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IN THE
COURT OF APPEALS OF INDIANA

Ronald Alan Gee,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff.

August 23, 2022

Court of Appeals Case No.
21A-CR-2092

Appeal from the Lake Superior
Court

The Honorable Natalie Bokota,
Judge

Trial Court Cause No.
45G02-1806-MR-7

Pyle, Judge.

Statement of the Case

[1] Ronald Gee (“Gee”) appeals his convictions, following a jury trial, for murder,¹ Level 2 felony arson resulting in serious bodily injury,² and Level 3 felony arson resulting in bodily injury.³ Gee argues that the trial court abused its discretion when it allowed his wife, Robyn (“Robyn”), to identify him in a surveillance video. Concluding that the trial court did not abuse its discretion, we affirm Gee’s convictions.

[2] We affirm.

Issue

Whether the trial court abused its discretion in allowing Robyn to identify Gee in a surveillance video.

Facts

[3] Gee and Robyn married in 2006 and have two children. In July 2017, Robyn filed a dissolution petition. Gee and Robyn, whose relationship was contentious, continued to live together in the Chicago marital residence. In October 2017, Robyn began dating Michael Young (“Young”), who lived with

¹ IND. CODE § 35-42-1-1.

² I.C. § 35-43-1-1.

³ I.C. § 35-43-1-1.

his mother, Brenda Poole (“Poole”), on Doty Street (“the Doty Street residence”) in Hammond.

- [4] On April 13, 2018, Robyn finished her work shift at 6:00 a.m. She planned to travel to Hammond to spend the rest of the day and the night with Young at the Doty Street residence. When Robyn told Gee that she would not be returning to the marital residence that night, Gee accused Robyn of neglecting their children and threatened to have them taken away from her. Robyn told Gee that he would “get [the children] away from [her] over [her] dead body[,]” and Gee responded that “that c[ould] be arranged.” (Tr. Vol. 6 at 52).
- [5] Robyn took public transportation to Hammond because Gee had taken the keys to the Gees’ 2003 silver Ford Explorer that Robyn generally drove. Robyn and Young spent the day together, ate dinner, watched television, and went to bed in Young’s bedroom on the second floor between 10:00 and 11:00 p.m. Poole went to bed at the same time, and her bedroom was also on the second floor of the Doty Street residence.
- [6] At approximately 2:00 a.m., Poole woke Robyn up and told her that the house was on fire. Robyn woke up Young, who went into the hallway and noticed that flames were blocking access to the stairs. Young broke out a window in his bedroom, and Robyn and Poole held Young’s arms while he hung out of the window and yelled for help. Poole, however, was unable to hold on to Young, and he fell to the ground. Robyn then slid down a ladder that firefighters had positioned under the bedroom window. Poole did not make it out of the house

and died from “[t]hermal injuries and inhalation of products of combustion due to [the] house fire.” (App. Vol. 2 at 132). Young suffered burns to his feet and knuckles, and his hair was scorched. Robyn suffered third degree burns on her hands and second degree burns on her ankle, thigh, back, face, and neck. She was placed in a medically induced coma after being transported to a Chicago hospital.

[7] After determining that the fire had originated under the Doty Street residence’s front porch steps and that gasoline had been used as an accelerant, fire investigators immediately classified the fire as an arson. On the day of the fire, during the course of the investigation, law enforcement officers noticed a video surveillance camera on a nearby school administration building. The officers recovered a surveillance video, which showed an individual driving a light-colored Ford Explorer past the Doty Street residence. The individual stopped the Explorer, exited it, and walked to the steps of the Doty Street residence. Suddenly, the front steps of the Doty Street residence and the individual’s jacket sleeve ignited. The individual ran back to the Explorer, extinguished the flames on his jacket, and drove away.

[8] Law enforcement officers also recovered a clearer surveillance video from the nearby Oasis Smoke Shop (“the Smoke Shop video”).⁴ In that video, the Explorer came to a stop on Doty Street, and the driver, who was wearing a

⁴ State’s Exhibits 123 and 129.

black jacket, exited the Explorer and walked down the street out of view towards the Doty Street residence. A few minutes later, an orange glow can be seen from the direction that the person had walked, the individual returned to the camera's view, extinguished the flames on his jacket, got into the Explorer, and drove away.

[9] Later that day, after learning that Gee had a Ford Explorer that was similar to the one in the surveillance videos, law enforcement officers went to Gee's house in Chicago to speak with Gee. The officers noticed that Gee had a burn on his right hand and other marks on the knuckles of his left hand. In addition, law enforcement officers learned that Gee had spent the evening before the fire in a bar, where he had consumed approximately ten beers. Gee, who had been wearing a black jacket, had then driven his Ford Explorer to a Shell gas station, where he had bought a case of beer at 1:00 a.m. Gee later told law enforcement officers that the black jacket he had worn to the Shell gas station had been stolen.

