

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



ATTORNEY FOR APPELLANT

Kristin A. Mulholland
Appellate Public Defender
Crown Point, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Kelly A. Loy
Assistant Section Chief, Criminal
Appeals
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Cordero L. Miller,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 29, 2023

Court of Appeals Case No.
23A-CR-1734

Appeal from the Lake Superior
Court

The Honorable Salvador Vasquez,
Judge

Trial Court Cause No.
45G01-2211-MR-52

Memorandum Decision by Judge Bradford
Judges Vaidik and Brown concur.

Bradford, Judge.

Case Summary

- [1] The State charged Cordero Miller with one count of murder and three counts of Level 1 felony attempted murder in November of 2022. After being arrested on the charges, Miller filed a petition to let bail, which was denied following a hearing. Miller contends on appeal that the trial court abused its discretion by denying his petition to let bail, arguing that the State had failed to prove by a preponderance of the evidence that the presumption was strong that Miller had been involved in the murder. Because we conclude otherwise, we affirm.

Facts and Procedural History

- [2] At approximately 1:14 a.m. on September 25, 2022, four persons were shot outside the Serenity Lounge in Hammond, Indiana. Surveillance footage from a nearby business showed that just prior to the shooting, a white Ford Expedition had pulled up and parked across the street from the Serenity Lounge; and three individuals had exited and crossed the street before opening fire on a group standing outside. The gunfire had lasted approximately ten seconds. The driver of the Expedition, who had remained in the vehicle, had then driven into the street, picked up the three shooters, and fled the scene. As a result of the shooting, Brian Leonard had died, and David Trotter, Ashley Trotter, and Starshanee Redman had suffered gunshot wounds.
- [3] Hammond Police Detective James Onohan investigated the shooting, during which he collected the surveillance video footage of the shooting, license-plate-

reader data, and AT&T location data on the Expedition. Detective Onohan discovered that the Expedition had been rented from a rental company located at the Indianapolis International Airport by Joseph Smith on September 19, 2022, with telephone data indicating that both Smith and Miller were present at the time that the vehicle was rented. Detective Onohan later learned that the telephone number that had been used in connection with the rental was “217-597-7829” (“the -7829 number”), which is a telephone number “associated with” Miller. Tr. Vol. II p. 47. The Expedition had subsequently been reported as stolen after Smith had failed to return it on September 25, 2022.

[4] Two days after the shooting, Illinois State Police encountered the Expedition in Chicago, Illinois. A pursuit ensued until the Expedition crashed, after which the driver had fled on foot. Two telephones and Smith’s Illinois identification card were recovered from the Expedition. Data retrieved from the telephones showed that the primary user of one of the telephones was Smith. Smith had only two saved contacts in his telephone, one of which had been saved under the identifier “C Hoover.” Tr. Vol. II p. 12. In correspondence between Smith and his girlfriend after the shooting, the two had also referred to Miller as “C Hoover.” Tr. Vol. II p. 114. The number associated with “C Hoover” was the -7829 number, which Detective Onohan determined to be associated with Miller. Tr. Vol. II p. 45.

[5] Detective Onohan discovered that the -7829 number was the telephone number associated with various accounts belonging to Miller, including utility and social-medial accounts as well as Miller’s “Cash App,” which is a mobile

payment service that allows users to transfer money from one telephone number to another. Tr. Vol. II p. 56. Detective Onohan also identified Miller's voice on multiple calls to the Cook County, Illinois, Corrections Center originating from the -7829 number.

[6] Detective Onohan also learned that the -7829 number had been included in a group chat of approximately thirty numbers, including telephone numbers associated with Smith, Byron Emory, and Marcus Mathis, which had identified David Trotter as the primary target of the shooting and had texted the address of Trotter's location as the Serenity Lounge before the shooting. Further investigation of the telephone data showed that Smith, Emory, Miller, and Mathis were all part of a gang called the "Cash Money Gang" that was associated with the Gangster Disciples, who operated in the 7000 block of Morgan Street in Chicago. State's Ex. 2. The 7000 block of Morgan Street had served as the point of departure and return from the Serenity Lounge for the Expedition and the corresponding telephone location data for Smith, Emory, Miller, and Mathis. Smith and Emory were also identified as two of the three shooters who had exited the Expedition due to their unique clothing as seen in the video footage compared with pictures on their telephones. Miller's telephone location data also placed him at the Serenity Lounge at the time of the shooting. Records also indicated that Miller had texted Smith from the -7829 number twelve hours after the shooting asking Smith if he had left his identification in the Expedition.

