

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Deborah Markisohn
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Daylon L. Welliver
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Ron-Ricco A. Duncan,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 24, 2023

Court of Appeals Case No.
22A-CR-1307

Appeal from the Marion Superior
Court

The Honorable Mark Stoner,
Judge

Trial Court Cause No.
49D32-1909-MR-35990

Memorandum Decision by Judge Riley.
Chief Judge Altice and Judge Pyle concur.

Riley, Judge.

STATEMENT OF THE CASE

[1] Appellant-Defendant, Ron-Ricco Duncan (Duncan), appeals his conviction for murder, a felony, Ind. Code § 35-42-1-1(2).

[2] We affirm.

ISSUE

[3] Duncan presents this court with one issue: Whether the State proved beyond a reasonable doubt that the victim was killed during the commission of a robbery.

FACTS AND PROCEDURAL HISTORY

[4] Duncan and Gerald Beamon (Beamon) met in 2017, and the two had worked together at a retail store. Duncan was also acquainted with Rondell Allen (Allen) and Damon Swanigan (Swanigan). In March 2019, Duncan and Beamon were both living in Indianapolis, Indiana, and Beamon was wearing an ankle GPS unit as a condition of pre-trial release in a pending criminal case. Shortly after 2:00 p.m. on March 29, 2019, Duncan began messaging with Beamon on Instagram about the potential sale of a firearm to “Ric”, and Beamon asked whether “Ric” had “the \$ for it?”¹ (Exh. Vol. II, pp. 123-24). Duncan assured Beamon that “Monday he get paid” but that “He said get it he go give it to you Monday n I’m give u 150 tomorrow”. (Exh. Vol. II, p. 125). Duncan asked Beamon, “Wen u getting it”, and Beamon responded “Taday”.

¹ Sic throughout all messages and texts, which use colloquial messaging language and abbreviations.

(Exh. Vol. II, pp. 129-30). Although Duncan wanted to meet up with Beamon on March 29, 2019, Beamon was unable to do so. On March 30, 2019, around 12:30 p.m., Duncan began texting Beamon again about getting together. Beamon told Duncan, “Answer I got news”, and the two shared several video calls. (Exh. Vol. II, p. 145). At 12:36 p.m., Duncan messaged Beamon, “Bring the pole”², to which Beamon responded, “Unsend dat nd duh []”. (Exh. Vol. II, p. 147). Beamon and Duncan continued to message about meeting up that day. At the same time Duncan was messaging Beamon, Duncan was also messaging Allen about getting a ride from the westside of Indianapolis to Beamon’s location on the east side at 3216 Ruckle Street, where Beamon was watching a movie and spending time with his sister, Adrianna Havvard (Havvard). Shortly before 4:00 p.m. on March 30, 2019, Beamon messaged Duncan to “come thu”. (Exh. Vol. II, p. 157). Duncan then alerted Allen to pick him up and told Allen, “N I gtta play³ cuz” and “we gone talk”. (Exh. Vol. II, p. 160).

[5] While Beamon was at 3216 Ruckle Street during the afternoon of March 30, 2019, he showed Havvard a firearm which he demonstrated to her was unloaded. Beamon asked his sister if she knew anyone who wanted to buy the gun, but Havvard declined to become involved. Havvard observed that

² “Pole” is a slang word for “a gun.” (Transcript Vol. III, p. 49).

³ “Play” can refer to a “robbery”, a “drug deal”, or any sort of venture that one “would set up with other people.” (Tr. Vol. III, p. 49).

Beamon was frequently using his cellphone, and Beamon announced at one point that it was time for him to leave. Havvard watched Beamon walk away to the north in the direction of a nearby abandoned apartment building located at 3233-3237 Ruckle Street with Duncan, who is Black and was wearing a grey hooded sweatshirt.

[6] Around 5:20 p.m., a resident of a home two doors north of the abandoned apartment building heard multiple gunshots, looked out of her bedroom window, and saw a young Black man wearing a grey hooded sweatshirt running down the alley away from the direction of the gunshots. During the evening of March 30, 2019, Duncan messaged four different people on Instagram asking if they had any 9-millimeter bullets. Starting at around 10:30 p.m. on March 30, 2019, Duncan messaged Swanigan several times, telling him, “It’s handled”, “I’m hurt doe frfr”, “I keep thinking bout it”, “He was cryin”, “I could see em going away”, and then “But guess wat”. (Exh. Vol. II, pp. 191-92). Duncan then posted an image of himself holding two firearms in one hand. One of the guns was much smaller than the other, and the image was captioned “I need like 50”. (Exh. Vol. III, p. 69). On March 31, 2019, Duncan messaged Swanigan that “I sold the lil one” and “It was a 9 that mf was little bro and Gerald greasy he was gone make ric pay 300 for that small ass gun Dey 150 in stores I sold it for 250 to armon”. (Exh. Vol. II, p. 199).

