IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2023-KA-01159-COA

IVAN RODRIGUEZ A/K/A IVAN C. RODRIGUEZ A/K/A IVAN CUEVAS RODRIGUEZ	**APPELLANT**
v.	
STATE OF MISSISSIPPI	**APPELLEE**

DATE OF JUDGMENT:	03/23/2023
TRIAL JUDGE:	HON. CELESTE EMBREY WILSON
COURT FROM WHICH APPEALED:	DESOTO COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	JOHN KEITH PERRY JR.
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: JULIANNE KAY BAILEY
DISTRICT ATTORNEY:	ROBERT R. MORRIS
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	AFFIRMED - 06/17/2025
MOTION FOR REHEARING FILED:	

BEFORE BARNES, C.J., McCARTY AND ST. PÉ, JJ.

BARNES, C.J., FOR THE COURT:

¶1. A DeSoto County Circuit Court jury convicted Ivan Rodriguez of one count of manslaughter (Count I) and two counts of second-degree murder (Counts II and III). The trial court sentenced Rodriguez to serve twenty years in the custody of the Mississippi Department of Corrections (MDOC) for Count I, with the sentence set to run consecutively to the sentences imposed in Counts II and III. For Counts II and III, the court sentenced Rodriguez to serve forty years on each count, with those sentences set to run concurrently.

¶2. Appealing his convictions, Rodriguez challenges the sufficiency and weight of the evidence and asserts claims of prosecutorial misconduct. He also argues that the trial court's

sentencing was an abuse of discretion. We find no error and affirm.

FACTS AND PROCEDURAL HISTORY

¶3. Just after midnight on January 1, 2021, Dylan Howard and Ivan Rodriguez were "riding around" in Rodriguez's Camaro in Cordova, Tennessee.[1] Earlier that evening, Howard and his "on and off" girlfriend, Lexus Carrier, had gotten into an argument; so Howard had dropped her at her mother's home in Olive Branch, Mississippi.[2] Lexus's mother, Tommi Carrier ("Carrier"), was dating Tyler Liles. Howard and Liles had been trading obscenities and taunts through text messages over the past few days.

¶4. At 1:00 a.m., Liles sent Howard a text message claiming that Lexus was sleeping with other men. Howard responded, "Drop your location," and he and Rodriguez then drove to Olive Branch. Rodriguez had two loaded guns in his car.[3] Howard said he intended to "fight" Liles, and Rodriguez told Howard that he would "fire some shots in the air to scare [Liles and Carrier]." If Howard and Liles had a confrontation, Rodriguez said he "would shoot [Liles]."

¶5. Arriving in Olive Branch, Rodriguez and Howard soon noticed Liles, Carrier, and

[1] Rodriguez was in a long-term relationship with Howard's sister, Jessica. Rodriguez and Jessica are now married.

[2] Howard and Lexus were parents to a newborn son at that time. Prior to November 8, 2020, Lexus and the baby lived in Cordova with Howard, Rodriguez, and Jessica. But she and Howard broke up in November 2020, and she moved in with her mother and Liles.

[3] One of the guns was registered to Rodriguez; the other gun was registered to his girlfriend Jessica, who frequently left it in Rodriguez's car.

John Sutherland following them in a silver Acura SUV.[4] The SUV continued following them until they all wound up in a cul-de-sac. Howard and Liles got out of their respective vehicles. Liles screamed at Howard, spit in his face, and "cocked his arm back" as if to hit Howard. Instead, Liles hit Rodriguez's car multiple times with his fists. Howard saw no weapon in Liles's hands, and no one had approached Rodriguez. Howard began to get back into Rodriguez's car when he heard gunshots and saw Liles fall. Rodriguez, who was standing between the open driver's side door and the car, asked Howard where the other gun was. Howard heard Carrier say, "Did you really just shoot them?" before hearing a second round of gunshots.

¶6. Howard called 911 to report the shooting. Although Howard and Rodriguez started to drive away, they turned around and returned to the scene. They observed Sutherland crawling towards the SUV. According to Howard, Rodriguez tried to pass him a gun to shoot Sutherland, but Howard would not take it. Howard and Rodriguez left the scene of the shootings and drove to a nearby high school. April Rutland, who lived nearby, was coming home at approximately 1:38 a.m. She observed two males standing next to a Camaro, which was backed into the school's parking lot. Rodriguez and Howard went to the back of the school, where Rodriguez disposed of one of the guns. He then drove to the front of the school to "wait[] for the police to arrive." Howard said that they used this time to coordinate their stories.

