MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jennifer C. Ohda,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

November 18, 2021

Court of Appeals Case No. 21A-CR-1556

Appeal from the St. Joseph Superior Court

The Honorable Jeffrey L. Sanford, Judge

Trial Court Cause No. 71D03-2004-F3-29

Crone, Judge.

Case Summary

[1] Jennifer C. Ohda appeals her conviction for class A misdemeanor criminal recklessness, arguing that the State failed to rebut her claim of self-defense beyond a reasonable doubt. Finding the evidence sufficient, we affirm.

Facts and Procedural History

[2] On April 25, 2020, Ohda and Rae-Ann LaPlace, who had been friends for thirty years, got into an argument on Facebook. Ohda made some disparaging comments about LaPlace's family, angering LaPlace, who told Ohda that if she did not stop posting such comments, LaPlace would go to Ohda's house, and they would "have it out." Tr. Vol. 2 at 13. Ohda responded, "You know where I live!" Ex. Vol. 3A at 91.

[3] In the early afternoon, LaPlace went to Ohda's house to confront her. LaPlace knocked on the front door, and Ohda opened the door and told LaPlace to meet her at the garage. LaPlace walked over to the garage door, which was closed. When the garage door opened, LaPlace saw Ohda pointing a handgun straight at her face. Tr. Vol. 2 at 15. LaPlace told Ohda to put the gun down, and Ohda went to a boat inside the garage and put the gun on the side of the boat. LaPlace asked Ohda if she could enter the garage, and Ohda consented. LaPlace went in the garage, and they started yelling at each other. At one point, Ohda said that LaPlace's sister was an "ignorant b**ch." *Id*. at 17. LaPlace slapped Ohda "out of instinct." *Id*. Ohda "lunged for her gun." *Id*. LaPlace shoved Ohda back so she could get out of the garage and said, "Don't be

f**king stupid." *Id*. LaPlace walked out of the garage and was "quite a few steps out of the garage" when Ohda shot her in the "high end of [her] butt cheek." *Id*. at 18. The bullet exited the front of her body on the right side "right below [her] pelvis" and hit her cell phone, shattering it. *Id*. LaPlace lowered herself to the ground and asked Ohda to help her. Ohda said, "I will not help you. You just slapped me in my d**n face." *Id*. Ohda's husband came out to the garage and called 911.

[4] LaPlace was taken to the hospital. Her discharge summary states that she had a gunshot wound "to the left lower abdomen transversing across and exiting the right." Ex. Vol. 3A at 40. Her emergency room report indicates that the entrance wound was "in the left upper gluteal region" and the exit wound was "in the right lower quadrant." *Id*. at 45. The Pain Clinic Physicians Report provides, "The patient states that the wound entered in the left buttocks region and exited in the right groin."[1] *Id*. at 82. Ohda was arrested and taken to the emergency room, where doctors determined that there was no need for any imaging and that she was safe to be taken to jail. Ohda suffered facial swelling as well as bruising on her left side. *Id*. at 26.

[1] The State says that LaPlace's medical records indicate that the entrance wound was located in the "left posterior lateral abdomen/buttocks" and the exit wound was located in the "right lower quadrant of the abdomen." Appellee's Br. at 6 (quoting Def. Ex. E). We note that Exhibit E is fifty pages. We decline to read the record looking for the State's quote. *See* Ind. Appellate Rule 22(C) (providing that factual statements be supported by citation to volume and page where it appears in appendix, transcript, or exhibits).

[5] The State charged Ohda with level 6 felony pointing a firearm and level 6 felony criminal recklessness. A bench trial was held, at which Ohda claimed self-defense. LaPlace and her sister testified for the State.[2] Ohda, her husband, and their next-door neighbor testified for the defense. At the conclusion of the trial, the trial court took the matter under advisement. In May 2021, the trial court issued an order finding Ohda guilty of level 6 felony criminal recklessness. The trial court entered judgment of conviction for class A misdemeanor criminal recklessness and dismissed the charge for pointing a firearm due to double jeopardy concerns. Ohda was sentenced to one year, suspended to probation. This appeal ensued.

