

MEMORANDUM DECISION

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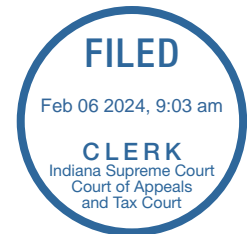


IN THE
Court of Appeals of Indiana

Marqisha Monee Thomas,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



February 6, 2024

Court of Appeals Case No.
23A-CR-1675

Appeal from the St. Joseph Superior Court
The Honorable Elizabeth C. Hurley, Judge

Trial Court Cause No.
71D08-2204-MR-6

Memorandum Decision by Judge Bailey
Judges Crone and Pyle concur.

Bailey, Judge.

Case Summary

- [1] Marqisha Thomas appeals her conviction for murder, a felony,¹ following a bench trial. Thomas raises one issue for our review, namely, whether the State presented sufficient evidence to support her conviction. We affirm.

Facts and Procedural History

- [2] In April 2022, Thomas was in an “on and off” relationship with Civon Green, and the two lived together at various times. Tr. Vol. 2 at 139. At the same time, Green was also romantically involved with Ashley Copley and Navada Page. On April 18, Green left Thomas’ home to go play basketball. After he was done playing basketball, Green had plans to have dinner with Page.
- [3] After Green had left her house, Thomas took her five-year-old child and went to pick up her seven-year-old child from an after-school program. Once she picked up her older child, Thomas took her children to the grocery store and then home. While she was running her errands, Thomas was communicating with Green through Facebook Messenger. At some point, Green stopped responding to Thomas’ messages, so Thomas took her two children and went to look for Green. Thomas first looked at the facility where Green played

¹ Ind. Code § 35-42-1-1(1) (2023).

basketball, but Green was not there. Thomas became “suspicious” and began to look for Green at places “where he’s lived with other girls before.” *Id.* at 195. At one point, Thomas contacted Green’s cousin in an attempt to get Copley’s address. When Thomas was unsuccessful, she went to Page’s residence.

[4] Thomas found Green’s car behind Page’s house and became “upset.” *Id.* at 196. Thomas rolled her window down and yelled Green’s name, but Green did not respond. At that point, Thomas took a gun she had brought with her and fired two shots out of her passenger window toward the ground. Page’s neighbors heard the gunshots and called 9-1-1. After Thomas had fired her gun, Green “took off” in his car, and Thomas followed him. *Id.* at 24.

[5] The two drove a short distance before stopping. Green exited his vehicle and approached Thomas’s car. When he got to the passenger window, Thomas fired one shot into Green’s chest. Thomas then removed the magazine from the gun, threw the magazine and the gun toward a riverbank, and attempted to help Green. Thomas approached another vehicle that had stopped and asked the driver, Jimmy Jones, to help. Thomas told Jones that Green had thrown the gun away following the shooting.

[6] Officers arrived shortly thereafter. Thomas reported to the police that Green had thrown the gun. Green died as a result of his injuries. During a subsequent interview with police, Thomas repeatedly denied having fired her gun while at Page’s house. She also reported that Green had reached into her car for the

gun, that the two had struggled for control, and that the gun went off during that struggle.

[7] The State charged Thomas with murder, a felony.² The court held a two-day bench trial beginning on April 24, 2023. During the trial, Copley testified that, in the late fall or early winter of 2021, Thomas had fired her gun at Green while Green was on the phone with Copley. She also testified that, after the incident, Thomas had called her and admitted to having shot at Green. In addition, Green’s friend, Carol Bepe, testified that Thomas had “threaten[ed]” Green the weekend prior to his death. *Id.* at 144. In particular, Bepe testified that Thomas had said that she would “kill” Green “if she saw him with another b**ch” or if he thought “he’s going to get with another b**ch that’s not” her. *Id.* at 145. And Green’s cousin, Shateya Buchanan, testified that Thomas was “real jealous” of other women and that she would make comments that she would “kill him[.]” *Id.* at 153.

[8] The State also presented the testimony of Dr. Joseph Prahlow, the forensic pathologist who had conducted Green’s autopsy. Dr. Prahlow testified that the bullet had entered Green’s chest “pretty much straight on” and that, when the firearm was discharged, the muzzle was “directed straight at his chest.” *Id.* at

² The State also filed an enhancement alleging that Thomas had used a firearm in the commission of an offense. However, the trial court did not issue a finding on that allegation. *See* Tr. Vol. 3 at 23 (stating that it could make a finding that Thomas had used a firearm during an offense but that it chose “not to impose an additional sentence even if [it made] that finding.” *See also* Appellant’s App. Vol. 2 at 50 (entering judgment of conviction for murder only).

93, 104. Dr. Prahlow also testified that he did not observe any soot on the sleeves of Green's shirts. Dr. Prahlow opined that the shot was fired anywhere from at least eight inches to three feet away from the point of entry.

