SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

808

KA 22-00207

PRESENT: MONTOUR, J.P., SMITH, GREENWOOD, NOWAK, AND KEANE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V MEMORANDUM AND ORDER

JOSEPH H. BELSTADT, DEFENDANT-APPELLANT.

THOMAS J. EOANNOU, BUFFALO, FOR DEFENDANT-APPELLANT.

BRIAN D. SEAMAN, DISTRICT ATTORNEY, LOCKPORT, FOR RESPONDENT.

Appeal from a judgment of the Niagara County Court (Michael M. Mohun, A.J.), rendered January 14, 2022. The judgment convicted defendant upon a jury verdict of murder in the second degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of murder in the second degree (Penal Law § 125.25 [1]). His conviction stems from the disappearance of the 17-year-old victim in September 1993 in Niagara County.

According to witnesses and defendant's statements to the police after the victim's disappearance, the victim entered defendant's car in the early hours of September 19, 1993. The victim's mother filed a missing person report after she and the victim's friends were unable to locate her. The victim was discovered deceased in a ravine around a month later, an article of clothing knotted around her neck. According to expert testimony at trial, the victim's body and clothing reflected signs of a struggle, the cause of her death was asphyxiation by strangulation, and the manner of death was homicide.

In the days following the victim's disappearance, the police began contacting numerous individuals who had seen her in the days before her death. Given that defendant was the last independently confirmed person to see the victim alive after she got into his car, defendant was determined to be a suspect early in the investigation. Among other things, hundreds of pieces of evidence – hairs, fibers, and other material – were collected from the victim's body and from vacuuming defendant's car and sent to the Niagara County Forensic Laboratory. Over the years that followed, evidence was examined and reexamined, analyzed in-house by Niagara County, and contracted out to the Erie County Central Police Services Forensic Science Laboratory as well as labs out of state, and a consultant reviewed evidence in the

early to mid-2000s. In 2017, Mark Henderson, a Niagara County forensic analyst who had worked on the case since its inception, reexamined, among other things, a particular hair found in defendant's car that, in 1997, had been deemed "dissimilar" to the victim's hair by the Erie County lab that had analyzed it. According to Henderson, by using training and experience he had gathered since that time, he determined that the hair matched the victim's known pubic hair. Another visually matching hair was then discovered among those collected from defendant's car. Both pubic hairs were genetically matched to the victim through DNA analysis of the attached root tissue. In addition, around that time, fibers consistent with carpet fibers in defendant's car were found among the victim's clothing. Defendant was indicted in April 2018. After lengthy pretrial practice and a mistrial occasioned by the COVID-19 pandemic in 2020, defendant was tried in 2021 and convicted of murder in the second degree, the sole indicted count. Defendant appeals, and we affirm.

Defendant contends that the conviction is not based on legally sufficient evidence and that the verdict is against the weight of the evidence. Assuming, arguendo, that defendant preserved for our review his challenge to the legal sufficiency of the evidence (*see generally People v McGovern*, 214 AD3d 1339, 1340 [4th Dept 2023], *affd* 42 NY3d 532 [2024]), we conclude, after viewing the evidence in the light most favorable to the People (*see People v Contes*, 60 NY2d 620, 621 [1983]), that the evidence is legally sufficient to support the conviction of murder in the second degree (*see generally People v Bleakley*, 69 NY2d 490, 495 [1987]). Shortly after the victim's disappearance, defendant himself admitted, and it was independently confirmed by other witnesses, that defendant had given the victim a ride in his car on September 19, 1993, at around 1:30 a.m. Although defendant claimed to have driven her a short distance to the stairs of a nearby church, that claim conflicted with the forensic evidence, namely the victim's pubic hair found in different locations in defendant's car. In addition, testimony at trial reflected defendant's movements and behavior before and after he encountered the victim. After going to a nearby police station to complain about a recent traffic ticket at around 1:00 a.m., defendant declined an invitation to go to Canada with friends, instead opting to drive around because, according to those friends, he was upset over the tickets. While driving, defendant observed the victim and offered to give her a ride. According to his friends, when they returned from Canada, defendant's car was not parked at his grandmother's home, where defendant lived, or at his mother's home. Another witness observed defendant alone in his car, which was wet, and defendant told the witness he had just washed it. In the days after, defendant appeared at various locations in an attempt at establishing a false alibi. He spoke to each of his four friends who had gone to Canada on the night that the victim disappeared, asking them to lie to the police and assert that defendant had gone with them, and defendant was absent from school during the week after the victim's disappearance. Testimony also reflected that defendant had, in the summer of 1993, driven another young woman to a location near where the victim's body would later be found. With respect to the element of intent, we note that the victim was found with clothing knotted around her neck, and