[7] Beamon’s family reported him as missing, and, on April 1, 2019, Beamon’s body was found in the abandoned apartment building where he had died of multiple gunshot wounds to his pelvis, spine, left arm, and left thigh. Neither

the firearm Beamon had shown to Havvard nor Beamon's cellphone were found with Beamon's body. At the crime scene, law enforcement recovered ten spent cartridge casings and one fired bullet, all of which were later determined to have been fired from the same 9-millimeter firearm. Investigators spoke with Havvard and learned that Duncan was the last person known to have been seen with Beamon. Further investigation revealed that, while Beamon's GPS unit did not move from the abandoned apartment building after the afternoon of March 30, 2019, Beamon's cellphone continued to ping off other locations around Indianapolis and was used to make calls up until April 3, 2019, after Beamon's body was found. One of those calls was to a phone number ending in -9993, a number that did not appear at any other time in Beamon's cellphone records but which Duncan had previously texted and called hundreds of times.

- [8] Detective Charles Benner (Detective Benner) of the Indianapolis Metropolitan Police Department was the lead detective investigating Beamon's death. Detective Benner interviewed Duncan on August 15, 2019, and on September 11, 2019. During these two interviews, Duncan told multiple versions of the events which varied on details both large and small, including how he got to Beamon's neighborhood on March 30, 2019, who else was with him, his reasons for going there, and whether or not he was present when Beamon was killed. Duncan first reported that he had gone to Ruckle Street to return Beamon's gun to Beamon; he had had no contact with Allen that day; and that he was not present when Beamon was shot. After Detective Benner confronted Duncan with information from Duncan's Instagram and texting records,

Duncan then added that Allen had indeed given him a ride to Ruckle Street. Later in the same interview, Duncan stated that he had been part of a plan, along with Allen and Beamon, to go to Ruckle Street and rob a man who Duncan could not name, but who had shot Beamon during the botched robbery. In his last version of events during the August 15, 2019, interview, Duncan stated that Allen had actually shot Beamon after Duncan had arranged for Allen and Beamon to trade guns and Allen had driven Duncan to Ruckle Street for that purpose. Duncan stated that he had known Allen for years, he was not aware beforehand that Allen was going to rob Beamon, and that Allen had told him to stand outside the apartment building, from where Duncan heard Beamon crying. According to this version of the offense, Allen told Duncan not to tell what had happened, and Allen drove Duncan home after the shooting. During Duncan's second interview on September 11, 2019, Duncan claimed that the plan on March 30, 2019, was for him and Beamon to rob "the old dude", Allen and another person were in on the plan, but that Allen had killed Beamon. (Exh. Vol. III, p. 102). Later in the same interview, Duncan stated that it was actually he and Beamon who had planned to rob Allen for drugs, money, and Allen's gun. In this version, Beamon had told Duncan beforehand that he was going to kill Allen; however, the robbery was botched, and Allen shot Beamon and took Beamon's gun. After the September 11, 2019, interview, Duncan was taken into custody.

[9] On September 12, 2019, the State filed an Information, charging Duncan with felony murder for killing Beamon while committing or attempting to commit a

robbery. The State also charged Duncan with Level 3 felony attempted robbery for “luring [] Allen to 3233 N. Ruckle St., which conduct constituted a substantial step toward the commission of said crime of [r]obbery[.]” (Appellant’s App. Vol. II, p. 33). Duncan waived his right to a trial by jury, and on April 4, 2022, the trial court convened Duncan’s four-day bench trial. In response to Duncan’s argument that the State had not pursued a definitive theory of his guilt for felony murder, the prosecutor stated during closing argument that Duncan had set up a plan to rob Beamon and that Beamon had died during the commission of that robbery. At the close of the evidence, the trial court took the matter under advisement.

[10] On April 19, 2022, the trial court found Duncan guilty as charged; however, the trial court entered judgment of conviction for the felony murder only. In pronouncing its judgment, the trial court reasoned that

the State has met its burden beyond a reasonable doubt, although we have no idea who the actual shooter is, and the State theorizes that it could in fact have been the Defendant himself. The Defendant claimed in his statements, or at least one of the statements, it was Rondell Allen, the shooter. With the shooter, the [c]ourt is satisfied that the Defendant at a minimum is guilty of accomplice liability and that he aided, induced, or caused the events which were foreseeable and were the cause of Gerald Beamon’s death.

