

Page 236

[5] In his third assignment of error, defendant argues that the trial judge erred by allowing into evidence three out-of-court statements for purposes of corroboration and impeachment: one out-of-court statement by State's witness Al Davis, and two out-of-court statements by State's witness Ricky Morris. By "out-of-court statement" we mean any statement made by the witness other than while testifying at defendant's trial. We will address each statement individually.

Defendant first argues that the trial judge erred by allowing Detective Kirkpatrick to read to the jury a statement made by Al Davis to police. Prior to Detective Kirkpatrick reading the statement, the trial judge admonished jurors that the out-of-court statement was being admitted for corroboration
Page 237

purposes only. We agree with the State that this out-of-court statement was consistent with Davis' in-court testimony and was therefore admissible for corroboration purposes.

It is now well settled that "[t]o be admissible as corroborative evidence, prior consistent statements must corroborate the witness' testimony, but the corroborative testimony may contain 'new or additional information when it tends to strengthen and add credibility to the testimony which it corroborates.'" State v. Howard, 320 N.C. 718, 724, 360 S.E.2d 790, 794 (1987) (citations omitted) (quoting State v. Kennedy, 320 N.C. 20, 25, 357 S.E.2d 359, 368 (1987)); see also State v. McDowell, 329 N.C. 363, 407 S.E.2d 200 (1991); State v. Coffey, 326 N.C. 268, 389 S.E.2d 48; State v. Ramey, 318 N.C. 457, 349 S.E.2d 566 (1986). The State cannot, however, introduce prior statements which "'actually directly contradict[] . . . sworn testimony.'" McDowell, 329 N.C. at 384, 407 S.E.2d at 212 (quoting State v. Burton, 322 N.C. 447, 451, 368 S.E.2d 630, 632 (1988)).

After a careful review of Davis' trial testimony and his statement to police, we conclude that the out-of-court statement was properly admitted to corroborate Davis' in-court testimony. The out-of-court statement tracks almost exactly Davis' description of what took place the night of the shooting. The only "new information" in the out-of-court statement consists of minor details which, we believe, strengthen and add credibility to Davis' in-court testimony. For example, in his in-court testimony, Davis says that he handed the victim a packet of cocaine through the driver's side window and then went around to the passenger's side to get into the car. In his statement to police, Davis added that he handed the packet of cocaine to Walker because, "the driver wanted to taste it." This "new information" certainly does not contradict Davis' in-court testimony; instead, it merely explains why Davis handed the cocaine to Walker before collecting his money. We hold that the trial judge did not err by allowing Davis' out-of-court statement

North Carolina Reports
STATE v. LIGON, 332 N.C. 224 (1992)
420 S.E.2d 136

to corroborate his in-court testimony.