¶7. Officer Jacob Conerly with the Olive Branch Police Department arrived at the school

[4] Neither Howard nor Rodriguez knew Sutherland.

and made contact with Rodriguez and Howard. Rodriguez told Officer Conerly that they were involved in a shooting and that a gun was in the vehicle. Neither Rodriguez nor Howard told Officer Conerly about a second firearm. The officer recovered a Taurus 9mm handgun from the car. Rodriguez and Howard told Officer Conerly that a silver SUV had followed them and that they had been blocked in by the SUV in Shiloh Cove.

¶8. At the scene of the shooting, a resident of Shiloh Cove, Jovita Juarez Petty, heard loud voices arguing outside after 1:30 a.m. She also "heard gunshots," followed by "a lady's scream, and more gunshots" a few seconds later. Jovita woke her husband, John Petty, who went outside. Petty observed "one of the victims [lying] in the headlights of the vehicle" with "gunshot holes in his shirt"; so Petty called 911. Several police officers responded to the scene and found the deceased bodies of Carrier and Liles with multiple gunshot wounds. Sutherland was transported to the hospital, where he later died. Law enforcement recovered several 9mm shell casings at the scene.

¶9. Officer Conerly transported Rodriguez and Howard to the Olive Branch Police Department. Detective Ben Rushing interviewed the two men separately. Waiving his *Miranda*[5] rights, Rodriguez stated that he "went to get [his] gun to intimidate them," and when Liles acted like he was going to "swing" at him, he "opened fire cause [he] was scared and trying to defend [his] life." Rodriguez claimed that "it looked as if the other were reaching for something"; so he "panicked and let off more shots[.]" Detective Rushing then spoke with Howard, who told the detective about the second gun. Captain Ben Pulley went

[5] *Miranda v. Arizona*, 384 U.S. 436 (1966).

to the high school and recovered that weapon, finding it in a grassy area. Officers also obtained footage from Rutland's home security camera, which contained audio of what sounded like shots being fired. Detective Rushing searched the vehicles for evidence. In Rodriguez's Camaro, Detective Rushing found shell casings between the driver's side seat and the doorframe, on the driver's seat, just below the windshield wiper, and on the passenger side near the windshield and hood. Detective Rushing conducted a second videotaped interview with Rodriguez on February 8, 2021, in which Rodriguez confessed for the first time to using the second gun recovered at the high school. Detective Rushing noted that Rodriguez had changed his story several times.

¶10. A DeSoto County grand jury indicted Rodriguez on three counts of first-degree (deliberate design) murder on August 11, 2021, for the deaths of Liles (Count I), Carrier (Count II), and Sutherland (Count III).[6] *See* Miss. Code Ann. § 97-3-19(1)(a) (Rev. 2020). The jury trial was held on January 17-20, 2023. Howard, police officers, and other witnesses (the Pettys and Rutland) testified as to the events surrounding the shootings as outlined above. In addition, the state medical examiner testified that Liles was shot ten times, and Carrier suffered four gunshot wounds to her body. Sutherland was also shot four times. Some of the wounds indicated that the victims were shot from behind.

¶11. At the close of the prosecution's case-in-chief, the defense moved for a directed verdict, arguing that, "[a]s it relates to the charge of three counts of first-degree murder, there's been absolutely no proof whatsoever with any witness that there was a deliberate

[6] The same indictment charged Howard with aiding and abetting Rodriguez.

design to effect the death[s]" of the victims. Finding that it was "a jury question as to any deliberate design that there may be," the trial court denied the motion. Rodriguez elected not to testify, and the defense rested. On January 20, 2023, the jury found Rodriguez guilty of (1) manslaughter for Count I, (2) second-degree murder for Count II, and (3) second-degree murder for Count III.

¶12. At the sentencing hearing on March 23, 2023, the trial court sentenced Rodriguez to (1) twenty years to serve in the custody of the MDOC for Count I (manslaughter of Liles), with the sentence set to run consecutively to the sentences imposed in Counts II and III; (2) forty years to serve in MDOC custody for Count II (second-degree murder of Carrier), with the sentence set to run concurrently with the sentence in Count III; and (3) forty years to serve in MDOC custody for Count III (second-degree murder of Sutherland), with the sentence set to run concurrently with sentence in Count II.

