

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Judy Caroline Moore,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 26, 2023

Court of Appeals Case No.
22A-CR-3027

Appeal from the Jasper Superior
Court

The Honorable Russell D. Bailey,
Judge

Trial Court Cause No.
37D01-2001-MR-35

Memorandum Decision by Judge Bradford
Judges Riley and Weissmann concur.

Bradford, Judge.

Case Summary

- [1] Judy Caroline Moore was convicted of Level 2 felony voluntary manslaughter and Level 6 felony obstruction of justice for killing her stepmother, Trula Alliss. Moore challenges her convictions on appeal, arguing that the trial court abused its discretion by omitting certain evidence and that the evidence is insufficient to sustain her voluntary manslaughter conviction. We affirm.

Facts and Procedural History

- [2] In early 2015, Moore and Alliss both lived in the Serenity Terrace apartment complex in Rensselaer. Desiree Wanda and her mother, Gloria Wanda, also lived in the apartment complex. Gloria and Alliss lived in the same building, but Moore and Desiree lived in a different building. Desiree had often helped Alliss by bringing Alliss her mail and items from the store.
- [3] Surveillance video from the apartment complex indicates that on February 3, 2015, Moore entered Alliss’s building at 11:28 a.m. and exited Alliss’s building at 12:40 p.m. Approximately ten minutes later, Moore called and left a message on Alliss’s answering machine, indicating that she was going to go to Walmart. Later that day, Desiree collected Alliss’s mail and knocked on Alliss’s door. Alliss did not answer the door, so Desiree “stuck” the mail between the door and doorframe. Tr. Vol. IV p. 69.
- [4] At approximately 1:00 p.m. on either February 4 or 5, 2015, Moore’s neighbor, Susan Pope, smelled smoke emanating from Moore’s apartment. The smell of

smoke was present in Pope's closet, which shared a wall with Moore's bedroom. Pope opined that the smoke had smelled like burning clothes or fabric.

[5] On February 5, 2015, Desiree again stopped by Alliss's apartment and knocked on the door, but Alliss did not answer. Desiree observed that the mail that she had put in Alliss's door two days prior was still in the same place. Desiree and Gloria then began to worry about Alliss because she had also not returned any phone calls for two days. Desiree called Moore and shared her concern about Alliss. Moore refused to go check on Alliss and indicated that Alliss's door had been left unlocked and that if they thought it was necessary, either Desiree or Gloria should check in on Alliss. Gloria entered Alliss's apartment and found Alliss deceased.

[6] Police responded to Alliss's apartment and found her deceased in the bedroom. Police observed that Alliss was partially lying on her bed in a "weird" position, with her head and arms hanging off the bed. Tr. Vol. II p. 197. "[T]here was blood splatter on the walls, ceiling, and ... a pool of blood under her" head on the floor. Tr. Vol. II p. 197. Police later determined that Alliss's manner of death had been homicide with the cause of death being "exsanguination or bleeding out from multiple lacerations of the scalp due to blunt force trauma to her head." Tr. Vol. III p. 111.

[7] At the time police entered Alliss's apartment, the apartment appeared generally in order, and it did not appear that the apartment had been burglarized. Alliss's

wallet, money, and prescription medications were all undisturbed, and it did not appear that any items were missing from the apartment. Alliss's television was on and was playing Dish Network Channel 2 news.

[8] When police informed Moore that Alliss had passed away, Moore "said okay, and she sat down on the stairway that was in the hallway outside the apartment. And she didn't ask any questions." Tr. Vol. II p. 235. Moore later told police that the last time she had seen Alliss alive had been two days prior.

