MEMORANDUM DECISION

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IN THE
COURT OF APPEALS OF INDIANA

Nathaniel Morgan,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

March 19, 2021

Court of Appeals Case No. 20A-CR-1641

Appeal from the Marion Superior Court

The Honorable Jeffrey L. Marchal, Magistrate

Trial Court Cause No. 49G06-1903-F5-8548

Crone, Judge.

Case Summary

[1] The trial court convicted Nathaniel Morgan of level 5 felony battery by means of a deadly weapon. Morgan now appeals, claiming that the trial court applied the incorrect burden of proof in analyzing the State's case-in-chief and his self-defense claim. We affirm.

Facts and Procedural History[1]

[2] The facts most favorable to the judgment are as follows. In the winter of 2019, Morgan was staying at the apartment of Lisa McElroy, his on-and-off girlfriend, until he could make "enough money to move out on his own." Tr. Vol 2 at 31. McElroy's three sons and one or two grandchildren were living with her there. One morning in February 2019, one of McElroy's sons, Roosevelt Easler, was awakened when he heard McElroy and Morgan arguing and McElroy telling Morgan to leave the apartment. When Easler went out into the hall, he found Morgan yelling at his younger brother Isaiah. Easler and Morgan argued, and Easler told Morgan to leave the apartment. Morgan stared him down and grabbed his pocket, where Easler could see the outline of a handgun. McElroy

[1] Indiana Appellate Rule 46(A)(6) specifies that the facts section of an appellate brief must be limited to a presentation of the relevant facts in accordance with the standard of review. The facts section of Morgan's brief includes argument and accusations. *See*, *e.g.*, Appellant's Br. at 6 (opening phrase of facts section reads, "Roosevelt Easler is a liar"); *see also id*. at 6-7 (expressing incredulity at Easler's account of the shooting and characterizing his actions as requiring "the quickness and agility of a ninja warrior, the speed of Superman, all while painting the imagery of a Secret Service agent protecting the President") (footnote omitted).

called 911 for help, reporting to the dispatcher that Morgan was refusing to leave her apartment.

[3] Easler returned to his bedroom to awaken and dress his four-year-old son. Moments later, Morgan followed him into the bedroom and grabbed his video game system, which Easler had borrowed. Morgan "yanked his game console cords off" Easler's television, and the television almost fell. *Id*. at 10. Easler told him to "be cool with [his] stuff." *Id*. Morgan gave Easler an angry look, pulled a revolver from his pocket, and pointed it at Easler and the boy. Easler dove in front of the boy as Morgan fired one shot. The bullet entered Easler's arm, ricocheted off his humerus, reentered through his armpit, and punctured his lung. McElroy, who was still on the phone with the 911 dispatcher, screamed that her boyfriend had shot her son. Morgan fled the apartment and drove away, and McElroy told the dispatcher that Morgan had taken the weapon with him. Police conducted an initial sweep of the apartment and did not see any firearms or other weapons. Easler was transported to a local hospital for treatment, and as of the date of trial, the bullet remained lodged in his lung. Officers conducted another search and did not find any weapons, bullets, or casings.

[4] On March 6, 2019, the court issued an arrest warrant, and the State charged Morgan with level 5 felony battery by means of a deadly weapon. Seven months later, Morgan turned himself in. Morgan pled not guilty and waived his right to a jury trial.

[5] During his bench trial, Morgan raised a self-defense claim, asserting that it was Easler who possessed the revolver and that when Morgan retrieved the console, the revolver was sitting on top of it. He asserted that Easler pulled a kitchen knife out of his closet and lunged at him and that he shot Easler with the revolver because he was fearful and felt trapped inside the bedroom. He claimed that he fled the apartment but placed the revolver on the dresser in McElroy's bedroom before he left. During closing arguments, both the State and Morgan acknowledged that the State had the burden to prove each element "beyond a reasonable doubt" and to rebut his self-defense claim "beyond a reasonable doubt." *Id*. at 77, 82-84. The trial court took a brief recess to review the entire 911 recording, which had been played only in part during the trial, and ultimately found as follows:

> First, [o]n the issue of credibility I do find the testimony of Roosevelt Easler to be vastly more credible than that of the Defendant.
>
> As it pertains to the 911 call, I think the evidence depicted on that more closely support[s] the State's version of events than it does the defense version of events.
>
> I also make a finding that the State has satisfied its burden of rebutting the Defendant's self-defense claim. The State has met its burden of proof and I find the Defendant Nathaniel Morgan guilty of battery by means of a deadly weapon, a Level 5 felony.

Id. at 85.

[6] The trial court sentenced Morgan to a five-year suspended term, with three years to be served on probation. Morgan now appeals. Additional facts will be provided as necessary.

Discussion and Decision

[7] Morgan contends that the trial court applied the incorrect burden of proof to the evidence presented at his bench trial. We believe, and he admits, that his claim essentially amounts to a challenge to the sufficiency of the evidence to support his conviction. In a criminal bench trial, the trial court is not required to enter findings or otherwise explain its thought processes in reaching its conclusion as to the defendant's guilt. *Dozier v. State*, 709 N.E.2d 27, 30 (Ind. 1999). In reviewing bench trials, we assume that the trial court knows and follows the applicable law. *Laughlin v. State*, 101 N.E.3d 827, 830 (Ind. Ct. App. 2018). Moreover, here, the correct burden of proof was peppered throughout the record, and the trial court specifically found that the State had satisfied its burden of proof.

