

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Steven W. Rickard,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

November 21, 2023

Court of Appeals Case No.
23A-CR-1032

Appeal from the Vigo Superior
Court

The Honorable Sarah K. Mullican,
Judge

Trial Court Cause No.
84D03-2012-F4-4108

Memorandum Decision by Judge Crone
Judges Riley and Mathias concur.

Crone, Judge.

Case Summary

- [1] Steven W. Rickard appeals his conviction, following a jury trial, for murder. He contends that the State presented insufficient evidence to support his conviction. Finding the evidence sufficient, we affirm.

Facts and Procedural History

- [2] In June 2020, Kristen Gregg locked herself in a gas station bathroom and called the police. She reported that her boyfriend, Rickard, had battered her and threatened her at gunpoint. Gregg and Rickard had been out running errands in his vehicle when this occurred, and Gregg was eventually able to flee to safety at the gas station. When police arrived, officers observed that Gregg had swelling above her left eye and bruises the shape of handprints on her arm and neck. The State charged Rickard with numerous offenses, and he pled guilty to level 5 felony intimidation and level 5 felony battery resulting in serious bodily injury.
- [3] Several months later, on the day before Thanksgiving 2020, Rickard and Gregg were at Gregg's father's house. Rickard and Gregg argued. During the argument, Rickard's gun was on the coffee table. Gregg's father heard Rickard say to Gregg, "I should have just shot you in the f**kin' face." Tr. Vol. 2 at 229. Just a few days later, Rickard and Gregg were arguing at Rickard's house. One of Gregg's friends came to pick her up, and while she was there, she heard Rickard say that "he would shoot [Gregg] because it was his house, and that no

one would say anything about it or do anything about it because it was his house.” *Id.* at 234.

[4] On December 12, 2020, Rickard and Gregg were at his house in Terre Haute with two of Rickard’s friends, Larry Jeffrey and Gary Mankin. Jeffrey had traveled to Rickard’s home to discuss purchasing a gun from Rickard. Mankin had also traveled to Rickard’s home to purchase the gun or to maybe “pick some wood up.” *Id.* at 196. While Jeffrey and Mankin were in the living room, they observed Rickard and Gregg arguing. Rickard was holding a gun, and he said, “[I’m] gonna shoot this bitch.” *Id.* at 167. Then he turned and “like he pointed” the gun at Gregg and “bang, the gun went off.” *Id.* at 171. Rickard said, “[O]h shit,” turned and handed the gun to Jeffrey, and said, “[H]ere, take this and get this out of here.” *Id.* at 167. Jeffrey ran out the front door, hid the gun, and later sold it. Mankin also ran away after Rickard shot Gregg.

[5] Rickard called 911 and told the operator that Gregg had been shot and needed an ambulance. He claimed that his friend had been messing with the gun and cleaning it when it went off. Police and an ambulance arrived at Rickard’s house. Rickard told police that somebody named Brandon had been cleaning and messing with the gun and shot Gregg. Officers transported Rickard to a police station and interviewed him. He told officers that his relationship with Gregg was tumultuous, and he admitted that he had previously battered and threatened to shoot her. Rickard claimed that Jeffrey, Mankin, and Brandon McAllister had been in his house on the morning of the shooting and that some of them used methamphetamine. Rickard claimed that Jeffrey came there to

purchase a gun from one of Rickard's friends. Rickard also claimed that Jeffrey brought McAllister so that McAllister, not Jeffrey, could purchase the gun.

Rickard told officers that he had shot the gun earlier in the day in the basement to demonstrate that it was in working order. He stated that Gregg was angered by him shooting in the basement, which caused them to argue. Rickard also told officers that he and Gregg did not argue that morning.

[6] Rickard initially told police that Gregg was shot accidentally when McAllister was "messaging with" the gun and that McAllister "went to hand [the gun] back to [Rickard] and it went off[.]" Tr. Vol. 3 at 31. Rickard later told police that Jeffrey handed the gun to him and when "he grabbed it, it popped." *Id.* at 42-44. Rickard said that he knew the gun was loaded when he reached for it but he also said that the gun was not supposed to be loaded. Rickard essentially gave officers "four (4) or five (5) different stories" about how Gregg was shot. *Id.* at 31.

[7] Officers searched Rickard's house and found numerous shell casings and live rounds of ammunition in both the living room and the basement. They also found methamphetamine on the coffee table in the living room and Rickard's cell phone on the floor nearby. His cell phone contained a text message that Rickard sent to Mankin that morning offering to sell him the gun. In the basement, officers located a puppet with yellow rope for hair that had been shot in the face multiple times. Officers noted that Gregg had blonde hair.

