

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as binding precedent, but it may be cited for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Doyle Wilson, Jr.,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

January 26, 2023

Court of Appeals Case No.  
22A-CR-781

Appeal from the Delaware Circuit  
Court

The Honorable Thomas A.  
Cannon, Jr., Judge

Trial Court Cause No.  
18C05-1907-MR-1

**Robb, Judge.**

## Case Summary and Issues

- [1] Following a jury trial, Doyle Wilson, Jr. was found guilty of murder, a felony; and conspiracy to commit burglary, a Level 1 felony. Wilson received an aggregate sentence of fifty years in the Indiana Department of Correction. Wilson appeals his convictions, raising two issues for our review, which we restate as: 1) whether the trial court abused its discretion in admitting a coconspirator's statements and certain cell phone records into evidence; and 2) whether there was sufficient evidence to prove Wilson committed conspiracy to commit burglary. Concluding that the trial court did not abuse its discretion in admitting the evidence, and there was sufficient evidence to support Wilson's conviction of conspiracy to commit burglary, we affirm.

## Facts and Procedural History

- [2] In February 2017, Isaiah Davis ("Isaiah"), a local drug dealer, lived in a two-bedroom apartment in Muncie with a roommate, Hunter Hess ("Hunter"). Isaiah had a large gun safe in his bedroom closet where he stored illegal drugs, guns, and between five and ten thousand dollars in cash. Isaiah used his Snapchat social media account to advertise the drugs and guns that he had available for sale, and he posted pictures of himself holding cash.
- [3] Matthew Fisher ("Matthew"), who had lived in Muncie since 2016, and was also a drug dealer, engaged in drug transactions with Isaiah that amounted to

buying and selling marijuana and prescription pills from each other. Matthew followed Isaiah's drug-inventory advertisements on Snapchat, and he had been to Isaiah's apartment on more than one occasion to view Isaiah's drug inventory and purchase marijuana.

[4] Matthew knew Marcus Hanyard ("Marcus") from playing basketball at the Boys and Girls Club when they were younger and, later, through a drug-dealing relationship that the two had developed. Matthew met Wilson and an individual named Dejaun Branson ("Dejuan") through Marcus. Wilson and Marcus are cousins. Dejuan was Wilson's good friend. The group of men would meet periodically at an apartment that was located in Muncie.

[5] Three to four months prior to February 2017, Matthew, Marcus, Dejuan, Wilson, and another acquaintance known as Neeko began to discuss robbing Isaiah. They met between ten and twenty times and discussed what quantity of marijuana or pills Isaiah might have, where Isaiah lived, and whether he had guns. Wilson and Marcus asked for specific information from Matthew regarding Isaiah's address; the layout of Isaiah's apartment; whether Isaiah kept money, marijuana, and any other illegal drugs at his apartment; where the drugs could be found in the apartment; and when Isaiah would have a large quantity of drugs, money, or both in his apartment. And Matthew provided the information to them. Matthew also told Wilson and Marcus that Isaiah had guns inside his apartment.

- [6] On February 7, 2017, around 8:00 a.m., Wilson and Neeko exchanged text messages and discussed going to Isaiah’s apartment to surveille it. Later that day Wilson purchased a gun, and he and Marcus drove to a local gun range together to practice firing their guns.
- [7] At approximately 7:40 p.m. on February 8, Matthew communicated with Isaiah by cell phone and text messages about Isaiah possessing a large amount of prescription pills. Matthew captured from Isaiah’s Snapchat account a screenshot of the pills Isaiah possessed. Matthew then asked Isaiah if Isaiah had marijuana for sale, and Isaiah indicated that he did. The two also discussed a price for the pills. A few minutes after learning the information from Isaiah, Matthew reported it to Wilson and Marcus. Marcus responded, “We should hit the lick[,]” meaning that they should rob Isaiah soon. Appellate Transcript, Volume 3 at 39.
- [8] The evening of February 8, Isaiah and his roommate, Hunter, entertained three friends at their apartment. They spent time in Isaiah’s bedroom, which was located at the front of the apartment near the apartment’s front door. At some point that evening, Isaiah’s and Hunter’s friends left the apartment. Around 9:00 or 10:00 p.m., Hunter went to his bedroom, located near the rear of the

apartment, to sleep because he had to get up early the next morning to drive to his job in Michigan.<sup>1</sup>

- [9] Around midnight, Hunter's best friend Zach Farmer ("Zach") arrived at the apartment and visited with Isaiah in Isaiah's bedroom. Zach sat in one of two reclining chairs located just inside the bedroom door, and the chair that Zach sat in was located closest to the door. Isaiah was standing near a coffee table that had been placed in front of the reclining chairs and was located toward the right side of the room. If standing at the bedroom door, Isaiah's bed was positioned in the back right corner of the bedroom, and the closet that contained the large gun safe was located on the left side of the bedroom, across from Isaiah's bed. *See* Documentary Exhibits, Volume 7 at 9 (Diagram 1).

