MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Quincy Lunford,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

August 7, 2023

Court of Appeals Case No. 23A-CR-465

Appeal from the St. Joseph Superior Court

The Honorable Jeffrey L. Sanford, Judge

Trial Court Cause No. 71D03-2101-MR-2

Memorandum Decision by Judge Crone
Judge Brown and Senior Judge Robb concur.

Crone, Judge.

Case Summary

[1] A jury found Quincy Lunford guilty of armed robbery and reckless homicide, and it found that he knowingly used a firearm in committing the homicide, which resulted in an enhancement of his sentence. On appeal, Lunford argues that the trial court erred in admitting his post-*Miranda* statements to police and that insufficient evidence supports the jury's finding regarding his knowing use of a firearm. We affirm.

Facts and Procedural History

[2] In early January 2021, John Farabee was living in the South Bend home of a friend who let him stay there in exchange for doing work on the home, which was only partially electrified and did not have a working furnace. A few days earlier, Farabee had met Lunford, who was homeless, and let him stay in the home. Farabee's friend Andrew Blankenship and Blankenship's girlfriend Alexandra Diaz met Lunford, and Blankenship gave Lunford a bag of clothes.

[3] On January 2, Farabee, Blankenship, Diaz, and Lunford "smoked [a] bowl" of methamphetamine in the home. Tr. Vol. 3 at 54. Afterward, Farabee, Blankenship, and Diaz rode around in Blankenship's truck and searched unsuccessfully for Farabee's dog. They returned to the home as "it was getting dark." Tr. Vol. 2 at 89. Farabee and Blankenship went inside and found Lunford "[j]ust kinda wandering around" with Farabee's SKS semiautomatic "rifle in his hands." Tr. Vol. 2 at 90. The rifle had a functioning safety, and Farabee stored the rifle with a loaded "clip in it, but there was nothing in the

chamber." *Id*. at 91. Farabee told Lunford multiple times to put the rifle down, but Lunford did not do so.

[4] Blankenship started repairing a snowblower and talked with Lunford, who was "playing with the gun" behind Blankenship. Tr. Vol. 3 at 71. Farabee told Blankenship to call Diaz, who was outside in the truck, and ask her to bring in a charging cord for his phone. Diaz came inside and gave the charging cord to Farabee, who went upstairs. Blankenship asked Diaz to use her phone's flashlight to illuminate the snowblower while he worked. Blankenship and Diaz were discussing dinner plans when a shot rang out, and Blankenship collapsed with a mortal wound from a bullet that entered the back of his neck and exited the right side of his head. Farabee, who was on his way downstairs, saw Lunford with the rifle in his hands, looking "startled, in shock, and pale white." Tr. Vol. 2 at 100. Farabee asked Lunford, "[W]hat did you do?" *Id*. at 94. Lunford ran out the front door with the rifle, stole a van from its owner at gunpoint, and drove west toward the airport. The van ran off the road, and Lunford started running down the street with the rifle.

[5] Officers responding to a dispatch about the shooting and the stolen van apprehended Lunford without incident and put him in their squad car. The in-car camera recorded Lunford asking the officers, "How'd y'all catch me so fast?" State's Ex. 53 at 4:18. The officers told Lunford that they were transporting him to the Metro Homicide Unit, and he replied, "I know what I did, so it's like, I understand." State's Ex. 54 at 00:52. Lunford also asked the officers, "Did I actually kill him? Did I kill him?" *Id*. at 1:12. After the car

arrived at the facility, and as Lunford was waiting to be taken inside, he prayed and asked for forgiveness and stated that he "got tired of running" and "tired of people pretending to be [his] friends." *Id*. at 3:38, 3:44. Eventually, he was taken to an interview room and advised of his federal constitutional rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), and he indicated that he understood those rights. Lunford told detectives that he was "high" on methamphetamine and admitted to shooting Blankenship and stealing the van. State's Ex. 55 at 4:10, 2:50, 5:12. Lunford claimed that he did not know why he shot Blankenship. A shell casing found in the home was determined to have been fired by the SKS rifle that Lunford took from the home.

[6] The State charged Lunford with level 3 felony armed robbery and murder, alleging that he knowingly killed Blankenship. The State also sought a sentencing enhancement based on Lunford's knowing use of a firearm in committing the murder. Lunford filed a motion to suppress his post-*Miranda* statements to police, which the trial court denied.

[7] A five-day jury trial began in January 2023. During opening statements, Lunford's counsel conceded that Lunford was guilty of armed robbery but argued that "[t]he rifle could have accidentally fired" or that "someone else entirely with an entirely different weapon shot Andrew Blankenship." Tr. Vol. 2 at 73, 75. Lunford objected to the admission of his post-*Miranda* statements based on the arguments made in his motion to suppress, and the trial court overruled his objection. The jury found him guilty of armed robbery and level 5 felony reckless homicide as a lesser included offense of murder, and it found

that he knowingly used a firearm in committing the reckless homicide. The trial court sentenced Lunford to consecutive executed terms of nine years for armed robbery and three years for reckless homicide and imposed an enhancement of seven years and six months, for an aggregate sentence of nineteen years and six months. Lunford now appeals.