¶13. On April 21, 2023, Rodriguez filed a motion for a judgment notwithstanding the verdict (JNOV) or, alternatively, for a new trial. He argued that (1) the weight of evidence showed he acted in self-defense; (2) the prosecution's interruptions during the defense's closing argument were improper; and (3) the sentences were "unfair, arbitrary, and capriciously administered" because he was a first-time offender. The State filed a response to the motion on April 24, 2023, addressing the merits of Rodriguez's claims.

¶14. On May 18, 2023, the trial court dismissed the motion for JNOV as untimely, noting that Rodriguez had not requested an extension "nor demonstrated good cause for granting" one. *See Nalls v. State*, 344 So. 3d 310, 315 (¶12) (Miss. Ct. App. 2022) (holding that Rule

25.1(c) of the Mississippi Rules of Criminal Procedure requires a defendant to file a motion for a new trial "within ten (10) days after entry of judgment," which, for the purposes of this Rule, includes both adjudication and sentencing). Rodriguez filed a motion for an extension of time to file his notice of appeal with the trial court on May 31, 2023. The trial court dismissed the motion on June 12, 2023, for lack of jurisdiction, finding that it was not filed "within such prescribed thirty (30) day period" under Mississippi Rule of Appellate Procedure 4(g).

¶15. On June 16, 2023, Rodriguez filed a motion for an extension to file his appeal with the Mississippi Supreme Court, noting "[t]hat the State consistently does not object to extensions on JNOV/Motion for a New Trial." The supreme court dismissed the motion on July 23, 2023, "to be pursued in the appropriate trial court" under Mississippi Rule of Appellate Procedure 4(g)-(h).

¶16. Over two months later, on September 28, 2023, Rodriguez filed a second motion with the trial court to extend the time for appeal. This time, the trial court granted the motion "pursuant to Rule 4(g)" on October 10, 2023, finding: "As one-hundred ninety-five (195) days have now elapsed since entry of judgment was made in this matter, and as such delays cannot be attributed to the Defendant himself, the [c]ourt finds that it is in the interest of justice to grant the Defendant's motion." Rodriguez filed a notice of appeal two days later.

DISCUSSION

I. Whether jurisdiction is proper.

¶17. Although neither party has addressed the question of jurisdiction, it is evident that an

issue exists in this case. Rule 4(g) allows an extension of thirty days for a criminal defendant to file a notice of appeal if good cause exists. M.R.A.P. 4(g). Rule 4(h) permits a trial court to "reopen the time for appeal" if a party can demonstrate that he *did not receive notice* and that the motion for an extension of time was filed *within 180 days of entry of the judgment* or order, or within seven days of the receipt of such notice, whichever is earlier. M.R.A.P. 4(h) (emphasis added).

¶18. Rodriguez, who is represented by counsel, did not file his second motion for an extension of time to appeal until he was fifteen days outside the 180-day period under Rule 4(h), a fact that the trial court mentioned in its order (noting "one-hundred ninety-five (195) days have now elapsed since entry of judgment was made in this matter"). Moreover, Rodriguez received notice of the judgment. Therefore, Rule 4(h) is not applicable. Because Rodriguez filed his motion beyond all the applicable deadlines,[7] the circuit court did not have authority to grant his motion to extend his time for appeal.

¶19. Nonetheless, "[i]n the interest of expediting decision, or for other good cause shown," this Court or the supreme court "may suspend the requirements or provisions of any of these rules in a particular case . . . on its own motion and may order proceedings in accordance with its direction." M.R.A.P. 2(c).[8] In this case, because dismissal of the appeal would most

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[7] We note that Rodriguez's appeal was not a post-conviction motion for an out-of-time appeal under Mississippi Code Annotated 99-39-5(1) (Rev. 2015), but an appeal under the appellate rules.

[8] "However, Rule 2(c) makes clear that in civil cases[,] the time for taking an appeal as provided in Rules 4 or 5 may not be extended." *Bailey v. Chamblee*, 192 So. 3d 1078, 1083 (¶14) (Miss. Ct. App. 2016) (internal quotation mark omitted).

likely result in Rodriguez's raising these identical issues in a motion for post-conviction collateral relief alleging his counsel failed to file a timely notice of appeal, we find this case warrants a suspension of the rules. We further note that the State has not raised any issue with the timeliness of Rodriguez's motions and his appeal. Accordingly, we will address the merits of the appeal.