[9] While investigating Alliss's death, police spoke to Hunter Snow, a neighbor who was present at the complex and had walked over to the crime scene to speak with other neighbors who had gathered. Snow provided officers with some allegedly anonymous information that he claimed to have gathered from neighbors. Snow claimed to have "drug information," but his statements were merely a lot of "rambling about a lot of different things." Tr. Vol. IV p. 89. Snow subsequently requested to speak with police again and the officers found it unusual that Snow had willingly "inserted himself into the investigation." Tr. Vol. III p. 247. Snow provided police with information regarding his whereabouts during the relevant timeframe, informing police that he had attended his grandfather's funeral and had gotten back into town on the date Alliss's body had been found. He also named "a few" people who he thought might have committed the crime. Tr. Vol. IV. p. 58.

[10] Police returned to the apartment complex on numerous occasions to speak to Moore and to search her apartment. On one occasion, Moore indicated that

during her last contact with Alliss, she had given Alliss bad news and that Alliss had gone to her room to lie down. Moore indicated that Alliss had normally locked the door when she left but that “she had been the one locking the door” because Alliss “had hurt her foot.” Tr. Vol. IV p. 18. Moore further indicated that “people had been knocking on doors and robbing people.” Tr. Vol. IV p. 19. Police, however, determined that there had been no reports of break-ins in the apartment complex during that timeframe.

[11] On another occasion, Moore provided an inconsistent statement, claiming that Alliss had been in the bathroom when she left. She also told police that someone had knocked on Alliss’s door while she had been inside Alliss’s apartment on February 3, 2015, but that she had not heard anyone try to enter through the unlocked door at the time. She further stated that she had not locked the door behind her when she left Alliss’s apartment “even though someone had supposedly knocked on the doors.” Tr. Vol. IV pp. 22–23. She indicated that during her visit, she had upset Alliss and that Alliss had “yelled at her” and that it had been “the most upset she had ever seen” Alliss. Tr. Vol. IV p. 24.

[12] On a third occasion, Moore was wearing a different jacket than she had previously worn and indicated that Alliss had been “sitting at the table, ... watching the Channel 2 news” when she left Alliss’s apartment. Tr. Vol. IV p. 24. On a fourth occasion, Moore made inconsistent statements about her February 3, 2015 trip to Walmart and regarding a supposed will that she had allegedly helped Alliss make. During a search of Moore’s apartment on

February 19, 2015, police informed Moore that they had “located blood in her vehicle” and that “[a]t the time, [they] didn’t know who the blood belonged to.” Tr. Vol. IV p. 28. Moore responded “‘Was it my blood or,’ and she just left it at that.” Tr. Vol. IV p. 28.

[13] On February 26, 2015, Moore told police that she had donated the jacket that she had been wearing on February 3, 2015. Pope subsequently informed police that Moore had “[a]lways” worn the same coat and tennis shoes but that she had been wearing a different coat and shoes when she was taken into custody on February 26, 2015. Police never located the jacket or shoes that Moore had been wearing on February 3, 2015.

[14] Police returned to Moore’s apartment on March 9, 2015, because the property manager had discovered fire damage in the apartment while cleaning and that the battery had been removed from the smoke detector. Upon inspection, there was soot on the floor and around the door jambs, windows, air registers, and outlet covers that appeared to have come from a petroleum product, like the rubber from tennis shoes. Police also subsequently recovered DNA from under Alliss’s body in areas consistent with defensive actions. Moore’s DNA was found in various locations, including underneath Alliss’s fingernails and on a swab of blood from Alliss’s hand. Desiree, Gloria, and Snow were all excluded as possible contributors of the DNA.

[15] Alliss’s autopsy revealed that she had suffered multiple blows to the left side of her head that had resulted in nine lacerations on her scalp. The lacerations had

caused severe blood loss and “[m]ost of her blood in her body was on the floor at the foot of the bed, and on the bed sheets, and her clothing.” Tr. Vol. III p. 114. She also had abrasions, bruising, and blood on her hands and knuckles, injuries that were all consistent with defensive injuries obtained during a struggle. Alliss would have died within minutes of receiving her injuries, and pathologists who examined her body determined that the date of death could have been February 3, 2015.¹ Subsequent analysis of the blood splatter found at the crime scene revealed “several stains that were consistent with impact” as well as “flight” patterns which can be derived

from castoff or castoff cessation, which cast off cessation means something came to an abrupt stop and the blood flew off of that object, whether it could be a hand or some type of object. There was just a lot of blood that was in flight and making contact with the walls, as well as the ceiling, the floor, and all the objects within that room.

