHEEM JAIMSON, RAH JAMISON, and
GANSTA RAH,

Defendant-Appellant.

Submitted March 28, 2017 – Decided April 21, 2017

Before Judges Reisner and Rothstadt.

On appeal from the Superior Court of New
Jersey, Law Division, Cumberland County,
Indictment No. 14-07-0601.

Joseph E. Krakora, Public Defender, attorney
for appellant (Frank M. Gennaro, Designated
Counsel, on the brief).

Jennifer Webb-McRae, Cumberland County
Prosecutor, attorney for respondent (Danielle
R. Pennino Assistant Prosecutor, of counsel
and on the brief).

PER CURIAM

Defendant Raheem J. Jamison appeals from his conviction for
fourth-degree resisting arrest, N.J.S.A. 2C:29-2(a)(2), for which

he was sentenced to a prison term of eighteen months. We affirm the conviction.

Defendant was accused of fleeing from Bridgeton Police Officer Braheme Days, who was trying to arrest him.¹ The officer was wearing a body-worn microphone, which recorded his contemporaneous reports to headquarters. During the incident, the officer stated into the microphone that he had spotted defendant and was going to attempt to arrest him. A minute or two later, the officer reported that defendant was running away and the officer was chasing him.

After a Driver² hearing, at which Officer Days testified and the tape was played, Judge Cristen D'Arrigo issued an oral opinion on July 16, 2015, finding that the recording had been "properly authenticated and it has not been altered or tampered with." He also found that the recording system "was capable of recording . . . what it was intended to record."

However, in response to defense counsel's objection to the tape as improper bolstering of Officer Days's testimony, the judge ruled that the State could not present it during the officer's direct examination. The judge ruled that, if defendant challenged

¹ The jury was not told why the officer was trying to arrest defendant or that there was an outstanding warrant for his arrest.

² State v. Driver, 38 N.J. 255 (1962).

the officer's credibility, he would consider allowing the State to ask the officer about the tape on re-direct.

At the trial, the officer explained that he knew defendant from seeing him in the neighborhood where the officer usually patrolled. On the day of the incident, the officer and his partner were driving through the area, when he saw defendant on the porch of a house on South Street. Days got defendant's attention and called out to him that he intended to arrest him. In response, defendant turned and ran into the house. Days went to the back of the house, saw defendant run out the back door, and chased him through the neighborhood. However, Days lost sight of defendant when he ran into a local housing complex. Defendant was arrested a couple of days later.

On cross-examination, defense counsel asked Days if there was "a recording" of the incident. When Days said that there was, counsel did not ask about that recording, but instead asked Days if there was a mobile video recording (MVR) device in his patrol car and if it recorded this event. Days testified that there was an MVR device in his car, but it did not record this incident. Defense counsel also elicited from Days that he was not wearing a body camera at the time of the chase.

In response to the prosecutor's sidebar application, the judge ruled that the recording of the body-worn microphone could be played for the jury. The judge reasoned that:

The . . . repeated references to recordings, there may be recordings, are an implied challenge to the veracity of the witness. They are implying that because things weren't recorded, that his account can't be relied upon.

Second of all, there was a specific question by counsel, as to whether a recording was made. The witness replied affirmatively.

Now, counsel didn't explore that further and . . . that is an open issue at this point as to what type of recording . . . was made.

So I do find under the circumstances here that in the course of cross-examination, an implied attack on the credibility of the witness was made in the repeated references to recordings and the lack of a recording of the incident.

Thereafter, at defense counsel's request, the entire relevant portion of the audiotape was played for the jury, after Days authenticated it. Defense counsel was also permitted to re-cross examine Days about the recording.

On this appeal, defendant presents the following point of argument for our consideration:


THE AUDIO RECORDING MADE BY OFFICER DAYS WAS NOT ADEQUATELY AUTHENTICATED AND ITS ADMISSION IMPROPERLY BOLSTERED THE OFFICER'S TESTIMONY.

We find no merit in those contentions, and we affirm substantially for the reasons stated by the trial judge. We add these brief comments.

We review a trial court's evidentiary rulings for abuse of discretion, and we find none here. See State v. Harris, 209 N.J. 431, 439 (2012). We find no error in the judge's decision that the limited portion of the audiotape played for the jury, containing Officer Days's statements about seeing and chasing defendant, was reliable. See State v. Nantambu, 221 N.J. 390, 395 (2015). We also agree with Judge D'Arrigo that the cross-examination of Days implicitly charged him with fabrication, both about seeing defendant and about whether there actually was a recording of the incident. Consequently, the relevant portions of the recording were admissible as prior consistent statements under N.J.R.E. 607. They were also admissible to prevent defense counsel from unfairly creating in the jury's mind the impression that there was no recording of the event, and hence, no corroboration of Days's testimony, when counsel clearly knew that there was.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION