

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Candelario Vasquez,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 12, 2022

Court of Appeals Case No.
21A-CR-1831

Appeal from the Marion Superior
Court

The Honorable Cynthia L. Oetjen,
Judge

Trial Court Cause No.
49D30-1808-MR-26575

Tavitas, Judge.

Case Summary

- [1] Candelario Vasquez appeals his conviction for murder, a felony. Vasquez argues that the State failed to rebut his claim of self-defense. Concluding that the State presented sufficient evidence to rebut the self-defense claim, we affirm.

Issue

- [2] Vasquez raises one issue, which we restate as whether the State presented sufficient evidence to rebut Vasquez's claim of self-defense.

Facts

- [3] Jami Fisher had a child with sixty-five-year-old Vasquez. In 2017, Fisher began dating thirty-four-year-old James Brown II. On August 10, 2018, Fisher and Brown ended their relationship. Brown drove Fisher and her child to Vasquez's residence because Fisher and her child were going to stay with Vasquez. When they arrived at Vasquez's residence, Vasquez was waiting on the porch. Fisher got out of Brown's vehicle, walked to Vasquez, and told Vasquez that Brown threatened to hit Fisher with a bat. Fisher and Vasquez went to Brown's vehicle, and Fisher removed her child from the backseat on the driver's side. Vasquez approached Brown at the driver's door and said, "What the f***'s your problem?" Tr. Vol. II p. 183. Brown "[s]mirked" at Vasquez. *Id.*
- [4] According to Fisher, she did not hear Brown say anything else, and the vehicle drove away before she could even shut the back door. Vasquez then told Fisher that he stabbed Brown twice, and Fisher saw that Vasquez had a knife. Brown

drove his vehicle to a nearby gas station and crashed. Brown had a stab wound on his chest and a cut on his left arm. Brown died of a stab wound to his heart.

[5] Soon thereafter, Fisher arrived at the scene of Brown's collision, and Detective Gary Smith with the Indianapolis Metropolitan Police Department interviewed Fisher. Fisher learned that Brown had died, but she did not indicate to Detective Smith that she was present when Brown was stabbed. Fisher returned to Vasquez's residence, and after learning that Brown died, Vasquez told Fisher that "he didn't mean to kill him He just meant to teach him a lesson." *Id.* at 191.

[6] A few hours later, upon learning more information, Detective Smith went to Vasquez's residence and contacted Fisher again. Fisher then told Detective Smith about the earlier incident between Vasquez and Brown. During the second interview, however, Fisher did not mention to Detective Smith that Brown attacked Vasquez, that Vasquez cried out in pain, or that Vasquez was injured.

[7] Detective Smith also interviewed Vasquez. Vasquez told Detective Smith, "I was just trying to protect my family," and "[s]he brought her boyfriend over and he got what he deserved, an ass whooping." Tr. Vol. III p. 43. The detective saw no injuries on Vasquez, Vasquez did not complain of any injuries, and, notably, Vasquez did not claim at that time that Brown attacked him.

[8] The State charged Vasquez with murder, a felony. A jury trial was held in July 2021. At the jury trial, Vasquez claimed that he stabbed Brown in self-defense.

Fisher testified that she heard Vasquez cry out in pain and that his hand was injured after the altercation with Brown. Vasquez testified that, as Fisher was removing their child from Brown's vehicle, Brown picked up the baseball bat and acted like he was going to hit Fisher. Vasquez said to Brown, "what's your F'ing problem, dude." Tr. Vol. III p. 153. According to Vasquez, Brown then reached for Vasquez's right hand, pulled Vasquez's arm inside the vehicle, and twisted Vasquez's hand. According to Vasquez, Brown put the vehicle in drive, and Vasquez thought Brown was going to drive away with Vasquez "hanging" from the vehicle. *Id.* at 156. Vasquez then pulled a knife out of his pocket and stabbed Brown, and Brown drove away.

[9] The jury found Vasquez guilty of murder, and the trial court sentenced him to fifty-five years in the Department of Correction. Vasquez now appeals.