that expert testimony at trial concluded that the state of her clothing and body reflected homicide by asphyxiation following a struggle. Further, the testimony of an individual who had been incarcerated with defendant on an unrelated charge reflected that defendant had admitted to strangling a girl in the early 1990s and leaving her body outdoors. We further conclude, after viewing the evidence in light of the elements of the crime as charged to the jury (*see People v Danielson*, 9 NY3d 342, 348 [2007]), that the verdict is not against the weight of the evidence (*see People v Monk*, 57 AD3d 1497, 1499 [4th Dept 2008], *lv denied* 12 NY3d 785 [2009]; *see generally Bleakley*, 69 NY2d at 495).

Contrary to defendant's further contention, the opinion testimony of the expert pathologist, based upon, inter alia, his review of autopsy materials, was properly admitted at trial and did not violate defendant's Sixth Amendment right to confrontation (*see People v Ortega*, 40 NY3d 463, 475-476 [2023]). "[T]he Confrontation Clause does not entirely preclude the use of information contained in testimonial autopsy reports," and an expert may offer opinions related to the cause and manner of death if the expert has "used their independent analysis on the primary data," including autopsy photographs, video recordings, and anatomical measurements (*id.* at 476-477; *see People v Austin*, 237 AD3d 736, 738 [2d Dept 2025]; *People v Taveras*, 228 AD3d 410, 412 [1st Dept 2024], *lv denied* 42 NY3d 1054 [2024]; *People v Rivers*, 225 AD3d 899, 901-902 [2d Dept 2024], *lv denied* 42 NY3d 929 [2024]). Here, the record reflects that the testifying expert, who did not perform or observe the autopsy, reached his conclusions based on an independent review of the proper materials rather than the conclusions of the performing medical examiner (*see Austin*, 237 AD3d at 738; *cf. Ortega*, 40 NY3d at 478).

We likewise reject defendant's contention that his due process right to prompt prosecution was violated by the preindictment delay. In determining whether defendant was deprived of due process, we must consider the factors set forth in *People v Taranovich* (37 NY2d 442 [1975]), which are: "(1) the extent of the delay; (2) the reasons for the delay; (3) the nature of the underlying charge; (4) whether . . . there has been an extended period of pretrial incarceration; and (5) whether . . . there is any indication that the defense has been impaired by reason of the delay" (*id.* at 445; *see People v Johnson*, 39 NY3d 92, 96 [2022]). These factors must be reviewed "in light of the particular factors attending to the specific case under scrutiny . . . , there are no clear cut answers in such an inquiry, . . . [and] no one factor or combination of the factors . . . is necessarily decisive" (*Taranovich*, 37 NY2d at 445).

Although the delay in this case was substantial, the nature of the underlying charge was serious and defendant was not arrested on that charge until he was indicted (*see People v Rogers*, 103 AD3d 1150, 1151 [4th Dept 2013], *lv denied* 21 NY3d 946 [2013]). Moreover, although the delay in this case may have caused some degree of prejudice to defendant, the People satisfied their burden of demonstrating good cause for the delay (*see id.*; *People v Chatt*, 77

AD3d 1285, 1285 [4th Dept 2010], *lv denied* 17 NY3d 793 [2011]). Of note, the People submitted a sworn affidavit from Henderson, which presented a narrative of the investigative events since 1993, discussed the thousands of hours dedicated to the case, addressed the outside labs and consultants used to assist in bringing the investigation to a resolution, and explained the limitations of analyzing hundreds of car sweepings (*see generally People v Johnson*, 211 AD3d 1633, 1634 [4th Dept 2022], *lv denied* 39 NY3d 1111 [2023]). Contrary to defendant's related contention, there was no need for a *Singer* hearing (*see People v Singer*, 44 NY2d 241, 255 [1978]) inasmuch as the record provided the court with "a sufficient basis to determine whether the delay was justified" (*People v Ballowe*, 173 AD3d 1666, 1668 [4th Dept 2019] [internal quotation marks omitted]; *see Rogers*, 103 AD3d at 1151; *People v Gathers*, 65 AD3d 704, 704 [2d Dept 2009], *lv denied* 13 NY3d 859 [2009]).

Entered: November 21, 2025

Ann Dillon Flynn
Clerk of the Court