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<sup>1</sup> Hunter worked in construction. He traveled to his assigned job site and stayed at a hotel during the work week then traveled home to Muncie on weekends.

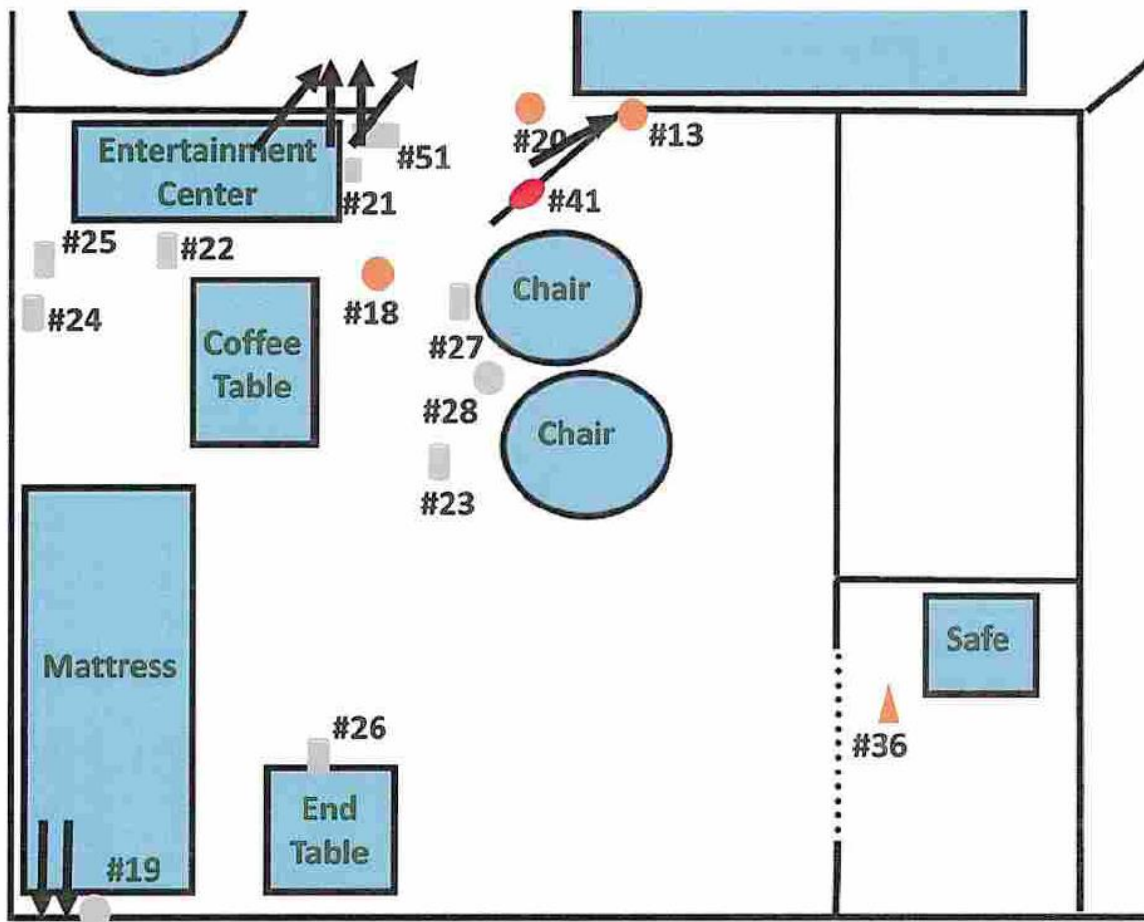


Diagram 1 (Ex., Vol. 7 at 9).

[10] Around 3:00 a.m. on February 9, Hunter woke up and got ready for work. He then noticed a light on in Isaiah’s bedroom. Hunter entered Isaiah’s bedroom, saw that Isaiah and Zach were talking and smoking marijuana, and decided to smoke marijuana with them. Hunter sat in the other reclining chair that was located closer to the closet.