Tr. Vol. III pp. 161–62. The patterns indicated that the attack on Alliss had been “forceful” and had started near the bedroom door and moved into the room toward the bed. Tr. Vol. III p. 164. Police were also able to recover several deleted messages from Moore’s cell phone that related to the investigation into Alliss’s death, including text messages to friends in which

¹ One of the two pathologists indicated that Alliss’s death could have been on either February 3, or 4, 2015, while the other determined that Alliss’s death could have occurred on February 3, 2015.

Moore indicated that she had hoped that police would not find sufficient evidence to arrest her.

[16] On September 4, 2018, police went to the Jasper County Jail to speak with Shane Born, who claimed to have information about Hunter Snow and the death of “the old lady at Serenity.” Tr. Vol. III p. 2. After speaking to Born, however, police determined that Born’s information did not match or “mesh with the reports and information that [they] had already received.” Tr. Vol. III p. 10. Also, by that time, police no longer considered Snow to be a suspect because “he [had] an alibi” for the timeframe for Alliss’s death. Tr. Vol. III p. 12.

[17] On January 10, 2020, the grand jury returned indictments against Moore for murder, Level 2 felony voluntary manslaughter, Level 5 felony involuntary manslaughter, Level 5 felony battery resulting in serious bodily injury, Level 6 felony battery with moderate bodily injury, and Level 6 felony obstruction of justice. A jury trial commenced on September 26, 2022. During trial, Moore sought to introduce evidence suggesting that Snow had committed the murder. In support of this theory, Moore sought to introduce testimony from Snow and Born. Moore argued that Snow had been present at the scene when police found Alliss and that Snow had had a motive to kill Alliss because Snow was homeless and using drugs. Moore anticipated that Snow would deny killing Alliss and offered that Born would impeach Snow’s testimony and testify that Snow had made admissions about Alliss’s murder when they were incarcerated together in 2018. The trial court excluded the proffered testimony of Snow and

Born, determining that Moore had not sufficiently connected Snow as a third-party suspect.

[18] Following the trial court's ruling, Moore made an offer of proof through Snow and Born testifying outside the presence of the jury. Snow testified that in early 2015, he had lived in Serenity Terrace with his father and his father's girlfriend. Snow had been interested in law and legal investigations at the time, reading "a lot of books on law" because he had "wanted to go to school for investigation." Tr. Vol. V. p. 127. Snow had returned to Rensselaer from his grandfather's funeral in Illinois on the day that Alliss's body was discovered. At some point, Snow had walked over to the crime scene because he had been curious and had wanted to be "a part of something." Tr. Vol. V p. 137. He had spoken to the police and had told them what he had heard from others. Sometime between Alliss's death and when he was incarcerated with Born in the summer of 2018, Snow had heard that Moore had used a hammer and a cane to murder someone, but he had been unsure whether that was true or was gossip. Snow shared that information with Born, but claimed that he had not killed Alliss and had never claimed to have killed Alliss.

[19] Born testified that he was incarcerated with Snow in the Jasper County Jail in 2018. Born stated that when he had shared a cell with Snow, Snow had claimed that in 2015, he had been homeless and living in a graveyard, had hit an old lady with a cane or hammer, and had stolen her money and pills. After Snow and Born testified, the trial court reaffirmed its prior ruling that the jury

would not hear testimony relating to Snow's alleged third-party motive to kill Alliss.

[20] At the conclusion of trial, the jury found Moore not guilty of murder and guilty of each of the remaining counts. On November 21, 2022, the trial court entered judgment of conviction on the Level 2 felony voluntary manslaughter and Level 6 felony obstruction charges and vacated the remaining convictions. The trial court then imposed an aggregate seventeen and one-half-year sentence, with two years suspended to probation.

