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STATE v. SIDDEN, \_\_\_ N.C. \_\_\_ (10-3-1997)  
491 S.E.2d 225

The defendant next contends that the trial court committed plain error in allowing the testimony of two State's witnesses. The first witness was SBI Agent Steve Cabe. He testified to contents of prior statements made by Sabon Johnson to him. He then testified that Johnson's testimony at trial had been basically "the same statements as he made initially both to law enforcement and in the first trial [the defendant's trial for the murder of Garry Sidden, Sr.]."

The defendant acknowledges that a witness' prior consistent statements are admissible for the purpose of corroboration. However, he contends that the trial court erred in allowing Agent Cabe to state his opinion that Johnson's testimony was the same as he had made to the officers. The defendant relies on *State v. Norman*, 76 N.C. App. 623, 334 S.E.2d 247, *disc. rev. denied*, 315 N.C. 188, 337 S.E.2d 863 (1985), in support of his argument.

In *Norman*, the Court of Appeals held that testimony of an officer that a witness' testimony was substantially the same as his prior statements was error. *Id.* at 627, 334 S.E.2d at 250. However, in that case, the Court of Appeals noted that the officer had not testified as to the contents of the previous statement. *Id.* The present case is distinguishable since the officer in this case did testify as to the contents of the previous statement. The jury was able to draw its own conclusion as to whether the statements were the same. Furthermore, the trial court instructed the jury as to the limited use of this testimony. *State v. Jones*, 317 N.C. 487, 496-97, 346 S.E.2d 657, 662 (1986).

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[3] In his final assignment of error, defendant contends that the trial court erred by allowing Alfred Pickett's pretrial statement into evidence as corroboration of his testimony because the statement was inconsistent with Pickett's in-court testimony. Alfred Pickett was a key witness for the State. Over defendant's objection, Police Detective Carol Lynch was permitted to read into evidence notes that she had taken during an interrogation of Pickett prior to trial, as corroboration of Pickett's testimony. Defendant argues that Lynch should not have been allowed to read these notes because they included significant contradictions and a material noncorroborative addition to the testimony.

In support of this argument, defendant relies on this Court's decision in *State v. Burton*, 322 N.C. 447, 368 S.E.2d 630 (1988). In *Burton*, we held that "prior statements as to facts not referred to in Page 784 his trial testimony and not tending to add weight or credibility to it are not admissible as corroborative evidence. Additionally, the witness's prior contradictory statements may not be admitted under the guise of corroborating his testimony." *Id.* at 450, 368 S.E.2d at 632 (quoting *State v. Ramey*, 318 N.C. 457, 469, 349 S.E.2d 566, 573-74 (1986)) (emphasis in original).

Defendant maintains that there were two discrepancies between Pickett's testimony and his pretrial statement to Officer Lynch. The first concerned whether defendant handed Mason the murder weapon just prior to the shooting. During direct examination and cross-examination, Pickett testified that he did not see defendant give Mason the gun prior to the shooting. However, Lynch's notes, read at trial, indicated that Pickett stated Mason got the gun from defendant, that defendant had the gun in his pants and then gave it to Mason.

The second discrepancy concerned a comment made during an argument among Mason, Pickett, and defendant on the day following the shooting. Pickett testified that on 6 November 1992, he accused defendant of acting wrongly on the previous day by telling Mason what to do. Pickett did not testify that Mason had said anything to defendant on that date. However, Lynch's notes indicated that Mason had said, "I shouldn't have listened to you [defendant]." Defendant argues that this was significant because Pickett's testimony at trial did not indicate that Mason had listened or responded to defendant, but the pretrial statement indicates that Mason was responding to defendant's request when shooting the victim.

We agree with defendant that Alfred Pickett's pretrial statement contained significant discrepancies from his testimony at trial and should not have been admitted as corroborative evidence. However, we find that the error was harmless. Prior to Pickett's corroborative statement being read to the jury,

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Rodney Arnold had testified that he saw defendant give Mason the gun during the argument. Anthony Winchip, a witness for the State, had also testified that defendant admitted giving the gun to Mason. As to the second discrepancy complained of, there is overwhelming evidence that Mason listened to or carried through on defendant's advice to shoot Shammon Mattocks. Therefore, we conclude that there is no reasonable possibility that, had the error not occurred, a different result would have been reached at trial.

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In conclusion, we hold that there was no prejudicial error in defendant's conviction for first-degree murder and in the imposition of the mandatory sentence of life imprisonment.

**NO ERROR.**