

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Crystal Lynn Cox,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 28, 2023

Court of Appeals Case No.
22A-CR-1728

Appeal from the Tippecanoe
Superior Court

The Honorable Randy J. Williams,
Judge

Trial Court Cause No.
79D01-2108-MR-9

Memorandum Decision by Judge Weissmann
Judges Bailey and Brown concur.

Weissmann, Judge.

- [1] Crystal Cox’s three-year-old son, Z.C., bled to death internally from traumatic blunt force injuries that the State alleged were inflicted by Cox’s boyfriend, Jermaine Garnes Sr. Cox chose to treat Z.C.’s severe and obvious injuries with Tylenol rather than obtain the urgent medical attention he needed to survive.
- [2] Cox ultimately was convicted of murder under an accessory liability theory and sentenced to a 55-year term. She appeals, claiming the State did not prove beyond a reasonable doubt that she aided Garnes in murdering Z.C. Finding the evidence of her participation in the crime sufficient, we affirm Cox’s murder conviction.

Facts

- [3] In mid-May 2021, Cox and Z.C. moved in with Garnes and his 10-year-old son, J.G. Although three years old, Z.C. was nonverbal and undergoing testing to determine whether he had autism. Despite Z.C.’s special needs, Cox swore at him, spanked him with a belt, and hit him on his bare back at least twice. Cox’s relatives observed Z.C. with various injuries to his arms, back, and face.
- [4] On July 1, 2021—four days before Z.C.’s death—Cox acknowledged her child was injured. In rejecting Garnes’s private request through Facebook messenger to take Z.C. to watch Garnes play basketball, the two had the following conversation:

Cox: No[,] cause the bruises don’t need to be seen by people who are going to think that he is being abused . . . Cause I don’t need

him coming worse than he already is . . . When the bruises are gone[,] you can take him . . . So he needs to stay home to heal up[.]

Garnier: I'll cover him with proper clothing and a hat[.]

Exhs. Vol. V, pp. 102-03.

- [5] On July 4, 2021, Cox, Garnes, Z.C., and J.G., went to breakfast. A server reported that Cox and Garnes drew attention in the restaurant because they appeared to be so aggravated with the children. Cox and Garnes yelled at the children for not eating and to be quiet. The four then went to Walmart, where security video showed Garnes grabbing Z.C.'s waist and lifting him without any adverse reaction from the child.
- [6] According to Cox, the family ate dinner between 4 and 5 p.m. A few hours later, Z.C. vomited during his bath and had a fever. Cox reported giving Z.C. Tylenol and liquids to keep him hydrated. Z.C. vomited again early in the morning and, by Cox's account, went to sleep with Cox and Garnes in their bed at 4 a.m. When Cox awakened around 8 a.m., Z.C. was dead.
- [7] Someone from the home called 911 and hung up. When the 911 dispatcher immediately called the number back, Garnes answered and reported Z.C. was not breathing. The 911 dispatcher encouraged Garnes and Cox to conduct CPR on Z.C. until help arrived. Police officers arrived first and found Z.C. cold and lifeless. Cox soon volunteered to police at the scene that neither she nor Garnes had ever abused Z.C. or used a belt to discipline him.

[8] An autopsy revealed that Z.C. died from internal bleeding from blunt force trauma. His body was covered in bruises, and two of his ribs were fractured. His kidney and small intestine were ruptured, leading to catastrophic internal bleeding.

[9] The State charged Cox with four crimes: (1) murder; (2) Level 1 felony neglect of a dependent resulting in death; (3) Level 1 felony aggravated battery; and (4) Level 2 felony battery resulting in death of a person under 14. Although the State charged Cox as a principal, it proceeded at Cox's jury trial under a theory that Garnes inflicted the fatal blows and that Cox acted as an accessory to Garnes in committing the murder. The jury returned verdicts of guilty on all counts.¹ The trial court entered judgment of conviction only on the murder count based on double jeopardy concerns and sentenced Cox to a 55-year term. Cox appeals only her murder conviction.

Discussion and Decision

[10] Cox challenges the sufficiency of the evidence supporting her conviction for murder. She claims the State established no affirmative conduct by her from which a jury could reasonably infer a common design or purpose to accomplish the crime with Garnes. *See Parrish v. State*, 166 N.E.3d 953, 959 (Ind. Ct. App. 2021). In other words, Cox claims evidence of her concerted action or

¹ Garnes also was charged with murder and other counts in the death of Z.C. Garnes was tried and convicted separately of murder. His appeal of that judgment is pending.

participation in Z.C.'s murder was lacking. Cox asks this Court to reverse her murder conviction and remand for sentencing on the remaining counts.

