

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Robert N. Burks, Jr.,

Appellant-Defendant,

v.

State of Indiana,

Appellee-Plaintiff.

October 18, 2022

Court of Appeals Case No.
22A-CR-752

Appeal from the
Marion Superior Court

The Honorable
Cynthia L. Oetjen, Judge

Trial Court Cause No.
49D30-2002-MR-7279

Pyle, Judge.

Statement of the Case

[1] Robert N. Burks, Jr. (“Burks”) appeals, after a bench trial, his conviction for murder.¹ Burks argues that there was insufficient circumstantial evidence of probative value presented to support his conviction. Concluding that sufficient evidence was presented to support Burks’ conviction for murder, we affirm his conviction.

[2] We affirm.

Issue

Whether there was sufficient evidence to support Burks’ conviction.

Facts

[3] On November 3, 2019, Karen Durliat (“Durliat”), the religious education director at St. Patrick’s Parish Church in Indianapolis, arrived at the parish’s religious education building at approximately 8:30 in the morning. She went into the kitchen located in the building and noticed that items had been moved and a CD player was missing. She then walked down the hall and into another room and saw a woman, later identified as Julie Morey (“Morey”), who appeared to be sleeping on a sofa with a blanket over her. Durliat asked another employee to accompany her into the room, and that employee checked

¹ IND. CODE § 35-42-1-1(1).

Morey and realized that she was dead. Upon further investigation, Durliat discovered that a classroom on the lower level of the building had a broken window and glass was strewn around that room. A brick was found on the classroom floor. Durliat called 911 and reported the dead woman in the building, and officers were dispatched to the church. When the police and other first responders arrived, they pronounced Morey dead.

[4] During the police investigation, Morey was found to have been homeless in the Indianapolis area. When an autopsy was performed on Morey, the doctor discovered that she had blunt force injuries to her head, including a bruise on her forehead, a bruise around her left eye, and a bruise and lacerations on her inner lower lip. There were seven sharp force injuries, which were all stab wounds, grouped together on the left side of her neck, including an injury to the jugular vein. She also had six sharp force injuries, which were all stab wounds, to her abdomen grouped together, and some of these stabs hit her liver, stomach, small bowel, pancreas, and broke two ribs. There was also evidence that Morey had been strangled. She had burst blood vessels on her face, around her eyes, and in her mouth, and there were hemorrhages in the large muscles of her neck and in the sternal thyroid muscles of her neck. Additionally, part of the left thyroid cartilage was fractured, which also indicated manual strangulation. Morey's cause of death was determined to be strangulation and multiple stab wounds.

[5] On November 8, 2019, Detective Marcus Kennedy ("Detective Kennedy"), who was a homicide detective with the Indianapolis Metropolitan Police

Department, received a call from Mary Laseter (“Laseter”), whom he knew because she was the niece of one of his previous homicide victims. Laseter had heard a news report that a deceased woman had been found in a church, and she told Detective Kennedy that Burks had come to her house a couple of days previously at approximately 2:00 a.m. Laseter and Burks had dated in the past for approximately eight years and had been engaged to be married at one point. When Burks came to her home, he loudly knocked on her door and told Laseter that he needed to talk to her in an urgent manner. He mentioned Morey’s name to Laseter, and when she heard the news report of Morey’s death, it prompted her to call Detective Kennedy. Burks stayed at Laseter’s home for approximately thirty minutes and then left, leaving behind a backpack and clothes, including a Burger King uniform shirt, black pants, a pair of jeans, shoes, and a long-sleeved t-shirt. After speaking to Laseter on the phone, Detective Kennedy went to her home, and Laseter gave him the backpack and clothes that Burks had left.

[6] Also, in early November 2019, Burks called another ex-girlfriend, Rhonda Flanders (“Flanders”), and told her that he wanted to meet her in Fountain Square, but Flanders did not meet with him at that time. Shortly after speaking to Burks, Flanders saw a news report about Morey’s death and the fact that she had been stabbed. Sometime after that, Burks called Flanders again and asked her if he could sleep at her house. When Burks came over to Flanders’ home, she asked Burks if he killed Morey, and Burks stated that he did. Burks told Flanders that he saw Morey’s face when he closed his eyes. Officers came to

Flanders' home and arrested Burks on an unrelated matter. The day after Burks was arrested, Flanders wrote a letter to police that stated that Burks told her that he had killed Morey.

- [7] When Burks was arrested a buccal swab was taken, and a DNA profile was created. Several swabs were taken from Morey's body, and a swab from Morey's right-hand fingernails revealed a preliminary indication for the presence of blood. Burks' DNA was found under Morey's right-hand fingernails and on her right hand. Burks' DNA was also found on Morey's face, and Burks could not be excluded as a contributor to the DNA found on Morey's neck.
- [8] The clothing belonging to Burks that had been recovered from Laseter's home was also tested. There were bloodstains on the upper left back and front right parts of Burks' Burger King uniform t-shirt that matched the DNA profile of Morey. Blood stains were also located on the lower left sleeve of Burks' long-sleeved t-shirt, and these stains contained a DNA profile that was a mixture of two individuals. The major contributor matched the DNA profile of Morey, and the minor contributor matched the profile of Burks. Additionally, there was a preliminary indication of blood on Burks' shoes.
- [9] On February 20, 2020, the State charged Burks with murder and subsequently alleged that he was an habitual offender. On February 14, 2022, the trial court held a bench trial and found Burks guilty of murder. Subsequently, Burks admitted that he was an habitual offender, and the trial court sentenced him to

sixty (60) years for murder with a twenty (20) year habitual offender enhancement. Burks now appeals.