Discussion and Decision

[21] Moore contends that the trial court abused its discretion by excluding proffered evidence of third-party motive. Moore alternatively contends that the evidence is insufficient to sustain her voluntary manslaughter conviction.

I. Admission of Evidence

[22] Evidence of a third-party motive tends makes it less probable that the defendant committed the crime, and is therefore relevant under Rule of Evidence 401. *Joyner v. State*, 678 N.E.2d 386, 389 (Ind. 1997). However, this evidence may be excluded if its probative value is out-weighed by unfair prejudice, confusion of the issues, or the potential to mislead the jury. Ind. Evid. R. 403. In the context of third-party motive evidence, these rules are grounded in the widely-accepted principle that before evidence of a third party is admissible, the defendant must show some connection between the third party and the crime. *See Holmes v. South Carolina*, 547 U.S. 319, 327 & n. *, 126 S. Ct. 1727, 164 L.Ed.2d 503 (2006) (listing jurisdictions and quoting 41 C.J.S.,

Homicide § 216, at 56–58 (1991) (“Evidence tending to show the commission by another person of the crime charged may be introduced by accused when it is inconsistent with, and raises a reasonable doubt of, his own guilt; but frequently matters offered in evidence for this purpose are so remote and lack such connection with the crime that they are excluded.”)).

Pelley v. State, 901 N.E.2d 494, 505 (Ind. 2009), *abrogated on other grounds by Austin v. State*, 997 N.E.2d 1027, 1039 (Ind. 2013). A party may claim error in a trial court order excluding evidence on appeal “only if the error affects a substantial right of the party and: ... [the] party informs the court of its substance by an offer of proof, unless the substance was apparent from the context.” Ind. Evid. R. 103(a)(2); *see also Lashbrook v. State*, 762 N.E.2d 756, 758 (Ind. 2002). “Appellate review of admissibility determinations by the trial court is for abuse of discretion, and reversal is appropriate only where the decision is clearly against the logic and effect of the facts and circumstances.” *Joyner*, 678 N.E.2d at 390.

[23] Moore argues that the trial court abused its discretion in excluding Snow’s and Born’s testimony, arguing that the testimony would have demonstrated Snow’s potential third-party motive to kill Alliss. Again, before evidence relating to a third party is admissible, the defendant must show some connection between the third party and the crime. *Pelly*, 901 N.E.2d at 505; *McGaha v. State*, 926 N.E.2d 1050, 1053 (Ind. Ct. App. 2010), *trans. denied*. In this case, the trial court determined that Moore had failed to establish a connection between Snow

and the crime. We cannot say that the trial court abused its discretion in reaching this determination.

[24] While it is undisputed that Snow talked to police on the day that Alliss's body was discovered, at the time, he indicated that he was sharing information that he had heard from others. Police also determined that some of the information provided to them by Snow was inaccurate. Furthermore, while Moore argues that Born's testimony would have contradicted Snow's assertion that he had not committed the murder, the trial court found that Born's testimony was not sufficient to create a link between Snow and the crime given the other evidence establishing that Snow had had an alibi for the date on which Alliss had been killed and that he had been excluded as a potential source of the DNA recovered from Alliss's body.²

[25] Moore's offer of proof indicated that Snow had not known Alliss and had denied killing her. Her offer of proof from Born also indicated that while Born claimed Snow had made comments about hitting an old lady with a hammer, Snow appeared to have been suffering from mental-health issues at the time, talking to himself and acting like his reflection on a window was a demon. Given that Born's statement was not credible, together with Snow's alibi and

² The opposite was true in *Joyner*, with the DNA evidence excluding the defendant as a source and affirmatively connecting a third party as the source of the DNA. 678 N.E.2d at 389. As such, the Indiana Supreme Court's decision in *Joyner* that the trial court had abused its discretion in excluding evidence of third-party motive is easily distinguishable from the case at hand.

the lack of physical evidence connecting him to Alliss, we conclude that the trial court acted within its discretion in excluding the proffered evidence.