Analysis

[10] Vasquez argues that the State failed to present evidence sufficient to rebut his claim of self-defense. 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 claim of sufficiency of the evidence. *Carter v. State*, 686 N.E.2d 834, 836 (Ind. 1997) (citing *Hughes v. State*, 153 N.E.3d 354 (Ind. Ct. App. 2020), *trans. denied*). When analyzing a claim of insufficient evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the jury's verdict. *Id.* (citing *Sallee v. State*, 51 N.E.3d 130, 133 (Ind. 2016)). It is the jury's role, not that of appellate courts, to assess

witness credibility and weigh the evidence to determine whether the evidence is sufficient to support a conviction. *Id.* If a defendant is convicted despite his claim of self-defense, an appellate court will reverse only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt. *Id.* (citing *Wilson v. State*, 770 N.E.2d 799, 800-01 (Ind. 2002)).

[11] “Self-defense is a legal justification for an otherwise criminal act.” *Stewart v. State*, 167 N.E.3d 367, 376 (Ind. Ct. App. 2021) (citing *Gammons v. State*, 148 N.E.3d 301 (Ind. 2020)), *trans. denied*. The statute governing the defense of self-defense provides that an individual has the right to use “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). A person is justified in using *deadly force*—which is at issue here—and does not have a duty to retreat, only if the person reasonably believes such force is necessary to prevent serious bodily injury to himself or a third person, or to prevent the commission of a forcible felony. I.C. §§ 35-41-3-2(c)(1), -(2).

[12] Thus, to prevail in presenting a self-defense claim, the defendant must show that: (1) he was in a place where he had a right to be; (2) he did not provoke, instigate, or participate willingly in the violence; and (3) if the defendant used deadly force, he had a reasonable fear of death or great bodily harm. *Stewart*, 167 N.E.3d at 376 (citing *Wilson*, 770 N.E.2d at 800). If a defendant raises a self-defense claim that finds support in the evidence, the State has the burden of negating at least one of the necessary elements. *Id.* (citing *Hughes v. State*, 153

N.E.3d 354, 361 (Ind. Ct. App. 2020)). 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 on the sufficiency of its evidence in its case-in-chief. *Id.* (citing *Miller v. State*, 720 N.E.2d 696 (Ind. 1999)).

[13] We conclude that the State presented evidence that was sufficient to rebut Vasquez’s claim of self-defense. During their testimony at the jury trial, Fisher claimed that she heard Vasquez cry out in pain and that his hand was injured after the altercation. Vasquez claimed that Brown threatened Fisher with a bat; Brown grabbed Vasquez’s hand and twisted it; Brown put his vehicle in drive while still holding onto Vasquez’s hand; and Vasquez stabbed Brown because he was afraid Brown would drag him.

[14] The State presented evidence, however, that after the altercation, Vasquez told Fisher that “he didn’t mean to kill him . . . He just meant to teach him a lesson.” Tr. Vol. II p. 191. Neither Vasquez nor Fisher contacted the police about the altercation. Moreover, when interviewed by the police, neither Vasquez nor Fisher claimed that Brown had attacked Vasquez or that Vasquez acted in self-defense. In fact, Vasquez told Detective Smith, “I was just trying to protect my family,” and “[s]he brought her boyfriend over and he got what he deserved, an ass whooping.” Tr. Vol. III p. 43. At trial, however, Vasquez changed his story of the altercation and claimed that Brown attacked him and that Vasquez was acting in self-defense. The bat, which Vasquez claimed Brown used to threaten Fisher, however, was found behind the driver’s seat on the floorboard partially under the driver’s seat and partially covered by other

items. Further, despite the claim that Brown, who only weighed 143 pounds, grabbed Vasquez's hand and pulled him partially in the vehicle, Vasquez's fingerprints were not found on the driver's door of Brown's vehicle.

- [15] Based upon this evidence, the jury could have reasonably concluded that Vasquez's claim of self-defense was not credible or that Vasquez used unreasonable force by stabbing the unarmed Brown in the heart. *See Green v. State*, 870 N.E.2d 560, 565 (Ind. Ct. App. 2007) (holding that evidence the defendant took steps to conceal the victim's death and gave conflicting statements of the incident was inconsistent with the defendant's claim of self-defense), *trans. denied*. Accordingly, the State presented sufficient evidence to rebut Vasquez's self-defense claim.

Conclusion

- [16] The State presented evidence sufficient to rebut Vasquez's claim of self-defense. Accordingly, we affirm Vasquez's conviction for murder.
- [17] Affirmed.

Bradford, C.J., and Crone, J., concur.