

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



---

### ATTORNEY FOR APPELLANT

Brian J. Johnson  
Danville, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana  
  
Robert M. Yoke  
Deputy Attorney General  
Indianapolis, Indiana

---

## IN THE COURT OF APPEALS OF INDIANA

---

Ryan Carpenter,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

August 11, 2022

Court of Appeals Case No.  
22A-CR-99

Appeal from the  
Wayne Superior Court

The Honorable  
Charles K. Todd, Jr., Judge

Trial Court Cause No.  
89D01-1810-F2-20

**Molter, Judge.**

- [1] Ryan Carpenter appeals his conviction for Level 2 felony conspiracy to commit murder contending that the evidence was insufficient to sustain his conviction. We disagree and affirm.

### **Facts and Procedural History**

- [2] In October 2018, Carpenter conspired with Larry Blackstock and Bradi Loudon to kill Amanda Kirkendall. Carpenter was a drug runner for Blackstock, who had recently been charged with drug dealing based on controlled drug buys that Kirkendall, a confidential informant, conducted with him. Blackstock wanted Kirkendall murdered so that she could not testify against him, and he sought Loudon and Carpenter's assistance in delivering a lethal dose of fentanyl to Kirkendall before her scheduled deposition on Blackstock's case.
- [3] According to Loudon, the trio's plan was for Carpenter to drive Loudon to meet Kirkendall and then transport the women to a drug house so that they could get high. Blackstock provided Loudon with fentanyl specifically for Kirkendall and stated that "[it] should do the job." Tr. Vol. 3 at 57. Blackstock also told Carpenter to "shoot [Kirkendall] up again" if the dose of fentanyl he gave to Loudon did not kill Kirkendall. *Id.* at 99. Carpenter indicated that he understood Blackstock's instructions, and he was supposed to contact Blackstock "when the job was done." *Id.* at 71, 99. He also supplied Loudon with a pack of syringes so that Kirkendall could use them to inject herself with the fentanyl.

- [4] Because the police received credible information that a “hit” had been issued for Kirkendall (specifically that someone wanted to give her a “hot shot,” which is a lethal dose of fentanyl), Kirkendall was placed in protective custody. Tr. Vol. 2 at 231, 250. Consequently, when Carpenter and Loudon arrived at a liquor store to meet Kirkendall, they were immediately arrested, and the fentanyl and syringes were seized by the police.
- [5] The State charged Carpenter with conspiracy to commit murder, a Level 2 felony. It also amended Carpenter’s charging information, soon after, to include several of Carpenter’s overt acts. As relevant here, the charging information and jury instructions identified the alleged victim as “C.I. 532,” rather than Amanda Kirkendall. Appellant’s App. Vol. 2 at 87; Tr. Vol. 2 at 209–11; Tr. Vol. 3 at 169–70.
- [6] Following a jury trial, Carpenter was found guilty as charged. The trial court then held a sentencing hearing and sentenced Carpenter to a nineteen-year sentence, with fourteen years executed in the Indiana Department of Correction and five years suspended to probation. Carpenter now appeals.

## **Discussion and Decision**

### **I. Charging Information**

- [7] Carpenter first argues the State’s charging information failed to specify that the alleged victim, “C.I. 532,” was Kirkendall. Appellant’s Br. at 11–12.
- “Generally, a challenge to the sufficiency of an information must be made by a motion to dismiss prior to arraignment.” *Dickenson v. State*, 835 N.E.2d 542,

549 (Ind. Ct. App. 2005), *trans. denied*. “Failure to assert error in an indictment or information results in waiver of that error.” *Id.* Carpenter did not challenge his charging information prior to trial, therefore waiving this issue on appeal. Notably, he does not argue on appeal that there was any fundamental error.

## II. Jury Instructions

[8] Similarly, Carpenter contends that the preliminary and final instructions to the jury did not specify that “C.I. 532” was Kirkendall. Appellant’s Br. at 11–12. However, he did not object to any of the instructions the trial court issued. *See* Tr. Vol. 3 at 151. “Failure to object to an instruction at trial typically results in waiver of the issue on appeal.” *Hall v. State*, 937 N.E.2d 911, 913 (Ind. Ct. App. 2010). If “an instruction is so flawed that it constitutes fundamental error,” then “waiver does not preclude review on appeal,” but Carpenter does not assert fundamental error. *Id.*

## III. Sufficiency of the Evidence

[9] Next, Carpenter argues the evidence was insufficient to support his conviction for conspiracy to commit murder. When reviewing a claim of insufficient evidence to sustain a conviction, we consider only the probative evidence and reasonable inferences supporting the verdict. *Jackson v. State*, 50 N.E.3d 767, 770 (Ind. 2016). It is the factfinder’s role, not ours, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. *Id.* We will affirm the conviction unless no reasonable factfinder could have found the elements of the crime proven beyond a reasonable doubt.

*Id.* It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence; rather, the evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. *Drane v. State*, 867 N.E.2d 144, 146–47 (Ind. 2007).

[10] To convict Carpenter of conspiracy to commit murder, the State had to prove beyond a reasonable doubt that (1) Carpenter (2) knowingly or intentionally (3) agreed with Blackstock and Louden (4) to commit murder and (5) performed an overt act in furtherance of the agreement. *See* Ind. Code §§ 35-41-5-2, 35-42-1-1.

[11] Because Carpenter has failed to articulate why the evidence as a whole was insufficient, he has waived his sufficiency claim for our review. *See* Ind. Appellate Rule 46(A)(8)(a) (“The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on . . .”). Waiver notwithstanding, Carpenter’s claim still fails. At trial, Louden testified that Blackstock wanted Kirkendall murdered so that she could not testify against him. Louden described how Carpenter agreed to drive her to meet Kirkendall and then transport the women to a drug house so that Kirkendall could ultimately inject herself with a lethal dose of fentanyl. She also explained that Blackstock instructed Carpenter to “shoot [Kirkendall] up again” if the dose of fentanyl he gave her did not kill Kirkendall and that Carpenter responded “okay.” Tr. Vol. 3 at 99. Louden further testified that Carpenter agreed to contact Blackstock “when the job was done.” *Id.* at 71.

[12] Moreover, the record reveals that Carpenter drove to Blackstock's house in his vehicle to pick up Louden so that the two could deliver the fentanyl to Kirkendall. Carpenter also acquired syringes for Kirkendall to inject the fentanyl, and he transported Louden, the fentanyl, and the syringes to a liquor store so that he and Louden could pick up Kirkendall.

[13] Since we do not reweigh the evidence or assess the credibility of witnesses, we conclude there was sufficient evidence that Carpenter conspired to murder Kirkendall.

[14] Affirmed.

Mathias, J., and Brown, J., concur.