[11] After a few minutes, Hunter said his “farewells and went to [his] car to leave for work.” Tr., Vol. 2 at 212. However, after starting his car, he returned to the apartment, having discovered that due to the cold weather, he needed to warm

up his car and allow his car windows to defrost. Hunter sat in the same reclining chair he had left moments ago and, again, smoked marijuana. Shortly thereafter, Isaiah heard a noise. He then saw the bedroom door swing open and a man fire gunshots into the room. Isaiah grabbed a gun from the table and returned fire until his gun jammed. Hunter got up from his chair and ran to the closet that contained the gun safe, hoping to find a gun in the safe. Hunter did not find a gun, but he remained in the closet for approximately ten to fifteen seconds while the gunshots continued, and the bedroom filled with gun smoke. The intruder eventually ran out of the apartment and into the alley.

[12] When the gunshots stopped, Hunter ran to Zach who was lying face forward on the ground in front of his chair. Zach had been shot eight times. Isaiah told Hunter that Hunter needed to take Zach to the hospital. Isaiah also told Hunter not to call the police or an ambulance because Isaiah needed to “hid[e] everything in the house that [he] believed was illegal[.]” *Id.* at 154. Hunter carried Zach to his car and placed Zach in the passenger seat.

[13] Meanwhile, Isaiah picked up a rifle that had been laying on his bedroom floor and attempted to pursue the intruder. But by the time Isaiah exited the apartment, the intruder was gone. Isaiah threw the rifle down on the ground near an exterior basement staircase. Isaiah then began making trips to his car that was parked along the street in front of the apartment – “running in and out of the [apartment,]” “carrying things” and “hiding drugs[.]” *Id.* at 217.

[14] Neighbors called 911, reporting that they heard gunshots. When police officers arrived, they saw Hunter in the driver's seat of his car and Zach in the passenger seat. Zach died at the scene, and his wounds were consistent with .40 caliber rounds of ammunition. The fatal gunshot wound entered his right lung, passed through his aorta, and exited his back on his left side.

[15] Later in the morning, on February 9, Matthew learned from a news story that a robbery had occurred. He called Marcus, and Marcus told Matthew that he had been involved in a shootout at Isaiah's apartment and that a gun was pointed at him. On February 12 and 13, Wilson sent text messages to various individuals about selling his .40 caliber handgun.

[16] Wilson's, Marcus's, and Isaiah's cell phones, text messages, and Internet search records, in addition to forensic evidence gathered at the scene of the crime, tied Wilson and Marcus to Zach's murder and led to their arrest. Marcus was arrested on February 19, in Indianapolis at a friend's house. Law enforcement subsequently searched Marcus's Muncie residence and found a .40 caliber Glock handgun, .40 caliber Federal and .40 caliber Blazer ammunition, and a duffel bag with clothing and bandages inside. He also had a bandage on his left calf that covered a "[g]raze gunshot wound." Tr., Vol. 3 at 129.<sup>2</sup>

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<sup>2</sup> On February 26, 2018, Marcus was tried by jury on charges related to Zach's murder. Wilson was called as a witness and testified for the defense.



- [17] On July 18, 2019, the State charged Wilson with murder, a felony, alleging that during a robbery or attempted robbery a person was killed; and Level 1 felony conspiracy to commit burglary. That same day, a warrant was issued for Wilson's arrest, and Wilson was arrested eight days later. On July 9, 2021, the State amended the charging information for murder to include that Wilson aided, induced, or caused others to commit robbery or attempted robbery and that during the course of the robbery or attempted robbery, a person was killed.
- [18] Following a six-day jury trial, which began on February 22, 2022, and concluded on March 1, Wilson was found guilty as charged. On March 24, the trial court held a sentencing hearing and sentenced Wilson to a term of fifty years executed in the Indiana Department of Correction. Wilson now appeals his convictions.

## Discussion and Decision

### I. Admission of Evidence

#### A. Standard of Review

- [19] Trial courts have broad discretion in ruling on the admissibility of evidence and we will disturb an evidentiary ruling only where it is shown the trial court abused that discretion. *Attkisson v. State*, 190 N.E.3d 447, 451 (Ind. Ct. App. 2022), *trans. denied*. An abuse of discretion occurs when a trial court's decision to admit or exclude evidence is clearly against the logic and effect of the facts and circumstances before it. *Turner v. State*, 953 N.E.2d 1039, 1045 (Ind. 2011).