II. Whether the trial court erred in denying Rodriguez's motion for a directed verdict or JNOV.

¶20. At trial, Rodriguez's counsel moved for a directed verdict, arguing that the evidence was insufficient to support a conviction of deliberate design first-degree murder on all three counts. The court denied the motion and later dismissed his post-trial JNOV motion. Our review of a court's denial of a directed verdict and a motion for JNOV, which both "challenge the legal sufficiency of the evidence," is identical. *Terrell v. State*, 969 So. 2d 53, 55 (¶10) (Miss. Ct. App. 2007). "The relevant question is 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.'" *Id*. We accept as true "[a]ll evidence consistent with the defendant's guilt . . . together with all favorable inferences that may be reasonably drawn from the evidence." *Collins v. State*, 221 So. 3d 366, 371 (¶13) (Miss. Ct. App. 2016) (citing *Robinson v. State*, 940 So. 2d 235, 240 (¶13) (Miss. 2006)).

¶21. Under Mississippi Code Annotated section 97-3-19(1)(a), "[t]he killing of a human being without the authority of law by any means or in any manner shall be murder . . . [and] [w]hen done with deliberate design to effect the death of the person killed, or of any human

being, shall be first-degree murder." Rodriguez argues that the evidence was insufficient to support his convictions of first-degree murder because (1) he was lawfully carrying the two guns in the car, and (2) the victims "were the initial aggressors and provokers."

¶22. "[M]alice, or deliberate design, may be inferred from use of a deadly weapon." *Brown v. State*, 176 So. 3d 1, 12 (¶35) (Miss. 2015); *see also Wilson v. State*, 936 So. 2d 357, 364 (¶17) (Miss. 2006) (holding that "deliberate design connotes an intent to kill . . . [and] may be inferred through the intentional use of any instrument which based on its manner of use, is calculated to produce death or serious bodily injury"). Howard testified that he and Rodriguez traveled to Olive Branch specifically to fight Liles, and Rodriguez had told Howard that he would "shoot" Liles if there was a confrontation. Rodriguez had two loaded guns in the vehicle, and Rodriguez admitted to police that he drew his gun to "intimidate" the victims. Although he claims that he was "panicked" and scared, the evidence unequivocally showed that Rodriguez fired at the victims multiple times and that Liles and Carrier were both shot in the back.

¶23. Viewing the evidence in the light most favorable to the prosecution, we find sufficient evidence existed for the trial court to deny the defendant's motions for a directed verdict or JNOV.

III. Whether the verdict was against the overwhelming weight of the evidence.

¶24. The jury convicted Rodriguez of one count of manslaughter and two counts of second-degree murder. In his (untimely) post-trial motion, Rodriguez argued that "[t]he weight of the evidence overwhelmingly suggests that the Defendant acted in clear self-defense."

Challenging the jury's verdict on appeal, Rodriguez claims that the weight of the evidence shows he "acted in self-defense only when he was forced to do so to protect his own life" and that "the prosecution did not establish any evidence disproving [his] claims for self-defense."

¶25. "When considering challenges to the weight of the evidence, 'we review the evidence in the light most favorable to the verdict and review the trial court's denial of a motion for a new trial under an abuse-of-discretion standard.'" *Pace v. State*, 369 So. 3d 588, 597 (¶33) (Miss. Ct. App. 2023) (quoting *Wayne v. State*, 337 So. 3d 704, 715 (¶39) (Miss. Ct. App. 2022)). We "will disturb a jury verdict only when it is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice." *Id*.

¶26. Although he admitted that he shot all three victims, Rodriguez told law enforcement that he only brought out his gun to intimidate the victims. He claimed that his car was "boxed in" by the SUV in the cul-de-sac, and he acted in self-defense out of fear for his life, firing off additional shots out of panic. The prosecution has the burden "to prove [beyond a reasonable doubt] that the defendant did not act in self-defense." *Eaton v. State*, 359 So. 3d 1081, 1087 (¶23) (Miss. 2023) (quoting *Maye v. State*, 49 So. 3d 1124, 1130 n.1 (Miss. 2010)). We agree with the State that "the forensic and crime scene evidence," as well as Howard's testimony, were sufficient to meet the prosecution's burden of disproving Rodriguez's self-defense argument.

