MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Joseph P. Hunter
Quirk and Hunter, P.C.
Muncie, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Jodi Kathryn Stein
Supervising Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Justin R. Bennett,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

November 9, 2021

Court of Appeals Case No. 21A-CR-657

Appeal from the Delaware Circuit Court

The Honorable Marianne L. Vorhees, Judge

Trial Court Cause No. 18C01-2002-MR-4

Pyle, Judge.

Statement of the Case

[1] Justin Bennett ("Bennett") appeals his conviction by jury of murder.[1] He argues that there is insufficient evidence to support his conviction. Concluding that there is sufficient evidence to support Bennett's murder conviction, we affirm the trial court's judgment.

[2] We affirm.

Issue

> Whether there is sufficient evidence to support Bennett's murder conviction.

Facts

[3] Bennett and Bethanea Bronnenberg ("Bronnenberg") are the parents of a son, who was born in 2018. Bronnenberg ended her relationship with Bennett in early 2019 and subsequently began a relationship with Chase Woolums ("Woolums"). Bennett, who learned about Bronnenberg's relationship with Woolums in January 2020, was angry that Bronnenberg was dating Woolums and that Woolums was spending time with his son. Bennett told Bronnenberg that he wanted to fight Woolums. Bennett also threatened to kill Woolums. Bronnenberg told Woolums about Bennett's threat.

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[1] IND. CODE § 35-42-1-1. The jury also convicted Bennett of Level 4 felony unlawful possession of a firearm by a serious violent felon and Level 6 felony resisting law enforcement. Bennett does not appeal those convictions.

[4] At the end of January 2020, Bennett sent Woolums a series of threatening social media and text messages. In one of the messages, Bennett told Woolums, "[b]et you don't leave here alive. Facts[.]" (Ex. Vol. 1 at 108). In another message, Bennett told Woolums, "[m]y youngest daughter tougher than u[.]" (Ex. Vol. 1 at 109). This message was accompanied by a photograph of Bennett's three-year-old daughter holding Bennett's gun. In an additional message, Bennett told Woolums, "I wouldn't recommend talking to my girl. Just giving you a heads up. I hear you are soft and, anxious to find out myself[.]" (Ex. Vol. 1 at 111). In two other messages, Bennett told Woolums, "[b]etta kiss you loved ones gb first" and "[t]esting my gangsta isnt recommended. Just a forewarning unless you got a death wish. Facts[.]" (Ex Vol. 1 at 112, 113).

[5] On February 6, 2020, Woolums and Bronnenberg planned to meet Woolums' former wife in a Walmart parking lot in Muncie to pick up some of Woolums' clothes. Woolums' former wife told Bennett about the meeting, and Bennett decided to go to the Walmart parking lot to fight Woolums.

[6] Woolums and Bronnenberg arrived at the Walmart parking lot at approximately 10:30 p.m. While they were waiting for Woolums' former wife to arrive with Woolums' clothes, Bennett texted Bronnenberg and told her that he was on his way and not to call the police.

[7] Bennett arrived at the Walmart parking lot at approximately 11:15 p.m. and parked his truck next to Bronnenberg's car. As Woolums was getting out of

Bronnenberg's car, Woolums reached down and picked up a twenty-inch metal bar from the floorboard. Woolums slid the bar up the sleeve of his shirt and walked towards Bennett's truck. As Woolums approached the truck, Bennett, who had noticed the bar concealed in Woolums' shirt sleeve, took out his .38 caliber Smith and Wesson revolver and fired a shot at the ground near Woolums. Woolums said, "[o]h shit," turned around, and attempted to run from Bennett. (Tr. Vol. 2 at 222). Bennett then fired another shot, which struck Woolums in the back. When Woolums fell to the ground, Bennett "t[ook] off in his truck" and drove to a friend's house, where he hid his gun behind the friend's couch. (Tr. Vol. 2 at 222).

[8] Medical professionals were dispatched to the scene and transported Woolums to the hospital, where he died shortly thereafter as a result of injuries from the gunshot. Bronnenberg gave a police statement, identified Bennett as the shooter, and described Bennett's truck to the officers.

[9] At approximately 1:00 a.m., a Muncie Police Department officer saw Bennett in his truck. The officer turned on his flashing lights and siren, but Bennett refused to stop. During a five-mile pursuit, Bennett drove through a red light and a stop sign and changed directions several times. Bennett eventually stopped his truck when additional officers blocked his path. After being apprehended, Bennett gave a police statement and led police officers to his gun.