Discussion and Decision

Section 1 – Any error in admitting Lunford's post-*Miranda* statements was harmless beyond a reasonable doubt.

[8] Lunford argues that the trial court erred in admitting his post-*Miranda* statements, claiming that he did not voluntarily waive his *Miranda* rights because he was under the influence of methamphetamine. The State argues, and we agree, that, even if that was the case, any error in the admission of those statements was harmless beyond a reasonable doubt. *See Wilson v. State*, 865 N.E.2d 1024, 1029 (Ind. Ct. App. 2007) ("A federal constitutional error is reviewed de novo and must be 'harmless beyond a reasonable doubt.'") (quoting *Davies v. State*, 730 N.E.2d 726, 735 (Ind. Ct. App. 2000), *trans. denied*, *cert. denied* (2001)); *see also* Ind. Appellate Rule 66(A) ("No error or defect in any ruling or order or in anything done or omitted by the trial court or by any of the parties is ground for granting relief or reversal on appeal where its probable impact, in light of all the evidence in the case, is sufficiently minor so as not to affect the substantial rights of the parties."). Lunford conceded that he was guilty of armed robbery at the beginning of trial, and, disregarding his post-*Miranda* statements, the evidence indicating that he killed Blankenship was

overwhelming.[1] The only question was whether the killing was knowing or reckless, and the jury opted for the latter, to Lunford's significant benefit. Based on the foregoing, we affirm Lunford's convictions.

Section 2 – Sufficient evidence supports the jury's finding that Lunford knowingly used a firearm in committing reckless homicide.

[9] Lunford's sentencing enhancement is based on Indiana Code Section 35-50-2-11, which provides in pertinent part that the State may seek to have a person who committed a felony under Indiana Code Article 35-42 that resulted in death (which includes murder and reckless homicide) sentenced to an additional fixed term of imprisonment between five and twenty years if the State can show beyond a reasonable doubt that the person knowingly used a firearm in the commission of the offense. "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 'recklessly' if he engages in the conduct in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of conduct." Ind. Code § 35-41-2-2(c). Murder is defined in pertinent part as the knowing killing of another

[1] We note that *Miranda* warnings apply only to suspects under custodial interrogation, *State v. O.E.W.*, 133 N.E.3d 144, 152 (Ind. Ct. App. 2019), *trans. denied* (2020), and that Lunford was not under interrogation when he made the unsolicited comments in the squad car.

human being. Ind. Code § 35-42-1-1. And reckless homicide is defined as the reckless killing of another human being. Ind. Code § 35-42-1-5.

[10] Lunford essentially claims that because the jury did not find him guilty of murder, the evidence is insufficient to support its finding that he knowingly used a firearm in committing reckless homicide. In reviewing Lunford's sufficiency challenge, we consider only the probative evidence and reasonable inferences therefrom supporting the jury's determination, and "[w]e neither reweigh the evidence nor assess witness credibility." *Barnett v. State*, 24 N.E.3d 1013, 1015 (Ind. Ct. App. 2015) (addressing challenge to sufficiency of evidence supporting convictions and sentencing enhancement). Unless no reasonable factfinder could conclude that the elements of the sentencing enhancement were proven beyond a reasonable doubt, we will affirm the jury's decision. *See id*.

[11] The State argues, and we agree, that "[t]he *mens rea* is not applied to the same thing" in the reckless homicide and the sentencing enhancement statutes. Appellee's Br. at 14. "For reckless homicide, the *mens rea* applies to the killing itself. The killing is the matter with respect to which the person must have acted recklessly. But for the enhancement, the *mens rea* applies only to the use of the firearm, not to the end result of that use." *Id*.; *see Cooper v. State*, 940 N.E.2d 1210, 1214 (Ind. Ct. App. 2011) (affirming jury's determination that defendant intentionally used shotgun in committing reckless homicide), *trans. denied*.

[12] Here, shortly before the shooting, both Farabee and Diaz saw Lunford handling Farabee's semiautomatic rifle, which had a functioning safety and was stored

with a loaded clip and an empty chamber. "Thus," as the State correctly observes, "the evidence established or created the reasonable inference that [Lunford] deliberately picked up and armed himself with the gun and deliberately chambered a round in it before pulling the trigger and firing the gun in the direction of Blankenship and Diaz …. That constitutes the knowing … use of a firearm." Appellee's Br. at 15. Lunford's argument to the contrary is merely a request to reweigh the evidence, which we may not do.[2] Accordingly, we affirm the sentence enhancement.

[13] Affirmed.

Brown, J., and Robb, Sr.J., concur.

[2] The parties presented conflicting evidence regarding the likelihood that the rifle discharged without the trigger being pulled. We must resolve that conflict in favor of the jury's decision.