Decision

[10] Burks argues that there was insufficient evidence to support his murder conviction. When there is a challenge to the sufficiency of the evidence, “[w]e neither reweigh evidence nor judge witness credibility.” *Gibson v. State*, 51 N.E.3d 204, 210 (Ind. 2016), *reh’g denied, cert. denied*. Instead, “we consider only that evidence most favorable to the judgment together with all reasonable inferences drawn therefrom.” *Id.* (internal quotation marks, bracket, and ellipses omitted). “We will affirm the judgment if it is supported by substantial evidence of probative value even if there is some conflict in that evidence.” *Id.* (internal quotation marks, ellipses, and brackets omitted). Further, “[w]e will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Love v. State*, 73 N.E.3d 693, 696 (Ind. 2017). The State need not present direct evidence to support each element of the crime because a conviction may rest on circumstantial evidence alone. *Perry v. State*, 78 N.E.3d 1, 8 (Ind. Ct. App. 2017). “Circumstantial evidence need not overcome every reasonable hypothesis of innocence. It is sufficient if an inference drawn from the circumstantial evidence reasonably tends to support the conviction.” *Peters v. State*, 959 N.E.2d 347, 355 (Ind. Ct. App. 2011) (citation omitted).

- [11] To prove that Burks was guilty of murder, the State had to prove beyond a reasonable doubt that he knowingly or intentionally killed Morey. I.C. § 35-42-1-1(1). A conviction for murder may be sustained on circumstantial evidence alone if that circumstantial evidence supports a reasonable inference of guilt. *Fry v. State*, 25 N.E.3d 237, 248 (Ind. Ct. App. 2015) (citing *Lacey v. State*, 755 N.E.2d 576, 578 (Ind. 2001)), *trans. denied*. Additionally, a conviction can be sustained on the testimony of a single witness, even where the evidence is uncorroborated. *Sallee v. State*, 51 N.E.3d 130, 135 (Ind. 2016).
- [12] Here, the evidence most favorable to the judgment showed that, a few days after Morey's body was found in the parish building, Burks went to Laseter's home at around 2:00 in the morning and told her that he needed to speak to her in an urgent manner. While Burks was there, he mentioned Morey's name to Laseter, and when she heard the news report of Morey's death, it prompted her to call Detective Kennedy. Burks stayed at Laseter's home for about thirty minutes and then left, leaving behind a backpack and clothes, including a Burger King uniform shirt, black pants, a pair of jeans, and a long-sleeved t-shirt. Laseter gave these clothes to the police. Morey's blood was found on Burks' Burger King uniform t-shirt and long-sleeved shirt. The long-sleeved shirt was also found to contain Burks' DNA. Additionally, there was a preliminary indication of blood on Burks' shoes.
- [13] Burks' DNA profile was also found on Moray's right hand and under her right-hand fingernails. His DNA profile was also found on Moray's face, and he could not be excluded from being a contributor to the DNA found on Morey's

neck. While Burks acknowledges that a reasonable person could infer from the DNA evidence that he touched Morey's face, hands, and neck, he maintains that his DNA may have been transferred to Morey through casual contact and that this potential casual conduct cannot support a reasonable inference that he killed Morey. However, in addition to Burks' DNA being found on multiple places on Morey's body, her blood was also found on multiple items of his clothing. Burks does not explain how casual contact would also result in Morey's blood on his clothing. Further, Burks' DNA was found in areas of Morey's body that corresponded with injuries to her face and neck, from which the trial court could reasonably infer that he caused these injuries to her. Burks' DNA on Morey's hand and under her fingernails also support a reasonable inference that she fought Burks off when he attacked her. Additionally, Flanders testified that Burks told her that he killed Morey. Burks told Flanders that he saw Morey's face when he closed his eyes, evincing consciousness of his guilt. We conclude that sufficient evidence was presented to support Burks' conviction.

[14] Burks also argues that the evidence was insufficient because the police did not properly collect and preserve evidence due to a delay in transporting Morey's body to the coroner's office and because no special care was taken to preserve the condition of her body to avoid contamination or transfer of possible DNA evidence. In addition, he suggests that the DNA and blood evidence from his clothing may have been mishandled because there was no evidence that the officers who collected it wore gloves and that there was no explanation as to

where the plastic bag came from that the clothing was in when it was given to the evidence technician. Although phrased as challenges to the sufficiency of the evidence, these arguments raise issues concerning the admissibility of evidence. However, Burks does not raise these issues as challenges to the admission of the evidence and has therefore waived any such issue for failure to make a cogent argument. *See* Ind. Appellate Rule 46(A)(8)(a). Burks additionally asserts that the testimony of Flanders was unreliable and points to the trial court’s statement, in announcing its judgment, that Flanders’ “statement [was] a little bit iffy,” and stated that she had given it only “a little bit of weight.” (Tr. Vol. II at 218). Burks’ challenges to the collection of the evidence and to Flanders’s testimony are merely requests to reweigh the evidence and judge the credibility of a witness, which we cannot do on appeal. *Gibson*, 51 N.E.3d at 210.

[15] The evidence at trial showed that Burks confessed to Flanders that he killed Morey. Further, when Burks went to Laseter’s house a few days after the murder, he mentioned Morey’s name to Laseter and left several items of clothing there. When these clothes were tested, they contained Morey’s blood and Burks’ DNA. Burks’ DNA was also found on Morey’s face, neck, right hand, and under her fingernails. As a result, there was sufficient evidence to prove beyond a reasonable doubt Burks murdered Morey.

[16] Affirmed.

Bradford, C.J., and Bailey, J., concur.