Appellant's Br., p. 11.

- [11] Cox's argument is derivative of our rulings that mere presence at the scene is not enough to establish liability as an accessory. *See, e.g., Wright v. State*, 690 N.E.2d 1098, 1106 (Ind. 1997). When reviewing a claim of insufficient evidence, we will look only to the evidence most favorable to the State and all reasonable inferences supporting that judgment. *Wright*, 690 N.E.2d at 1106. We will not weigh conflicting evidence or judge the credibility of witnesses. *Id.* "We will affirm the conviction unless, based on this evidence, we conclude that no reasonable jury could find the defendant guilty beyond a reasonable doubt of each element of the crime charged." *Id.* Applying this standard of review, we determine that the State proved beyond a reasonable doubt that Cox committed murder.

I. Requirements for Conviction as Accessory to Murder

- [12] A person who knowingly or intentionally kills another human commits murder as a principal actor. Ind. Code § 35-41-1-1. "A person engages in conduct 'intentionally' if, when he engages in the conduct, it is his conscious objective to do so." Ind. Code § 35-41-2-2(a). "A person engages in conduct 'knowingly' if, when he engages in the conduct, he is aware of a high probability that he is doing so." Ind. Code § 35-41-2-2(b).

[13] But Cox need not have acted as principal to be convicted of murdering Z.C. “A person who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense, even if the other person: (1) has not been prosecuted for the offense; (2) has not been convicted of the offense; or (3) has been acquitted of the offense.” Ind. Code § 35-41-2-4. And, as happened here, a defendant may be charged as the principal but convicted as an accomplice. *Castillo v. State*, 974 N.E.2d 458, 466 (Ind. 2012). Thus, to convict Cox, the State need only have proven beyond a reasonable doubt that she knowingly or intentionally aided, induced, or caused Garnes to murder Z.C. Ind. Code § 35-41-2-4; Ind. Code § 35-41-1-1.

[14] The particular facts of the case must be considered in determining whether Cox participated in Z.C.’s murder as an accomplice. *Brown v. State*, 770 N.E.2d 275, 278 (Ind. 2002). Probative factors include: (1) presence at the crime scene; (2) companionship with another engaged in criminal activity; (3) failure to oppose the commission of the crime; and (4) the defendant’s course of conduct before, during, and after the crime. *Id.*

II. Proof that Cox Was Accessory to Murder

[15] The State proved beyond a reasonable doubt that Cox aided Garnes in murdering Z.C. As to the first of the four probative factors—presence at the scene—the evidence shows Cox was present when Z.C.’s fatal injuries were inflicted. The pathologist who conducted the autopsy testified that Z.C.’s death would have occurred a few hours after his injuries. Tr. Vol. II, p. 104. Given that undisputed testimony, Z.C. must have died at some point between the

uneventful trip to Walmart around lunchtime on July 4 and the 911 call at 8 a.m. on July 5. Cox admitted being in the same location as Z.C. throughout that period.

- [16] As to the second factor—companionship—Cox and Garnes had been in a romantic relationship for a month prior to Z.C.’s death. Cox voluntarily lived with Garnes, the alleged perpetrator of the fatal blows, throughout that time. And she admittedly did not move out after seeing Garnes use a belt on her nonverbal and developmentally delayed toddler.
- [17] As to the third factor—failure to oppose the commission of the offense—the record contains no evidence that Cox intervened to stop or limit the violent attack that ultimately killed Z.C. The only evidence that Cox tried to halt Z.C.’s ongoing abuse was her own self-serving statement that she asked Garnes not to discipline the child. But Cox remained a bystander when, by her own account, Garnes ignored her request and hit Z.C. on at least two other occasions. She helped conceal the abuse by limiting Z.C.’s public exposure. And, according to Garnes’s son, Cox was present when Garnes punched Z.C. repeatedly. The record reveals no intervention by Cox aimed at stopping the assault.
- [18] Consideration of the final factor—Cox’s course of conduct before, during, and after Z.C.’s death—reveals particularly compelling evidence of her guilt as an accessory to his murder. Cox continued to live with Garnes and left Z.C. alone with Garnes at times while knowing that Garnes was engaging in inappropriate discipline of the possibly autistic three-year-old. Cox’s Facebook

communication with Garnes showed that she actively hid Z.C.'s bruises from public scrutiny, thereby enabling the abuse to continue and escalate to fatal blows.