¶27. Rodriguez was convicted of the lesser offense of manslaughter for Count I. The jury was instructed:

> Therefore, if you find from the evidence in this case, beyond a reasonable doubt, that on January l, 2021, in DeSoto County, Mississippi, the defendant IVAN C. RODRIGUEZ did shoot and kill Tyler Liles, while acting in his actual and bona fide belief that such was necessary to protect himself from great bodily harm or death at the hands of Tyler Liles, but that such belief by the defendant was not a reasonable belief under the circumstances, then you may find the defendant guilty of the lesser included offense of manslaughter in Count 1.

The jury evidently determined that even if Rodriguez believed shooting Liles was "necessary to protect himself from great bodily harm or death," such a belief was unreasonable under the circumstances. As mentioned, the evidence showed that Howard and Rodriguez drove to Olive Branch to confront Liles, and Rodriguez said that he would shoot Liles if there was an altercation. Both Howard and Rodriguez said that Liles spat on Howard's face and hit the hood of Rodriguez's car with his fists. However, although Liles cocked his arm as if to hit Howard, he never did. Liles also had no weapon; nor did the other victims. Furthermore, although Rodriguez claimed to have been "boxed in" by the victims' car, it was evident that he could have driven away at any time since he and Howard immediately left after the shooting and went to the high school. Viewing the evidence in a light most favorable to the verdict, we do not find that the jury's verdict was "so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice."

¶28. Regarding the remaining convictions for second-degree murder, the jury was instructed that if it found that the victim "was a living person," and Rodriguez killed the victim "without authority of law and not in necessary self-defense; [w]hile in the commission of an eminently dangerous act; [e]vincing a depraved heart; [r]egardless of human life; [w]ithout the premeditated design to kill" the victim, then the jury was to find Rodriguez

guilty of second-degree murder.

¶29. Rodriguez told police that he shot his gun because he panicked. However, as the State argues, "Howard and Jovita Petty's testimonies, corroborated by audio from a security camera, showed that Rodriguez fired from his first weapon, presumably emptying it of bullets, and then paused before bringing out his second gun and firing it as well." Multiple shell casings littered the crime scene, and the autopsy photos showed that some of the shots struck the victims in the back. Despite Rodriguez's assertion that the victims were the aggressors and that he was in fear of his life, the only potential weapon of theirs found at the scene was a golf club in Carrier's vehicle. The jury considered all of this evidence presented by the State, as well as Rodriguez's interview and statement to law enforcement. *See Jones v. State*, 203 So. 3d 600, 607 (¶16) (Miss. 2016) ("It is ultimately the jury's role to 'weigh witness testimony and determine its credibility.'" (quoting *Osborne v. State*, 54 So. 3d 841, 846 (Miss. 2011))). Accordingly, we find the jury's verdict was not against the overwhelming weight of the evidence, and this issue is without merit.

IV. Whether alleged prosecutorial misconduct during closing arguments prejudiced the defendant.

¶30. Rodriguez asserts that the prosecutor "made several statements that unjustly bolstered the veracity of . . . Howard . . . [and] prejudiced [Rodriguez] in the eyes of the jury." However, defense counsel did not raise any objections at trial to these alleged improper statements, thereby waiving this assignment of error and procedurally barring this issue from consideration on appeal. *See Ambrose v. State*, 254 So. 3d 77, 129 (¶163) (Miss. 2018) (finding defendant's failure to object waived claim of alleged prosecutorial misconduct).

Furthermore, Rodriguez cites no authority nor provides a meaningful argument as to whether plain-error review is applicable. *See McVay v. State*, 385 So. 3d 1280, 1295 (¶36) (Miss. Ct. App. 2024) (finding the failure to cite authority or make a meaningful argument as to plain error waived the issue on appeal).

¶31. Nevertheless, we find no merit to Rodriguez's claim that the prosecution's comments during closing argument were prejudicial. The applicable standard of review "to lawyer misconduct during opening statements or closing arguments is whether the natural and probable effect of the improper argument is to create unjust prejudice against the accused[,] so as to result in a decision influenced by the prejudice so created." *Wilson v. State*, 194 So. 3d 855, 864 (¶30) (Miss. 2016). "A prosecutor is prohibited from stating his personal opinion as to the veracity of a witness," which generally "occurs when a prosecutor attempts to vouch for or bolster a State witness by commenting in closing argument that the witness was telling the truth." *Stokes v. State*, 141 So. 3d 421, 427 (¶23) (Miss. Ct. App. 2013). "Given the latitude afforded an attorney during closing argument, any allegedly improper prosecutorial comment must be considered in context, considering the circumstances of the case, when deciding on their propriety." *Ballenger v. State*, 667 So. 2d 1242, 1270 (Miss. 1995) (quoting *Ahmad v. State*, 603 So. 2d 843, 846 (Miss. 1992)).