[8] We review Morgan's claims of insufficient evidence to support his conviction and insufficient evidence to rebut his self-defense claim using the same standard. *Wolf v. State*, 76 N.E.3d 911, 915 (Ind. Ct. App. 2017). We neither reweigh evidence nor judge witness credibility; rather, we consider only the probative evidence and reasonable inferences most favorable to the judgment and will affirm the conviction if it is supported by substantial evidence such that a reasonable trier of fact could have concluded that the defendant was guilty

beyond a reasonable doubt. *Id*. "If a defendant is convicted despite his claim of self-defense, we will reverse only if no reasonable person could say that self-defense was negated beyond a reasonable doubt." *Id*.

[9] Morgan was convicted of level 5 felony battery. To gain a conviction, the State was required to prove beyond a reasonable doubt that he knowingly or intentionally touched another person in a rude, insolent, or angry manner by use of a deadly weapon, here, a firearm. Ind. Code § 35-42-2-1(c)(1), -(g)(2). There is no doubt that Morgan battered Easler when he shot him with the revolver. Morgan does not dispute that he knowingly shot Easler.

[10] Rather, Morgan maintains that he acted in self-defense and that the State failed to present sufficient evidence to rebut this claim. "A valid claim of self-defense is legal justification for an otherwise criminal act." *Wolf*, 76 N.E.3d at 915 (quoting *Wallace v. State*, 725 N.E.2d 837, 840 (Ind. 2000)). Indiana Code Section 35-41-3-2(c) states, "A person is justified in using reasonable force against any other person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force." To prevail on his self-defense claim, Morgan was required to demonstrate that he "(1) was in a place where he had a right to be: (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm." *Wolf*, 76 N.E.3d at 915 (citing *Wilson v. State*, 770 N.E.2d 799, 800 (Ind. 2002)). When a defendant's self-defense claim enjoys some support in the evidence, the State bears the burden of negating at least one of the elements beyond a reasonable doubt. *Id*. "The State may meet this burden

by rebutting the defense directly, by affirmatively showing the defendant did not act in self-defense, or by simply relying upon the sufficiency of its evidence in chief." *Id*. (citations and quotation marks omitted).

[11] In his self-defense narrative, Morgan maintained that the revolver was not his but just happened to have been sitting on top of his video game console that he had just picked up off the floor in Easler's bedroom. He claimed that he saw no children in the apartment[2] and that after he retrieved the console, Easler pulled a kitchen knife from his closet and held him in the bedroom against his will. He asserted that Easler lunged at him and that he shot Easler out of fear for his life. He then fled the premises, but on his way out, he stopped by McElroy's bedroom to place the revolver on top of the dresser.

[12] The State relied on the evidence presented during its case-in-chief to rebut Morgan's self-defense claim. This included testimony from police officers that a protective sweep and subsequent search produced no weapons. It also included testimony from Easler about the events leading up to the shooting. The ten-minute 911 recording was significant in the court's assessment of the conflicting accounts of the events. It demonstrated that McElroy initially made the call because Morgan was refusing to leave her apartment, and the dispatcher ensured her that the police were on their way. A few minutes into the recording, a shot was fired and chaos ensued, followed by crying sounds and

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[2] The photographic exhibits depict children's toys on the floor in Easler's bedroom and a child's seat in the closet, and the recording of the 911 call includes what sounds like a child crying. State's Exs. 1, 7, 10, 15.

exclamations from McElroy, Easler, and Morgan. *See* State's Ex. 1 (exclamations of, "he just shot me," "my boyfriend shot my son," "he pulled a knife," "my boyfriend just left," and "he [Morgan] took it [the revolver] with him.").

[13] In pronouncing judgment of conviction, the trial court found that the 911 recording supports the State's case-in-chief and, more specifically, Easler's version of the circumstances surrounding the shooting. The court emphasized that based on all the evidence, it found Easler's testimony to be vastly more credible than Morgan's. To the extent that Morgan relies on his exclamation on the 911 tape concerning the knife, we note that as factfinder, the trial court was free to disbelieve Morgan's assertions regarding the knife, whether he made them at trial or on tape. The court *did* find credible the evidence that Morgan not only refused to leave as ordered but that he also adopted a provocative and pugnacious posture before the shooting by displaying the outline of the handgun in his pocket, following Easler (who had returned to his bedroom), and aggressively detaching the game console from Easler's TV. Based on the foregoing, we find the evidence sufficient to show that Morgan instigated the confrontation and violence and was not an unwilling participant, despite his in-court assertions to the contrary.[3] *See Wolf*, 76 N.E.3d at 915.

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[3] The evidence also indicates that Morgan no longer was in a place where he had a right to be, as both McElroy and Easler had told him to leave, and his living arrangement was only a temporary accommodation. *See* State's Ex, 1 (McElroy's explanation to dispatcher that Morgan was there because he "had nowhere to go, and I let him stay here.").

[14] In sum, Morgan's arguments on appeal are essentially invitations to reweigh evidence, which we may not do. *Sallee v. State*, 51 N.E.3d 130, 133 (Ind. 2016). The trial court is presumed to have applied the correct burden of proof, and the evidence is sufficient both to support Morgan's conviction for battery with a deadly weapon and to rebut Morgan's self-defense claim. Accordingly, we affirm his conviction.

[15] Affirmed.

Riley, J., and Brown, J., concur.