- [7] Detective Onohan also discovered that on the date of the shooting, a call had been answered on Miller’s telephone approximately fourteen minutes before the shooting. The call had come from Diamond Jefferies, a known friend and frequent contact of Miller. When Miller was arrested three months after the shooting, he was found in possession of a telephone with the same unique identifying number, otherwise known as an Apple IMEI identifier, as the telephone associated with Miller that had been near the Serenity Lounge at the time of the shooting.
- [8] On November 18, 2022, the State charged Miller with one count of murder and three counts of Level 1 felony attempted murder. On March 15, 2023, Miller filed a petition to let bail. Following a hearing, the trial court denied Miller’s petition.

Discussion and Decision

- [9] Article 1, Section 17, of the Indiana Constitution provides that “[o]ffenses, other than murder or treason, shall be bailable by sufficient sureties.” However, “[m]urder or treason shall not be bailable, when the proof is evident, or the presumption strong.” Ind. Const. art. 1, § 17. The Indiana Supreme Court has interpreted this constitutional provision to mean that in a murder or treason case in Indiana, the State must prove by a preponderance of the evidence that “proof of the defendant’s guilt is evident, or the presumption of that guilt strong.” *Fry v. State*, 990 N.E.2d 429, 448 (Ind. 2013). Preponderance of the evidence “simply means the greater weight of the evidence.” *Kishpaugh v.*

Odegard, 17 N.E.3d 363, 373 (Ind. Ct. App. 2014) (internal quotation omitted).

Thus, effectively, the State “must show that the defendant ‘more likely than not’ committed the crime of murder[.]” *Fry*, 990 N.E.2d at 448.

[10] The Indiana Supreme Court has explained that

Such a showing, at such an early stage of the process, seems sufficient to justify the denial of bail given the severity of the proposed offense and the attendant consequences. After all, at that point the trial court—while not pre-judging the ultimate guilt or innocence of the defendant—can reasonably say “the defendant most likely did it.”

The inverse is also true. If the State cannot carry this burden at this stage, then the resulting finding is that—at that point—the evidence shows that the defendant more likely than *not* did not commit the crime. Again, it does not foreclose the possibility that the State will produce more and greater evidence in the course of its case in chief at trial and prove the defendant’s guilt beyond a reasonable doubt. But at that early stage it certainly seems wrong to deny even the opportunity to bail when “the defendant most likely didn’t do it.”

Id. at 448–49 (emphasis in original).

[11] “When reviewing a trial court’s denial of bail in a murder case, we reverse only for an abuse of discretion.” *Doroszko v. State*, 154 N.E.3d 874, 876 (Ind. Ct. App. 2020), *trans. denied*. “A decision is an abuse of discretion when it is clearly against the logic and effect of the facts and circumstances.” *Id.* (internal quotation omitted). “We will not reweigh the evidence, and we consider any conflicting evidence in favor of the trial court’s ruling.” *Id.*

[12] In challenging the trial court’s denial of his motion to let bail, Miller argues that the telephone data relied on by the State was insufficient to prove that he more likely than not had been involved in the murder. Specially, he asserts that the State’s reliance on telephone data “requires an assumption that Miller was the only person to use the cell phone and that he had the cell phone with him on the night of the shooting. However, the phone may have been in someone else’s possession that night, including Smith’s.” Appellant’s Br. p. 10. Keeping in mind that, at this phase, the State need only prove the strong presumption that Smith was involved by a preponderance of the evidence, we cannot agree.

[13] We have previously recognized that data on a cellular telephone can reveal where a person has been, noting that “[h]istoric[al] location information is a standard feature on many smart phones and can reconstruct someone’s specific movements down to the minute, not only around town but also within a particular building.” *Wertz v. State*, 41 N.E.3d 276, 281 (Ind. Ct. App. 2015) (internal quotation omitted), *trans. denied*. We conclude the cellular data presented as evidence during the bail hearing in this case was more than sufficient to meet the State’s burden.

[14] The State’s evidence clearly establishes that the -7829 number was associated with Miller, that Miller had been in possession of the telephone connected to that number both prior to and after the shooting, and that the -7829 number was connected to certain accounts of Miller’s, including a cash-payment application. In addition, Miller was known to be associated with the others who have been alleged to have been involved with the shooting and records

indicated that he had communicated with both those involved and other known associates via the -7829 number prior to, around the time of, and after the shooting. We agree with the State that “[i]t was reasonable for the trial court to infer that Miller was with his phone throughout all relevant times.” Appellee’s Br. p. 11. We therefore conclude that the trial court did not abuse its discretion in denying Miller bail.

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

Vaidik, J., and Brown, J., concur.