[10] Gee subsequently consented to a search of his cell phone. An extraction report on the cell phone revealed that Gee had searched Young's social media profile 210 times in the weeks leading up to the fire. The extractions report further revealed that Gee had searched for driving directions to the Doty Street residence just two hours before the fire had been set.

[11] In June 2018, the State charged Gee with, among other things, murder for the death of Poole, Level 2 felony arson resulting in serious bodily injury for

Robyn’s injuries, and Level 3 felony arson resulting in bodily injury for Young’s injuries. At Gee’s six-day trial in May 2021, the jury heard the evidence as set forth above.

[12] In addition, during Robyn’s testimony, the State asked her to identify the individual in the Smoke Shop video. When Gee objected on the basis of Indiana Evidence Rule 701, the State responded that as Gee’s wife, Robyn had had “personal experience seeing [Gee] many times, and so she can say who she sees in that video[.]” (Tr. Vol. 6 at 49). The trial court overruled Gee’s objection based on Robyn’s familiarity with Gee.

[13] Robyn then identified the individual in the Smoke Shop video as Gee. Robyn specifically explained that she knew it was Gee because of the body build. And, according to Robyn, “when he walked away from the truck, he[] swoop[ed] his shoulders down and he look[ed] down.” (Tr. Vol. 6 at 49). Robyn also recognized Gee’s black jacket and blue jeans but explained that even without considering the clothing, “it [was] still the body build and the way he walked away.” (Tr. Vol. 6 at 50).

[14] The jury convicted Gee of the three charges, and the trial court sentenced him to an aggregate sentence of fifty-five (55) years. Gee now appeals his convictions.

Decision

[15] Gee argues that the trial court abused its discretion in allowing Robyn to identify him in the Smoke Shop video. We disagree.

[16] The decision to admit or exclude evidence at trial is within the trial court’s discretion, and we afford it great deference on appeal. *VanPatten v. State*, 986 N.E.2d 255, 260 (Ind. 2013). We review the trial court’s decision regarding the admissibility of evidence for an abuse of discretion. *King v. State*, 985 N.E.2d 755, 757 (Ind. Ct. App. 2013), *trans. denied*. An abuse of discretion occurs when the trial court’s decision is clearly against the logic and effect of the facts and circumstances before it. *Id.* Under a “silent witness” theory, surveillance videos may be admitted as substantive evidence, rather than merely demonstrative evidence. *Goodson v. State*, 747 N.E.2d 1181, 1183 (Ind. Ct. App. 2001), *trans. denied*.

[17] In *Gibson v. State*, 709 N.E.2d 11 (Ind. Ct. App. 1999), this Court held that the lay opinion of a police officer familiar with Gibson was admissible under Indiana Evidence Rule 701⁵ as being helpful to the jury in reaching a decision about the identity of the person depicted in the surveillance video admitted as a silent witness. *Gibson*, 709 N.E.2d at 15 (citing *United States v. Stormer*, 938 F.2d 759, 762 (7th Cir. 1991)), *trans. denied*. In the *Gibson* case, the police officer was a friend of Gibson’s older brother, had known Gibson since they had been in

⁵ Evid. R. 701 provides that:

If the witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; and (b) helpful to a clear understanding of the witness’s testimony or to a determination of a fact in issue.

middle school, and had seen Gibson a few times since then. *See also Goodson*, 747 N.E.2d at 1184 (holding that the trial court did not abuse its discretion in allowing two police officers to identify the defendant in videotape of a drug transaction where the officers had known the defendant for two or three years and their testimony was helpful to the jury in determining the identity of the person depicted in the videotape).

[18] Here, our review of the evidence reveals that Robyn had been married to Gee for eleven years. Robyn recognized Gee's body type, his clothing, and the way that he swooped his shoulders down and looked down as he walked away from the Explorer. In addition, Robyn's testimony was helpful to the jury in determining the identity of the individual depicted in the Smoke Shop surveillance video. Gee's attempts to distinguish the facts of his case from those in *Gibson* and *Goodson* are unavailing. Indeed, Robyn, who had been married to Gee for eleven years, was much more familiar with Gee than the police officers were with Gibson and Goodson. As a result, we conclude that her testimony provided an adequate foundation demonstrating the rational basis for identifying Gee. The trial court did not abuse its discretion in allowing Robyn to identify Gee in the Smoke Shop video. Accordingly, we affirm Gee's convictions.

[19] Affirmed

Robb, J., and Weissmann, J., concur.