[10] One week later, the State charged Bennett with murder, Level 4 felony unlawful possession of a firearm by a serious violent felon, and Level 6 felony resisting law enforcement.

[11] At Bennett's three-day trial in September 2020, the jury heard the facts as set forth above. In addition, the jury watched a video of the shooting that had been recorded by the video surveillance system at a nearby Urgent Care facility.

[12] Also at trial, Bennett testified that, when Woolums had approached his truck, Bennett had thought that Woolums had a hammer concealed in his shirt sleeve. According to Bennett, he had fired his gun in "a split-second decision to . . . try to defend [him]self[.]" (Tr. Vol. 3 at 133).

[13] The jury convicted Bennett of all three counts. Bennett now appeals the murder conviction.

Decision

[14] Bennett's sole argument is that there is insufficient evidence to support his murder conviction. Specifically, he contends that the State failed to rebut his claim that he had shot and killed Woolums in self-defense. We disagree.

[15] The standard of review for a challenge to the sufficiency of the evidence to rebut a claim of self-defense is the same as the standard for any sufficiency of the evidence claim. *Cole v. State*, 28 N.E.3d 1126, 1136-37 (Ind. Ct. App. 2015). We neither reweigh the evidence nor judge the credibility of witnesses. *Id.* at

1137. Additionally, if there is sufficient evidence of probative value to support the conclusion of the trier of fact, then the verdict will not be disturbed. *Id.*

[16] A valid claim of self-defense is legal justification for an otherwise criminal act. *Id.* "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." IND. CODE § 35-41-3-2(c). In order to prevail on a claim of self-defense, a defendant must show that: (1) he was in a place where he had a right to be; (2) he acted without fault; and (3) he had a reasonable fear of death or great bodily harm. *Cole,* 28 N.E.3d at 1137.

[17] When a claim of self-defense is raised and finds support in the evidence, the State has the burden of negating at least one of the necessary elements. *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.* Whether the State has met its burden is a question of fact for the factfinder. *Id.*

[18] Here, Bennett argues that the evidence was insufficient to rebut his claim of self-defense. Specifically, Bennett contends that he had a right to be in the Walmart parking lot, he acted without fault, and he had a reasonable fear of great bodily harm when Woolums approached Bennett's truck with a metal bar concealed in his sleeve.

[19] However, our review of the evidence reveals that, when Bennett fired the first shot, Woolums said, "[o]h shit," turned around, and attempted to run from

Bennett. (Tr. Vol. 2 at 222). Bennett then shot Woolums in the back. It is well settled that when the danger of death or great bodily harm ceases, the right of self-defense ceases with it. *Schlegel v. State*, 238 Ind. 374, 383, 150 N.E.2d 563, 567 (1958) (explaining that "[e]ven if the first shot had been fired in self-defense, the second would not have been if it were fired when not necessary for the appellant to further defend himself"). Thus, a reasonable factfinder could have found that, when Woolums turned around and attempted to run from Bennett, Woolums did not pose a risk of great bodily harm to Bennett, and Bennett's second shot was not fired in self-defense.

[20] We further note that after shooting Woolums, Bennett fled the scene and hid his gun behind a couch at a friend's house. Bennett did not call for medical assistance for Woolums or contact law enforcement. This Court has previously held that evidence of a defendant's flight from the scene and subsequent disposition of the murder weapon is probative evidence from which a reasonable factfinder could have concluded that the murder was not committed in self-defense. *See Orozco v. State*, 146 N.E.3d 1038, 1041-42 (Ind. Ct. App. 2020) (finding probative evidence from which a reasonable factfinder could have concluded that the murder was not committed in self-defense where the defendant fled the scene and disposed of the murder weapon rather than calling for medical assistance or contacting law enforcement), *trans. denied*.

[21] Lastly, we note that the only evidence that Bennett's reaction was reasonable was contained in Bennett's testimony. The jury, however, had no obligation to credit this evidence and did not. *See McCullough v. State*, 985 N.E.2d 1135, 1139

(Ind. Ct. App. 2013), *trans. denied*. Ultimately, Bennett's argument is nothing more than an invitation to reweigh the evidence and judge the credibility of the witnesses, which we will not do. *See Cole*, 28 N.E.3d at 1137. There is sufficient evidence to rebut Bennett's claim of self-defense, and, therefore, to support Bennett's murder conviction.

[22] Affirmed.

Bailey, J., and Crone, J., concur.