[8] Gregg’s cause of death was a gunshot wound to the chest. The State charged Rickard with level 4 felony unlawful possession of a firearm by a serious violent felon, level 5 felony reckless homicide, level 5 felony criminal recklessness, level 6 felony pointing a firearm, and level 6 felony possession of methamphetamine. The State also added the use of a firearm sentencing enhancement. The State later amended the charging information, dismissed the reckless homicide charge, and added a murder charge. Prior to trial, the State dismissed the criminal recklessness charge.

[9] A jury trial began on March 6, 2023. The jury found Rickard guilty of murder, pointing a firearm, and possession of methamphetamine. The jury also determined that Rickard possessed a firearm. Rickard admitted to being a serious violent felon, and he further admitted to the firearm sentencing enhancement. A sentencing hearing was held on April 10, 2023. The trial court vacated the pointing a firearm and unlawful possession of a firearm convictions. The court imposed a sixty-year aggregate sentence for the remaining crimes and the firearm sentencing enhancement. This appeal ensued.

Discussion and Decision

[10] Rickard challenges the sufficiency of the evidence to support his murder conviction. In reviewing a claim of insufficient evidence, we do not reweigh the evidence or judge the credibility of witnesses, and we consider only the evidence supporting the verdict and the reasonable inferences arising therefrom. *Schaaf v. State*, 54 N.E.3d 1041, 1043 (Ind. Ct. App. 2016). It is “not necessary that the evidence ‘overcome every reasonable hypothesis of innocence.’” *Drane*

v. State, 867 N.E.2d 144, 147 (Ind. 2007) (quoting *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995)). “We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt.” *Garth v. State*, 182 N.E.3d 905, 919 (Ind. Ct. App. 2022) (quoting *Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009)), *trans. denied*.

[11] To convict Rickard of murder, the State was required to prove beyond a reasonable doubt that Rickard knowingly or intentionally killed Gregg. Ind. Code § 35-42-1-1. Rickard does not dispute that he shot Gregg and killed her. He challenges the State’s proof that he “actually intended to kill Gregg.” Appellant’s Br. at 10.

[12] “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). “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). Because intent is a mental function, absent a confession, “it must be determined from a consideration of the conduct, and the natural consequences of the conduct.” *Laughlin v. State*, 101 N.E.3d 827, 829 (Ind. Ct. App. 2018) (quoting *Duren v. State*, 720 N.E.2d 1198, 1202 (Ind. Ct. App. 1999), *trans. denied*, (2000)). Accordingly, intent often must be proven by circumstantial evidence. *Id.* To that end, the trier of fact is entitled to infer intent from the surrounding circumstances. *White v. State*, 772 N.E.2d 408, 412 (Ind. 2002). “Intent to kill may be inferred from the use of a deadly weapon in a manner

likely to cause death or great bodily injury.” *Corbin v. State*, 840 N.E.2d 424, 429 (Ind. Ct. App. 2006). Moreover, “discharging a weapon in the direction of a victim is substantial evidence from which the jury could infer intent to kill.” *Id.* (citing *Leon v. State*, 525 N.E.2d 331, 332 (Ind. 1988)). It is well established that a murder conviction may be sustained on circumstantial evidence alone. *Sallee v. State*, 51 N.E.3d 130, 134 (Ind. 2016).

[13] Here, the State presented ample circumstantial evidence from which the jury could infer that Rickard possessed the requisite intent to kill. Although Rickard gave numerous conflicting statements to police regarding the course of events, the record indicates that he admitted to police that he had previously threatened to shoot Gregg and that, on the morning in question, he and Gregg were arguing. Rickard further admitted that he had fired the gun earlier in the day, and that he knew it was loaded when he handled the weapon and discharged it in Gregg’s direction. In addition, Jeffrey testified that Rickard specifically stated that he was going to shoot Gregg right before he pointed the gun at her and shot her. Rickard also ditched the gun immediately after shooting Gregg, and he repeatedly lied to police in an attempt to conceal his involvement in the shooting. *See Wilson v. State*, 455 N.E.2d 1120, 1123 (Ind. 1983) (evidence of an attempt to avoid arrest tends to show guilt). Based upon the totality of the evidence, a reasonable jury could infer that Rickard acted either knowingly or intentionally when he killed Gregg.

[14] Rickard’s strategy on appeal is simply to direct us to evidence in the record that supports his claim that the shooting was accidental and to request that we

reweigh the evidence in his favor. This is not within our prerogative as an appellate court. When considering only the evidence most favorable to the jury's verdict, we have little difficulty concluding that the State presented sufficient evidence to support Rickard's conviction for murder. Accordingly, we affirm it.

[15] Affirmed.

Riley, J., and Mathias, J., concur.