Discussion and Decision

[6] Ohda claims that the State presented insufficient evidence to rebut her self-defense claim. When a defendant challenges the sufficiency of the State's evidence to rebut a claim of self-defense, our standard of review remains the same as for any sufficiency of the evidence claim.[3] *Miller v. State*, 720 N.E.2d 696, 699 (Ind. 1999). We do not reweigh the evidence or judge the credibility of

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[2] LaPlace's sister testified that she called LaPlace while LaPlace was at Ohda's, but all she heard was "Get the gun out of my face. Get the gun out of my face[,]" and then the phone went dead. Tr. Vol. 2 at 39, 41.

[3] Ohda maintains that the facts are not in dispute because the State stipulated to all the exhibits, and therefore this Court's review is de novo. Appellant's Br. at 7-8 (citing *Austin v. State*, 997 N.E.2d, 1039 (Ind. 2013)). *Austin* is inapposite because it involved appellate review under Indiana Criminal Rule 4(B). In any event, simply because the evidence was stipulated to does not mean that the parties do not dispute the factual determinations to be drawn from that evidence. Further, in addition to the stipulated evidence, multiple witnesses testified, and it is within the trial court's bailiwick, not this Court's, to weigh the evidence and judge witness credibility.

the witnesses. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). We must affirm "if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt." *Id.* (citation omitted).

[7] Self-defense is a legal justification for an otherwise criminal act. *Bryant v. State*, 984 N.E.2d 240, 250 (Ind. Ct. App. 2013), *trans. denied*. A person is justified in using reasonable force, including deadly force, against another person to protect herself "if the person believes that the force is necessary to prevent serious bodily injury to the person[.]" Ind. Code § 35-41-3-2(c). To prevail on her self-defense claim, Ohda was required to show that she "(1) was in a place where [she] had a right to be; (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm." *Quinn v. State*, 126 N.E.3d 924, 927 (Ind. Ct. App. 2019). "When a claim of self-defense is raised and finds support in the evidence, the State has the burden of negating at least one of the necessary elements." *King v. State*, 61 N.E.3d 1275, 1283 (Ind. Ct. App. 2016), *trans. denied* (2017). "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 upon the sufficiency of its evidence in chief." *Id*. If a defendant is convicted despite her claim of self-defense, we will reverse only if no reasonable person could say that self-defense was negated beyond a reasonable doubt. *Wilson v. State*, 770 N.E.2d 799, 801 (Ind. 2002).

[8] Here, in concluding that the State had refuted Ohda's self-defense claim, the trial court found LaPlace's testimony more believable then Ohda's and her

husband's because LaPlace's testimony was consistent with her statement to the police and the "testimony of the defense witnesses just [didn't] ring true." Appealed Order at 1. The trial court found that Ohda had a right to be in her own home, and the State had not refuted that Ohda acted without fault. As for the third element, the trial court found that the evidence showed that LaPlace was shot in the buttocks, indicating that LaPlace's back was turned toward Ohda, and that LaPlace was three feet away from Ohda, and therefore the State had established beyond a reasonable doubt that LaPlace no longer posed a danger of death or great bodily harm to Ohda. *Id*. at 2.

[9] Ohda challenges the trial court's finding that she did not have a reasonable fear of death or great bodily harm. According to Ohda, the evidence shows that LaPlace was shot in her left side, not in her back, and therefore LaPlace did not have her back to her. The trial court listened to LaPlace's testimony and found it more believable than that given by the defense witnesses. The court also reviewed LaPlace's medical records, which indicated that the bullet's entry wound was "in the left upper gluteal region." Ex. Vol. 3(A) at 45. Ohda's argument is merely an invitation to reweigh the evidence and judge the credibility of witnesses, which we will not do. *See Wilson*, 770 N.E.2d at 801. Because there was substantial probative evidence and reasonable inferences drawn from the evidence that could have allowed a reasonable trier of fact to find that the State negated Ohda's self-defense claim beyond a reasonable doubt, and because she does not otherwise challenge the sufficiency of the evidence to support her conviction, we affirm.

[10] Affirmed.

Bradford, C.J., and Tavitas, J., concur.