

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Damonte Lavon Roberts,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

February 3, 2023

Court of Appeals Case No.  
22A-CR-1011

Appeal from the Marion Superior  
Court

The Honorable Angela Dow  
Davis, Judge

The Honorable Peggy Hart,  
Magistrate

Trial Court Cause No.  
49D27-2105-F4-15445

**Memorandum Decision by Chief Judge Altice**

Judges Brown and Tavitias concur.

**Altice, Chief Judge.**

## **Case Summary**

[1] Damonte Lavon Roberts appeals his conviction for unlawful possession of a firearm by a serious violent felon (SVF), a Level 4 felony, claiming that the trial court abused its discretion in admitting his pretrial statement/confession into evidence because the State's independent evidence failed to establish the *corpus delicti* of the offense. Roberts also asserts that because the trial court, as the finder of fact, purportedly relied solely on his confession to prove the elements of the offense, the evidence was insufficient to support the conviction.

[2] We affirm.

## **Facts and Procedural History**

[3] On March 26, 2021, Indianapolis Metropolitan Police Department (IMPD) officers responded to a report of a shooting that occurred around 6:00 p.m. at a residence on Centennial Street. When the officers arrived, they observed blood on the front porch, the doorknob, and the door frame. There were bullet holes in the wall on the first floor, and one of the bullets had penetrated the couch. Although the officers spoke with three individuals at the residence, they were unhelpful in the investigation.

- [4] Shortly after 6:00 p.m., IMPD Detective Aaron Ramos was dispatched to Eskenazi Hospital (Eskenazi) regarding the shooting. At approximately 6:50 p.m., Detective Ramos arrived at Eskenazi and spoke with Tyshawn Neeley, the victim of the shooting, who was suffering from two gunshot wounds. Detective Ramos observed that the wounds were on the back of Neeley's left thigh and right shin.
- [5] Neeley told Detective Ramos that the shooter was a relative who lived at the Centennial Street residence but claimed that he did not know the relative's name. Neeley provided a description of the shooter that Detective Ramos, following a May 17, 2021, interview with Roberts, realized "matched [Roberts's appearance]." *Transcript Vol. II* at 132. Neeley was uncooperative and remarked to Detective Ramos that he would "handle it on his own." *Id.* at 133.
- [6] IMPD Detective Billy Glenn searched Community Corrections records to determine whether anyone in the area was on monitored home detention when the shooting occurred. He subsequently learned that Roberts was confined to home detention at the Centennial Street residence and was present in the home when Neeley was shot.
- [7] Detective Glenn and Jill Jones of Community Corrections conducted a compliance visit at the Centennial Street residence on April 13, 2021. After obtaining consent to search the home, they recovered drugs and two live rounds of ammunition that appeared to be "9mm or a 40 caliber." *Id.* at 78-79.

- [8] On May 17, Roberts waived his *Miranda*<sup>1</sup> rights and agreed to participate in a videotaped interview with Detective Ramos. When questioned about the shooting, Roberts told Detective Ramos that he shot Neeley—his cousin—in the leg with a “Glock nine-millimeter” handgun. *State’s Exhibit 22*. Two days later, the State charged Roberts with being a SVF. The charging information alleged in part that Roberts knowingly possessed a firearm on March 26, 2021, after “having previously been convicted of a serious violent felony, to-wit: Dealing in Cocaine. . . .” *Appellant’s Appendix Vol. II* at 25.
- [9] A bifurcated bench trial was conducted on February 11 and March 25, 2022. At some point during the trial, Roberts objected to the admission of his videotaped statement, identified as State’s Exhibit 22, based on the *corpus delicti* rule. Roberts’s counsel argued that the exhibit could not be admitted into evidence because, other than Roberts’s confession to shooting Neeley, the State offered no independent evidence demonstrating that the crime had occurred. The trial court overruled the objection and admitted Roberts’s statements.
- [10] Following the presentation of evidence, Roberts stipulated to the prior cocaine dealing conviction. The trial court then found Roberts guilty as charged and subsequently sentenced him to four years of incarceration in the Indiana Department of Correction. Roberts now appeals.

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<sup>1</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

## Discussion and Decision

### I. Standard of Review

[11] This court reviews a trial court’s decision to exclude or admit evidence for an abuse of discretion. *Hall v. State*, 177 N.E.3d 1183, 1193 (Ind. 2021). 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 or if it has misinterpreted the law. *Abbott v. State*, 183 N.E.3d 1074, 1083 (Ind. 2022). When determining admissibility, we will only consider the evidence favorable to the trial court’s ruling and unrefuted evidence in a defendant’s favor. *Sallee v. State*, 777 N.E.2d 1204, 1210 (Ind. Ct. App. 2002), *trans. denied*. We will not reverse the trial court’s decision to admit evidence if that decision is sustainable on any ground. *Crawford v. State*, 770 N.E.2d 775, 780 (Ind. 2002).