II. Sufficiency of the Evidence

[26] When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable factfinder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146–47 (Ind. 2007) (cleaned up). Stated differently, in reviewing the sufficiency of the evidence, “we consider only the evidence and reasonable inferences most favorable to the convictions, neither reweighing evidence nor reassessing witness credibility” and “affirm the judgment unless no reasonable factfinder could find the defendant guilty.”

Mardis v. State, 72 N.E.3d 936, 938 (Ind. Ct. App. 2017) (quoting *Griffith v. State*, 59 N.E.3d 947, 958 (Ind. 2016)).

[27] In order to prove that Moore committed Level 2 felony voluntary manslaughter, the State was required to prove that Moore knowingly or intentionally killed Alliss while acting under sudden heat. Ind. Code § 35-42-1-

3(a). “The existence of sudden heat is a mitigating factor that reduces what would otherwise be murder ... to voluntary manslaughter.” Ind. Code § 35-42-1-3(b).

[28] In challenging the sufficiency of the evidence to sustain her conviction, Moore does not challenge the sufficiency of the evidence to prove that she killed Alliss, arguing only that the evidence is insufficient to prove she acted with sudden heat.

“In Indiana, voluntary manslaughter requires evidence of an impetus to kill that arises ‘suddenly.’” [*Stevens v. State*, 691 N.E.2d 412, 426 (Ind. 1997)]. Thus, voluntary manslaughter can be “supported if there exists evidence of sufficient provocation to induce passion that renders a reasonable person incapable of cool reflection.” *Roark v. State*, 573 N.E.2d 881, 882 (Ind. 1991). “Any appreciable evidence of sudden heat” will indeed justify an instruction on voluntary manslaughter. *Id.*

Carmack v. State, 200 N.E.3d 452, 462 (Ind. 2023).

Sudden heat exists when a defendant is “provoked by anger, rage, resentment, or terror, to a degree sufficient to obscure the reason of an ordinary person, prevent deliberation and premeditation, and render the defendant incapable of cool reflection.” *Isom v. State*, 31 N.E.3d 469, 486 (Ind. 2015) (internal citation omitted). Evidence of sudden heat may be found in either the State’s case or the defendant’s. *Jackson v. State*, 709 N.E.2d 326, 328 (Ind. 1999). It is up to “the jury to decide whether the evidence presented constitute[s] sudden heat sufficient to warrant a conviction for voluntary manslaughter.” [*Bane v. State*, 587 N.E.2d 97, 100 (Ind. 1992)].

Brantley v. State, 91 N.E.3d 566, 572 (Ind. 2018).

[29] The evidence establishes that prior to Alliss’s death, Moore and Alliss had been engaged in an emotional conversation about Moore’s decision to move to Georgia. Moore indicated that Alliss had been upset with her during the conversation. The circumstantial evidence established that Moore had become angry before grabbing a nearby hard object and hitting Alliss multiple times with the object on the head. We agree with the State that “Moore’s use of an object at hand rather than bringing a weapon like a gun or knife supported the jury’s finding of sudden heat.” Appellee’s Br. p. 27. In addition, in a text message to a friend, Moore described Alliss as getting “cold” and claimed that Alliss had said that she “should wait till [Alliss] died” to move. Tr. Vol. VII p. 39. Moore had also texted a friend that she thought the police suspected her and that she hoped they did not have enough evidence to arrest her.

[30] The jury was presented with both murder and voluntary-manslaughter charges to consider. After considering the evidence, the jury determined that Moore had acted with sudden heat. The jury’s determination that Moore had acted with sudden heat is sufficiently supported by the evidence. *See Roark*, 573 N.E.2d at 882 (providing that any appreciable evidence of sudden heat justifies an instruction on voluntary manslaughter). Moore’s claim to the contrary effectively amounts to an invitation to reweigh the evidence, which we will not do. *See Drane*, 867 N.E.2d at 146.

[31] The judgment of the trial court is affirmed.

Riley, J., and Weissmann, J., concur.