[19] Cox lied repeatedly about the abuse that both she and Garnes had inflicted on Z.C. For instance, Cox first claimed to police that neither she nor Garnes had ever hit Z.C. with a belt. She eventually admitted to investigators that she had seen Garnes do so multiple times. Other witnesses testified to seeing Cox spank Z.C. with a belt and hit him on his bare back with her hand.

[20] Even Cox's lone admission that she should have moved from Garnes's home occurred only after several separate denials of any wrongdoing. Although Cox moved closer to implicating Garnes in her final statement to police, she ultimately never revealed any knowledge of the fatal blows to which Garnes's son seemingly testified.² Cox also never acknowledged Z.C.'s intense suffering in the hours before his death that the pathologist's testimony made clear.

[21] The pathologist testified that Z.C. suffered "blunt force injury to the skin, pretty much head to toe." Tr. Vol. II, p. 89. Z.C.'s kidney rupture would have resulted from "an extreme amount of force like a motor vehicle accident." *Id.* at 95. The two fractures of his back ribs also would have required extreme force usually

² Garnes's son testified that Garnes punched Z.C. "a couple of times" after Garnes became angry that Z.C. had colored on the floor of the home. Tr. Vol. II, p. 81. Although Garnes's son initially suggested the punches were inflicted on July 4, he waffled on cross-examination and agreed that the violence may have occurred a week earlier. *Id.* at 84.

found in only two situations: 1) a “very high-speed motor vehicle accident”; or 2) “abusive trauma.” *Id.* at 100.³

[22] Blood pooled inside Z.C.’s neck due to either a blunt force blow or a choking with “significant force.” *Id.* In Z.C.’s final hours, blood and fecal contents leaked from four ruptures of his small intestine. His ruptured kidney, also a product of significant force such as a directed punch, contributed to the flooding of his abdomen with blood. Z.C. suffered “almost a total loss of the blood into the abdominal cavity.” *Id.* at 102. The pathologist testified that these “severe, deep injuries” within Z.C.’s 40-pound body could not have resulted from the accidental trauma that Cox had suggested as possible causes for Z.C.’s injuries such as CPR compressions or falls from a bicycle or on a playground. *Id.* at 108.

[23] The pathologist concluded that even an intentional spanking with a belt could not have caused the injuries. *Id.* at 115. The manner of death was homicide, according to the pathologist, and all Z.C.’s catastrophic injuries were sustained over a short period. *Id.* at 115, 119.

[24] The pathologist’s testimony also effectively refuted Cox’s protestations to police that she did not know how Z.C. had been injured nor did she have any indication that Z.C. needed more substantial treatment than Tylenol and liquids. The pathologist testified that the internal abdominal bleeding would

³ Cox told police that Z.C.’s abdominal injuries were the result of his tripping on the sidewalk on July 4 while watching fireworks. Cox also indicated she specifically checked Z.C. for broken ribs and found none. These statements occurred before the autopsy was completed and police revealed the fractured ribs to Cox.

have been very painful, mimicking a bowel obstruction or appendicitis. *Id.* at 110, 121. The kidney rupture alone would have caused Z.C.’s death from exsanguination within about 120 to 150 minutes—a time frame which does not align with Cox’s version of events. *Id.* at 110. Cox suggested that Z.C. was conscious and, at times, vomiting for more than five hours after he first showed symptoms during his bath on the evening before he died.

[25] Despite Z.C.’s obvious injuries, Cox did not seek medical treatment for him. His injuries were survivable if he had received emergency treatment, according to the pathologist. *Id.* at 104. Cox’s failure to oppose or halt the “continued abuse and to seek medical treatment is particularly probative because she owed a parental duty to protect.” *Brown*, 770 N.E.2d at 279.

[26] Our review of these multiple factors—Cox’s presence at the scene of the offense, her continued companionship with Garnes after he started using a belt on her nonverbal child, her failure to seek medical treatment for an injured Z.C. despite its obvious necessity, her duties as Z.C.’s primary caregiver and protector, her concealment of and failure to oppose the ongoing abuse after Z.C.’s bruises became evident days before his death, and her repeated lies to authorities about the manner and cause of Z.C.’s death—leads to our conclusion that Cox “assented to the commission of the crime, lent [her] countenance and approval thereto and thereby aided and abetted it.” *Mobley v. State*, 117 Ind. 335, 85 N.E.2d 489, 492 (1949). The State proved beyond a reasonable doubt that Cox knowingly or intentionally aided Garnes in Z.C.’s murder.

[27] We affirm the trial court's judgment.

Bailey, J., and Brown, J., concur.