[9] Thomas testified in her defense. She acknowledged that she had fired her gun twice while outside of Page's house. However, she also admitted that she had lied to officers when she told them she had not fired her gun while at Page's. She then testified that she had taken the magazine out of the firearm and had thrown the magazine and firearm toward the riverbed but that she had told officers that Green was the one who had thrown the gun. She further testified that, after they had left Page's house and stopped in the road, Green had reached into her car and "grab[bed] the firearm" and the two went "back and forth" trying to gain control. *Id.* at 201. She then testified that, during the struggle, the gun "went off[.]" *Id.*

[10] Following the bench trial, the court found Thomas guilty of murder. In particular, the court found that Thomas "lack[ed] credibility" and that the evidence did not "support" her version of the events. Appellant's App. Vol. 2 at 25. Rather, the court concluded that the evidence "strongly support[ed] an inference" that Thomas had knowingly killed Green. *Id.* at 26. The court entered judgment of conviction accordingly and sentenced Thomas to fifty-five years in the Department of Correction. This appeal ensued.

Discussion and Decision

[11] Thomas contends that the State presented insufficient evidence to support her conviction. Our standard of review on a claim of insufficient evidence is well settled:

For a sufficiency of the evidence claim, we look only at the probative evidence and reasonable inferences supporting the [judgment]. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess the credibility of witnesses or reweigh the evidence. *Id.* We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*

Love v. State, 73 N.E.3d 693, 696 (Ind. 2017).

[12] To demonstrate that Thomas committed murder, the State was required to prove that she had knowingly or intentionally killed another human being. Ind. Code. § 35-42-1-1(1). On appeal, Thomas does not dispute that Green was shot and killed during their encounter on April 18, 2022. However, she contends that the State failed to prove that she had acted with the requisite intent to support her conviction for murder. A person engages in conduct intentionally if, when she engages in the conduct, it is her conscious objective to do so. I.C. § 35-41-2-2(a). And a person engages in conduct knowingly if, when she engages in the conduct, she is aware of a high probability that she is doing so. I.C. § 35-41-2-2(b).

[13] A defendant's intent may be proven by circumstantial evidence alone, and knowledge and intent may be inferred from the facts and circumstances of each

case. *B.B. v. State*, 141 N.E.3d 856, 860 (Ind. Ct. App. 2020). Thomas specifically contends that the evidence, including the “trajectory of the bullet, the injuries to the victim’s hand, and the gunpowder evidence” is “consistent with” her testimony that Green had been shot during a struggle over the firearm. Appellant’s Br. at 7. She maintains that she was “reckless” when she was fighting for the handgun but that she did not act knowingly or intentionally. *Id.*

[14] However, the evidence most favorable to the trial court’s judgment shows that, when Green stopped responding to Thomas’ messages, Thomas took a firearm and went to search for Green. When she did not find him playing basketball, she began going to the homes of Green’s other romantic partners. Thomas ultimately found Green at Page’s house, and she attempted to get his attention by yelling. When that failed, Thomas fired two shots out of her car window. At that point, Green “took off” from Page’s house, and Thomas pursued him. Tr. Vol. 2 at 24. The two ultimately stopped in the road, and Green exited his vehicle and approached Thomas’ car. Thomas then shot Green once in the chest, with the trajectory of the bullet being “pretty much straight on.” *Id.* at 93. Thomas then removed the magazine from the firearm and threw each part into the riverbed.

[15] Further, the evidence shows that Thomas was a “jealous” person and that she had a history of threatening violence against Green. *Id.* at 152. Indeed, in the late fall or early winter of 2021, Thomas shot at Green while Green was on the phone with another woman. *See id.* at 124. Further, Thomas told a friend a

few days before Green's death that she would "kill him" if she "saw him with another b**ch[.]" *Id.* at 145.

[16] In other words, the evidence shows that Thomas had previously threatened to kill Green if she caught him with another woman. Then, when Thomas was unable to get in contact with Green on the night of the offense, she searched for him, found him at the home of another romantic partner, and fired her gun twice. When Green left Page's home, Thomas pursued him and then ultimately shot and killed Green. Thomas then attempted to hide the weapon. Moreover, she lied to officers about having fired her gun while at Page's house and to both officers and a witness about having disposed of the firearm. Based on that evidence, a reasonable fact-finder could readily infer that Thomas had acted knowingly or intentionally when she fired the gun at Green. Thomas' argument on appeal is simply a request that we reweigh the evidence and judge the credibility of witnesses, which we cannot do. We therefore hold that the State presented sufficient evidence to show that Thomas murdered Green, and we affirm her conviction.

[17] Affirmed.

Crone, J., and Pyle, J., concur.

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