### II. Roberts’s Contentions

#### A. *Corpus Delicti*

[12] Turning to Roberts’s claim that the trial court abused its discretion in admitting his pretrial confession into evidence in violation of the *corpus delicti* rule, our Supreme Court has observed that “proof of the *corpus delicti* means ‘proof that the specific crime charged has actually been committed by someone.’” *Shinmock v. State*, 76 N.E.3d 841, 843 (Ind. 2017) (quoting *Walker v. State*, 233 N.E.2d 483, 488 (Ind. 1968)). The purpose of the *corpus delicti* rule is to prevent the

admission of a confession to a crime that never occurred. *Hurt v. State*, 570 N.E.2d 16, 19 (Ind. 1991). Thus, a person may not be convicted of a crime based solely on a nonjudicial confession of guilt. *Shinnock*, 76 N.E.3d at 843 (citing *Green v. State*, 304 N.E.2d 845, 848 (Ind. Ct. App. 1973)). Stated differently, there must be independent proof of the *corpus delicti* before the defendant may be convicted upon a nonjudicial confession. *Id*; see also *Workman v. State*, 716 N.E.2d 445, 447 (Ind. 1999). The independent evidence need not prove that a crime was committed beyond a reasonable doubt, but merely provide an inference that the crime charged was committed. *Shinnock*, 76 N.E.3d at 843; see also *Malinski v. State*, 794 N.E.2d 1071, 1086 (Ind. 2003). And the inference may be created by circumstantial evidence. *Shinnock*, 76 N.E.3d at 843.

[13] We further note that the State is not required to prove the *corpus delicti* by independent evidence prior to the admission of a confession, as long as the totality of independent evidence presented at trial establishes the *corpus delicti*. *McManus v. State*, 541 N.E.2d 538, 539-40 (Ind. 1989). And there is no requirement that all the elements of the crime be proven prior to the introduction of a confession. *Shinnock*, 76 N.E.3d at 844.

[14] Here, Roberts was charged with being a SVF that required the State to prove that he “knowingly possessed a . . . a handgun” on or about March 26, 2021, after having previously been convicted of dealing in cocaine, a serious violent felony. See Ind. Code § 35-47-4-5(c). As Roberts stipulated to his prior

conviction for dealing in cocaine, the only contested issue at trial was whether he possessed the gun.

[15] The State presented evidence that Roberts was on home detention and at the scene of the shooting—his residence—when Neeley was shot there. Additionally, the photographs and testimony showed that there were nine millimeter bullet holes and blood stains at the scene. The evidence further established that Neeley had been shot twice in the leg by a relative who lived at the Centennial Street address. Moreover, Neeley provided a description of the shooter that matched Roberts’s appearance.

[16] In our view, the independent evidence that the State presented at trial more than created an inference that Roberts committed the charged offense. Thus, the trial court properly found that the *corpus delicti* rule was satisfied, and there was no abuse of discretion in admitting Roberts’s pretrial statement into evidence. *See Shinnock*, 76 N.E.3d at 844.

## **B. Sufficiency of the Evidence**

[17] Roberts also claims that the evidence was insufficient to support his conviction because the trial court improperly relied on the pretrial statement to provide the *corpus delicti* and convicted him solely on his confession. Roberts claims that the State’s evidence “merely allude[d] to a suspicion of guilt” and his conviction must be reversed. *Appellant’s Brief* at 13.

[18] Under our well-known standard of review, we neither reweigh the evidence nor judge witness credibility. Rather, we consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence. We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt. *Powell v. State*, 151 N.E.3d 256, 262-63 (Ind. 2020).

[19] As discussed above, the State presented ample independent evidence to create an inference that Roberts committed the charged offense. Thus, because Roberts's pretrial statement, which included his admission to shooting Neeley in the leg with a handgun was properly admitted, the trial court could consider Roberts's confession along with the State's independent evidence to determine whether all elements of the offense were proved beyond a reasonable doubt. *See Duling v. State*, 354 N.E.2d 286, 291 (Ind. Ct. App. 1976).

[20] After reviewing all the facts and circumstances together in a light most favorable to Roberts's conviction, we conclude that there was substantial evidence of probative value from which the trial court, as the factfinder, could find beyond a reasonable doubt that Roberts knowingly possessed a handgun in violation of I.C. § 35-47-4-5(c). Thus, Roberts's conviction stands.

[21] Judgment affirmed.

Brown, J. and Tavitas, J., concur.