

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Brittany M.R. Morris,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 22, 2023

Court of Appeals Case No.
22A-CR-2191

Appeal from the
Miami Circuit Court

The Honorable
Timothy P. Spahr, Judge

Trial Court Cause No.
52C01-1806-MR-2

Memorandum Decision by Senior Judge Shepard
Chief Judge Altice and Judge Brown concur.

Shepard, Senior Judge.

- [1] Brittany Morris appeals her conviction of aiding, inducing, or causing murder, a felony,¹ alleging the State’s evidence is insufficient. We disagree and affirm.

Facts and Procedural History

- [2] On May 18, 2018, Morris, Ethan Cain, Julie Harmon, and Daniel Moss were together at Cain and Harmon’s residence in Marion. Cain and Harmon were in a relationship, but Cain was also in a “friends with benefits” relationship with Morris. Tr. Vol. IV, p. 12. On that day, Moss drove Morris to the parking lot of a local bar so that Morris could connect her phone to the bar’s Wi-Fi. Morris, in search of marijuana, messaged Drake Smith. Morris and Smith had, in the past, exchanged sex acts for marijuana. While Morris and Smith were making plans to meet later in the evening, Morris asked Moss if he would drive her “so she could rob [Smith].” *Id.* at 6. Moss declined, drove Morris back to the Cain/Harmon residence, and later went home.
- [3] Joshua Kean, a friend of Cain’s, arrived at the Cain/Harmon residence and talked with Cain and Morris. Morris was “egging [Cain and Kean] on” by calling them “a b***h and a p***y” and pressuring them “to go and rob [Smith].” *Id.* at 22. Morris also informed them that a fight with Smith “would be easy” because “[Smith] can’t fight.” *Id.* at 52. Cain and Kean ultimately

¹ Ind. Code §§ 35-42-1-1 (2017), 35-41-2-4 (1977).

agreed. The pair, along with Morris and Harmon, left in Kean's mother's car and drove to Wal-Mart in Marion to meet Smith. There, Morris exited the car and entered Smith's truck. After midnight, both vehicles traveled from Wal-Mart to Okie Pinokie, "a large gravel turn around" in a heavily wooded area "at the end of County Road 510 East . . . in Miami County." *Id.* at 75.

[4] At Okie Pinokie, Morris exited Smith's truck to regroup with Kean and Harmon while Cain approached Smith and struck up a conversation. Cain "put [Smith] in a chokehold" while Kean retrieved a breaker bar from his mother's car. *Id.* at 30. As Cain repeatedly struck Smith in the head with the breaker bar, Kean, Morris, and Harmon ransacked Smith's truck. During the raid, Morris stole a Bluetooth speaker. Collectively, the group also took several unopened cans of beer and some drugs, including marijuana, cocaine, and ecstasy, all belonging to Smith. Cain removed Smith's shorts, which contained Smith's wallet and marijuana, and left Smith in the foliage near the turn around. Smith died as a result of his injuries. The group left Okie Pinokie in Kean's mother's car. On the way back to the Cain/Harmon residence, Kean stopped on a bridge in Grant County, and Cain threw the breaker bar into the creek below. Cain and Kean later removed their clothing, placed it in a bag with Smith's clothing, and disposed of it on Cain's uncle's property. Together, the group smoked Smith's marijuana while Morris counted the cash from Smith's wallet.

[5] Later in the day on May 19, the group traveled to several establishments in Muncie, including Target, where Morris used Smith's cash to purchase a

swimsuit and an auxiliary cord for the stolen Bluetooth speaker. At some point, Cain and Kean retrieved the bag of clothing from Cain's uncle's property and the group traveled together to Kean's parent's property in Huntington to burn the items. Kean then drove Morris to her home in Marion and subsequently fled to California with Cain and Harmon. Cain and Kean were later apprehended and extradited to Indiana. Harmon traveled back to Indiana separately and met with law enforcement. Meanwhile, Morris conducted several Google searches on her cell phone, using the phrases "what is accessory to a crime" and "how many years can you get for accessory after the fact." Ex. 136, part 2 (beginning at 0:38).

- [6] On June 12, 2018, the State charged Morris with aiding, inducing, or causing murder, a felony; aiding, inducing, or causing robbery resulting in serious bodily injury, a Level 2 felony; and theft, a Class A misdemeanor. Cain, having also been charged, later pled guilty to felony murder in exchange for a fifty-five-year sentence. Following a five-day jury trial, Morris was found guilty on all counts. The trial court entered judgment of conviction on the murder and theft counts and imposed a forty-eight-year aggregate sentence, with two years suspended to probation. This appeal ensued.