## B. Hearsay

[20] At his jury trial, Wilson objected to Matthew’s testimony regarding statements Marcus made to Matthew about going forward with robbing Isaiah, specifically, “We should hit the lick.” Tr., Vol. 3 at 35, 39. And during Matthew’s testimony, Wilson made a broader objection to “everything that was said to [Marcus] and everything that [Marcus] said[,]” arguing that such statements were not admissible because the State had not established the existence of a conspiracy between the various individuals who were privy to the plan to rob Isaiah. *Id.* at 36. Over Wilson’s objection, the trial court permitted Matthew’s testimony about Marcus’s statements.<sup>3</sup> Later in the trial, during the State’s direct examination of a sergeant with the Indiana State Police, Wilson objected on grounds of hearsay to the introduction into evidence of portions of his own cell phone records, as well as Marcus’s cell phone records. The trial court admitted the cell phone evidence over Wilson’s objections. On appeal, Wilson argues that the admission of Marcus’s statements and Wilson’s and Marcus’s cell phone records was error and warrants reversal of his convictions.

[21] The Indiana Rules of Evidence define hearsay as “a statement that: (1) is not made by the declarant while testifying at the trial . . . ; and (2) is offered in

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<sup>3</sup> Initially, the trial court determined that Marcus’s statements to Matthew were not made in furtherance of the conspiracy and sustained Wilson’s objection. *See* Appellate Transcript, Volume 3 at 36. The State continued with its direct examination of Matthew and again attempted to elicit testimony from him regarding what Marcus had told him. Wilson objected, the trial court overruled Wilson’s objection, and Matthew was permitted to testify to what Marcus told him about going forward with the robbery. *See id.* at 38.

evidence to prove the truth of the matter asserted.” Ind. Evidence Rule 801(c). Hearsay is generally not admissible in evidence. *See* Evid. R. 802.

Evidence Rule 801(d), however, specifies that certain statements that would otherwise constitute hearsay are, by rule, not hearsay at all. For example, an opposing party’s statement is not hearsay. Evid. R. 801(d)(2). This is so when the opposing party is himself making the statement. Evid. R. 801(d)(2)(A). It is also the case when an opposing party’s coconspirator is making the statement. Evid. R. 801(d)(2)(E).

*M.T.V. v. State*, 66 N.E.3d 960, 964 (Ind. Ct. App. 2016), *trans. denied*.

[22] Importantly, however, to be admissible under Indiana Rule of Evidence 801(d)(2)(E),

the coconspirator’s statement must be made in furtherance of the conspiracy. [T]he coconspirator’s “statement does not by itself establish . . . the existence of the conspiracy . . . .” [Evid. R. 801(d)(2)(E)]. Rather, the State must introduce “independent evidence” of the conspiracy before a coconspirator’s statement will be admissible as non-hearsay. *Lander v. State*, 762 N.E.2d 1208, 1213 (Ind. 2002).

*M.T.V.*, 66 N.E.3d at 964. A statement is made in the course of a conspiracy when it is “made between the beginning and ending of the conspiracy[.]”

*Houser v. State*, 661 N.E.2d 1213, 1219 (Ind. Ct. App. 1996), *trans. denied*. And a statement is in furtherance of a conspiracy when the statement is “designed to promote or facilitate achievement of the goals of the ongoing conspiracy[.]”

*Leslie v. State*, 670 N.E.2d 898, 901 (Ind. Ct. App. 1996) (quoting *United States v. Tracy*, 12 F.3d 1186, 1196 (2nd Cir. 1993)), *trans. denied*. To prove a conspiracy,

the State need not prove the existence of a formal express agreement. *Porter v. State*, 715 N.E.2d 868, 870 (Ind. 1999). “It is sufficient if the minds of the parties meet understandingly to bring about an intelligent and deliberate agreement to commit the offense.” *Id.* at 870-71 (citation omitted).