¶32. In the first alleged instance of prosecutorial misconduct, the prosecutor stated,

> Now, ladies and gentlemen, I didn't pick Dylan Howard as my surviving eyewitness. We take him as we get him. It would be very normal, I think, to view him as a punk. It would be pretty normal for you to look at him as being a loud mouth. But Dylan Howard is not on trial.

We cannot see how these comments were an improper attempt to bolster or vouch for

Howard in any manner.

¶33. The second instance of misconduct alleged by Rodriguez was the State's comment, "Ivan [Rodriguez] hasn't told you the truth," referring to the statements and interviews he gave to the police. We also find this comment does not rise to prosecutorial misconduct. In *Pitchford v. State*, 45 So. 3d 216, 234 (¶¶66-67) (Miss. 2010), the supreme court found that because the defendant had provided statements to the police, and those statements "were before the jury," the prosecution's comment that the defendant "was a 'habitual liar'" was appropriate.

¶34. Third, Rodriguez notes the State's comment, "There's a difference, ladies and gentlemen, between Ivan lying to the police and Dylan lying to his friend on these phone calls. The intent is different. . . . These are not things that should be treated anything close to equal." Looking at the context of this statement, the prosecution was contrasting what the jury instructions stated with regard to Rodriguez's intent to murder versus Howard's intent to lie to his friend on a telephone call. Again, we do not find that this statement was an improper bolstering of Howard's credibility; nor do we find it created unjust prejudice toward the defendant.

¶35. The fourth and final instance of alleged misconduct is the State's comment, "It matches enough for you to understand that Dylan [Howard] told more of the truth than Ivan [Rodriguez]." The full context of this statement clearly indicates that the prosecution was showing that Howard's testimony "matches" the other evidence and testimony presented at trial. As this Court has recognized, "prosecutors may 'comment upon any facts introduced

into evidence, and may draw whatever deductions and inferences that seem proper from the facts.'" *Carr v. State*, 385 So. 3d 1300, 1306 (¶20) (Miss. Ct. App. 2024) (quoting *Ross v. State*, 954 So. 2d 968, 1002 (¶74) (Miss. 2007)). We therefore find Rodriguez has failed to demonstrate he suffered unjust prejudice as a result of the prosecution's comments.

¶36. Finally, Rodriguez also argues that the prosecution's numerous objections and interruptions "during defense counsel's closing arguments . . . undoubtedly impeded defense counsel's wide latitude to argue the facts to the jury and distracted the jury from the closing arguments of defense counsel, creating unjust prejudice against [Rodriguez]." The record indicates that the State objected during the defense's closing argument six times. The court sustained the State's first objection. All of the prosecution's remaining objections and/or interjections alleged that the defense was making improper statements or mischaracterizing the testimony and evidence. After the State's fourth objection, defense counsel commented to the trial judge, "I think he's broken the record from 20 years. I've never been interrupted this many times cumulative[.]" The trial judge did not make a ruling on the State's other objections except to instruct defense counsel to keep his argument confined to the facts and testimony. The judge also told defense counsel to not go "back and forth with counsel opposite."

¶37. Rodriguez has not cited any authority that a prosecutor's objections during closing arguments should be limited. Nor has he provided a meaningful argument to support his claim of prejudice with regard to the prosecution's objections or interjections. "Mississippi Rule of Appellate Procedure 28(a)(7) requires appellants to include 'argument on the

contentions of appellant with respect to the issues presented, and the reasons for those contentions, with citations to the authorities, statutes, and parts of the record relied on.'" *McVay*, 385 So. 3d at 1293 (¶33) (quoting M.R.A.P. 28(a)(7)). "The rule 'does not simply require a party to mention authority; the authority must be used to develop the argument in a meaningful way.'" *Reading v. Reading*, 350 So. 3d 1195, 1199 (¶19) (Miss. Ct. App. 2022) (quoting *Walker v. State*, 197 So. 3d 914, 919 (¶25) (Miss. Ct. App. 2016)). "This is because 'there is a presumption that the judgment of the trial court is correct and the burden is on the Appellant to demonstrate some reversible error to the appellate court.'" *Walker*, 197 So. 3d at 919 (¶25) (quoting *Birkhead v. State*, 57 So. 3d 1223, 1231 (¶28) (Miss. 2011)). Therefore, we find Rodriguez has waived this argument on appeal. *See id*. (finding "issues not supported by 'meaningful argument' for appellate review[] are waived").