Discussion and Decision

- [7] Morris argues there was insufficient evidence to support her conviction of aiding, inducing, or causing murder. When reviewing a claim of insufficient evidence, we look at the evidence presented and any reasonable inferences

drawn therefrom that support the verdict. *Kendall v. State*, 790 N.E.2d 122 (Ind. Ct. App. 2003), *trans. denied*. We do not judge the credibility of the witnesses, nor do we reweigh the evidence. *Id.* And if a reasonable jury could find the defendant guilty beyond a reasonable doubt based on the probative value of the evidence presented, we will affirm the conviction. *Id.*

[8] To sustain a conviction for felony murder under the accomplice liability theory, the State is required to prove Morris knowingly or intentionally aided, induced, or caused Cain and/or Kean to commit murder by killing Smith while committing robbery. *See* Appellant’s App. Vol. II, p. 123; *see also* Ind. Code §§ 35-42-1-1(2), 35-41-2-4. And to prove robbery, the State must show Cain and/or Kean knowingly or intentionally took property from Smith or from his presence by using or threatening the use of force or by placing him in fear. *See* Ind. Code § 35-42-5-1(a) (2017).

[9] During the trial, Cain testified he approached Smith, initiated an attack, and later stole items off of Smith’s person. Cain admitted he ultimately killed Smith and also verified the fifty-five-year sentence he received in exchange for pleading guilty to felony murder. From this evidence, it is clear Cain committed felony murder by killing Smith while committing robbery.

[10] “A person who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense” Ind. Code § 35-41-2-4. A person knowingly engages in conduct if she is aware of a high probability that she is doing so and intentionally engages in conduct when it is her

conscious objective to do so. *See* Ind. Code § 35-41-2-2(a)-(b) (1977). Morris challenges her accomplice conviction by arguing that although she used the word “rob” to refer to her plan to victimize Smith, she did so without the knowledge that the offense of robbery required an element of force or fear. However, it is of no moment that Morris was not aware of the elements of the offense of robbery; the State was not tasked with proving her knowledge of a particular element of the offense. Rather, this is merely an invitation to reweigh the evidence, which we may not do. *See Kendall*, 790 N.E.2d 122.

[11] An accomplice is equally as culpable as the perpetrator. *Hauk v. State*, 729 N.E.2d 994 (Ind. 2000). Further, any probable and natural consequence resulting from the accomplice and perpetrator’s concerted action but committed solely by the perpetrator is an act for which an accomplice may be held criminally liable. *Id.* In determining whether a defendant aided another in the commission of a crime, a fact finder may consider the following factors: “(1) presence at the scene of the crime; (2) companionship with another engaged in a crime; (3) failure to oppose the commission of the crime; and (4) the course of conduct before, during, and after the occurrence of the crime.” *Wieland v. State*, 736 N.E.2d 1198 (Ind. 2000). Both a defendant’s failure to oppose the crime and presence at the scene are alone insufficient to establish accomplice liability. *Echols v. State*, 722 N.E.2d 805 (Ind. 2000). However, both factors may be considered together with a defendant’s companionship with another engaged in a crime and a defendant’s course of conduct. *Id.*

(1) Presence at the Scene

- [12] While the group was at Wal-Mart, Morris migrated from Kean's mother's car to Smith's truck and was ultimately transported to Okie Pinokie by Smith. Morris rejoined the group at the scene and remained there until the murder and robbery concluded. Morris's presence at the scene was corroborated by both Cain and Harmon.

(2) Companionship

- [13] At the time of this offense, Morris, Cain, and Kean had been friends for approximately one year and frequently spent time with one another. Morris and Cain were also romantically involved despite Cain's relationship with Harmon. When Morris was setting these events in motion, she incited Cain and Kean to fulfill her plan, which ultimately culminated in Smith's death. And afterwards, the trio worked in unison to cover up the crime. From this we can clearly discern that Morris, Cain, and Kean were companions.

(3) Failure to Oppose the Commission of the Crime

- [14] Morris observed Cain's brutal attack on Smith and did nothing to oppose it. While the beating progressed to the point of no return, Morris preoccupied herself by collecting items from Smith's truck, never pausing to render aid.

(4) Course of Conduct

- [15] Morris orchestrated these events by persuading Cain and Kean to assist her with robbing Smith, even going so far as to inform them of Smith's inability to

fight. She later corralled everyone to Wal-Mart and then to Okie Pinokie and stood by with Smith's possessions in hand as Cain delivered the final blows. Following the commission of the crime, Morris witnessed disposal of the evidence, smoked Smith's marijuana, and counted and spent Smith's cash. And she later spent time researching the crime of accessory, along with its penalties. From this evidence, a reasonable jury could conclude Morris is guilty.

Conclusion

[16] We conclude the evidence is sufficient to support Morris's conviction of aiding, inducing, or causing murder.

[17] Affirmed.

Altice, C.J., and Brown, J., concur.