[23] In the instant case, Matthew testified that prior to February 2017, he met with Wilson between ten and twenty times at an apartment in Muncie, and others were present at the meetings, including Marcus, Dejuan, and Neeko. Matthew also testified that he “had discussions” with Wilson, Marcus, Dejuan, and Neeko about robbing Isaiah and that they discussed details such as the quantity of drugs Isaiah might have and “how [the robbery] would be done.” Tr., Vol. 3 at 18, 19. Matthew told the jury that he “passed [Isaiah’s] address along to both Marcus and [Wilson,]” and to “everybody that was privy to those conversations.” *Id.* at 19. Matthew testified that “one of the possibilities [for committing the robbery,] . . . to ensure that there were drugs there while [the robbery] happened[, was] that I would go . . . and be in the act of purchasing the marijuana and then [would] text [Wilson and Marcus] and let them know that there was enough [marijuana] there.” *Id.* at 19-20. However, Matthew further testified that he, Wilson, and Marcus “ultimately did not agree on that plan.” *Id.* at 20. Matthew told the jury that Wilson and Marcus asked him to describe the layout of Isaiah’s apartment. He also told the jury that on the evening before the robbery occurred, he exchanged text messages with Isaiah to determine if Isaiah possessed marijuana at that time and that, upon learning

that Isaiah did possess marijuana, Matthew immediately passed the information to Wilson and Marcus.

[24] Here, we find that the independent evidence was more than sufficient to establish the existence of a robbery conspiracy between Wilson, Matthew, Marcus, and Dejuan for the purposes of Evidence Rule 801(d)(2)(E). The evidence establishing the existence of the conspiracy was presented before Marcus's statements and Wilson's and Marcus's cell phone records were admitted into evidence. And, at the point in the trial when Matthew testified to the existence of a conspiracy, the jury had already heard Isaiah testify that his apartment had been burglarized. Therefore, the trial court did not abuse its discretion by admitting into evidence Marcus's statements and Wilson's and Marcus's cell phone records.<sup>4</sup>

## II. Sufficiency of the Evidence

### A. Standard of Review

[25] When reviewing a sufficiency of the evidence claim, we neither reweigh the evidence nor judge witness credibility. *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020). We consider only the evidence supporting the verdict and any

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<sup>4</sup> Wilson also contends that “[m]any of the text messages” found in his cell phone records were generated “after the shooting” had occurred and, therefore, were “flatly inadmissible as being declarations made after the conspiracy had been effected and the crime perpetrated.” Defendant-Appellant’s Brief at 12. However, Wilson has failed to provide this Court with the particular text messages he challenges, and he has failed to provide a cogent argument for this issue. Thus, he has waived this issue for our review. *See* Ind. Appellate Rule 46(A)(8)(a) (requiring that contentions in appellant’s brief be supported by cogent reasoning and citations to authorities, statutes, and the appendix or parts of the record on appeal).

reasonable inferences drawn from that evidence. *Id.* “We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt.” *Id.* at 263. It is not necessary that the evidence overcome every reasonable hypothesis of innocence. *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (citation omitted).

## **B. Evidence of the Existence of a Conspiracy**

[26] Wilson contends that the State failed to present sufficient evidence of him being part of a conspiracy to convict him of conspiracy to commit burglary as a Level 1 felony. “A person conspires to commit a felony when, with intent to commit the felony, the person agrees with another person to commit the felony.” Ind. Code § 35-41-5-2. To convict Wilson of Level 1 felony conspiracy to commit burglary, per the charging information, the State was required to prove that Wilson agreed with Matthew, Marcus, and Dejaun to commit that offense. “The State is not required to present evidence of an express agreement.” *Drakulich v. State*, 877 N.E.2d 525, 531-32 (Ind. Ct. App. 2007), *trans. denied*. “An agreement can be inferred from circumstantial evidence, which may include the overt acts of the parties in furtherance of the criminal act.” *Dickenson v. State*, 835 N.E.2d 542, 552 (Ind. Ct. App. 2005), *trans. denied*.

[27] Matthew testified that he met with Wilson, Marcus, and Dejuan on multiple occasions and that during the meetings, they hatched a plan to rob Isaiah. Cell phone data from Wilson showed that he purchased a handgun two days before

the robbery occurred, and he and Marcus went to a gun range to practice shooting. A few days after Isaiah's apartment was burglarized, Wilson sent text messages to various individuals about selling his handgun. This evidence alone was more than sufficient to establish the existence of a conspiracy and support Wilson's conviction of conspiracy to commit burglary.

## Conclusion

[28] The trial court did not abuse its discretion in admitting into evidence Wilson's coconspirator's statements and Wilson's and his coconspirator's cell phone records, and the State presented sufficient evidence that Wilson was part of a conspiracy to support Wilson's conspiracy to commit burglary conviction. Therefore, we affirm Wilson's convictions.

[29] Affirmed.

Mathias, J., and Foley, J., concur.