¶38. Nevertheless, our review of the record shows that the parties had genuine disagreements as to the interpretation of certain evidence. This Court has recognized that in closing, the parties "may draw whatever deductions and inferences that seem proper from the facts." *Carr v. State*, 385 So. 3d 1300, 1306 (¶20) (Miss. Ct. App. 2024). We find the State made proper objections to its perceived mischaracterization of the testimony by the defense.[9] It is a trial counsel's duty to make prompt objections "if he deems opposing counsel to be overstepping the wide range of authorized argument." *Dennis v. State*, 555 So. 2d 679, 684 (Miss. 1989). Moreover, the prosecution's failure to make a contemporaneous objection to the defense's closing argument would have waived any claim of error. *See Walker v. State*,

[9] Rodriguez makes no claim that the prosecutor's objections were improper on their face (e.g., a "send-a-message" argument).

671 So. 2d 581, 597 (Miss. 1995) ("[I]f no contemporaneous objection is made, the error, if any, is waived."). While it may have been preferable for the State to address the defense's characterization of the evidence in its rebuttal, rather than continuing to object, we find Rodriguez suffered no "unjust prejudice" as a result.

V. Whether the trial court's sentencing was an abuse of discretion.

¶39. Rodriguez claims the trial court's sentencing was an abuse of discretion because Rodriguez "had no prior criminal history and [had] maintained steady employment." He also argues that the sentence "was excessive on its face" because he acted in "necessary self-defense to prevent death or great bodily harm to himself."

¶40. "Sentencing is within the complete discretion of the trial court and not subject to appellate review if it is within the limits prescribed by statute." *Agee v. State*, 374 So. 3d 629, 631-32 (¶10) (Miss. Ct. App. 2023). "Unless the sentence is grossly disproportionate or not within the statutory limits, we will not disturb the sentence on appeal." *Id.* Thus, the supreme court has held that in order "to determine if a particular sentence is grossly disproportionate, a court must first compare the gravity of the offense to the severity of the sentence." *Nash v. State*, 293 So. 3d 265, 269 (¶13) (Miss. 2020) (citing *Graham v. Florida*, 560 U.S. 48, 59-60 (2010)). "Only in the exceedingly rare case in which this threshold comparison leads to an inference of gross disproportionality should the court then compare the defendant's sentence with the sentences received by other offenders in the same jurisdiction and with sentences imposed for the same crime in other jurisdictions." *Id*. (citing *Graham*, 560 U.S. at 60)).

¶41. Because Rodriguez "concede[s] that his sentence was [with]in the statutory limits," there is no inference of "gross disproportionality" requiring our Court to undertake a proportionality analysis. *See Anderson v. State*, 293 So. 3d 279, 297 (¶55) (Miss. Ct. App. 2019) (holding that "[b]ecause Anderson's sentences were within the statutory limits[,] there [was] no inference of 'gross disproportionality,'" and therefore this Court was "not bound to undertake a proportionality analysis"). Furthermore, the trial judge gave due consideration at the sentencing hearing to the circumstances surrounding this case, noting:

> I have thought long and hard about the facts of the case, the parties that were affected and what justice requires, and at the end of the day, I know this. We have three people that will not be coming back. We have someone that crossed state lines and ended up killing three people according to the jury verdict.

We find that the trial court did not abuse its discretion in sentencing Rodriguez to sentences within the statutory limits, and this issue has no merit.

¶42. Accordingly, we affirm Rodriguez's convictions and sentences.

¶43. **AFFIRMED.**

CARLTON AND WILSON, P.JJ., McDONALD, LAWRENCE, McCARTY, EMFINGER, WEDDLE AND ST. PÉ, JJ., CONCUR. WESTBROOKS, J., CONCURS IN RESULT ONLY WITHOUT SEPARATE WRITTEN OPINION.