(Tr. Vol. III, p. 171). On May 19, 2022, the trial court sentenced Duncan to fifty years in the Department of Correction, with two years suspended to probation.

[11] Duncan now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

I. *Standard of Review*

[12] Duncan challenges the evidence supporting his conviction. Our standard of review of such claims is well-settled: When reviewing such claims, we consider only the probative evidence and reasonable inferences supporting the fact-finder's determination, without reweighing the evidence or reassessing the credibility of the witnesses. *Fix v. State*, 186 N.E.3d 1134, 1138 (Ind. 2022). We will affirm unless no reasonable fact-finder could find that the elements of the offense were proven beyond a reasonable doubt. *Id.*

II. *Felony Murder*

[13] As charged in the Information, felony murder occurs when a “person . . . kills another human being while committing or attempting to commit . . . robbery[.]” I.C. § 35-42-1-1(2). Robbery occurs when a person knowingly or intentionally takes property from another person by using or threatening the use of force or by putting any person in fear. *See* I.C. § 35-42-5-1(a). In *Palmer v. State*, 704 N.E.2d 124, 126 (Ind. 1999), our supreme court held that our felony murder statute does not restrict criminal liability to situations where the felon is the killer; rather, the statute applies equally “when, in committing any of the designated felonies, the felon contributes to the death of any person” and the defendant reasonably should have foreseen that the commission of or attempt

to commit the contemplated felony would likely create a situation what would expose another to the danger of death.

[14] Here, the State’s theory of Duncan’s guilt was that he set up a plan to rob Beamon and that Beamon was shot during the commission of the robbery. The trial court found that the evidence showed that Duncan was at least an accomplice in the offense with Allen. Thus, although the evidence before us is susceptible to several different interpretations, we will restrict our analysis to determining if the State proved beyond a reasonable doubt that Duncan was an accomplice, along with Allen, to the robbery of Beamon that resulted in Beamon’s death. An accomplice is defined in Indiana as a “person who knowingly or intentionally aids, induces, or causes another person to commit an offense[.]” I.C. § 35-41-2-4. In order to be guilty as an accomplice to an offense, it is not necessary that the defendant participate in every element of the crime. *Pugh v. State*, 52 N.E.3d 955, 966 (Ind. Ct. App. 2016), *trans. denied*. Rather, an accomplice is liable for the natural and probable consequences that follow the execution of a common design, even if those consequences were not intended as part of the original design or common plan. *Id.* In determining whether a defendant is guilty under an accomplice liability theory of a crime, we will consider the following factors: (1) the defendant’s presence at the scene of the crime; (2) the defendant’s companionship with another engaged in the crime; (3) the defendant’s failure to oppose the commission of the crime; and (4) the defendant’s course of conduct before, during, and after the crime. *Madden v. State*, 162 N.E.3d 549, 557 (Ind. Ct. App. 2021).

[15] In this case, the evidence regarding each of the aforementioned factors demonstrated that Duncan participated with Allen in the felony murder alleged by the State. Regarding the first factor, as Duncan acknowledges on appeal, his own admissions to Detective Benner established that he was at the scene of the shooting. The second factor, Duncan's companionship with Allen, was shown by evidence that Duncan had known Allen for a few years, Duncan had messaged Allen with a birthday greeting prior to March 30, 2019, and that Duncan referred to Allen as "cuz" even though they were not related. (Exh. Vol. II, p. 160). The third factor, Duncan's failure to oppose the crime, was established through Duncan's Instagram messages with Beamon on March 29 and 30, 2019, in which he actively promoted the plan to rob Beamon by urging Beamon to meet up on Ruckle Street and for Beamon to bring the "pole". (Exh. Vol. II, p. 147). There is no evidence in the record that Duncan attempted to stop Allen from shooting and robbing Beamon, not even amongst Duncan's multiple proffered versions of the offense.

[16] Most importantly, evidence supporting the fourth factor, Duncan's actions before, during, and after the crime, established that he actively participated in the robbery that resulted in Beamon's death. In addition to arranging to meet Beamon on Ruckle Street and for Beamon to bring a firearm, Duncan solicited Allen for a ride to the meetup and told Allen he had a "play" and that "we gone talk", all of which supports a reasonable inference that Allen and he together planned to rob Beamon. (Exh. Vol. II, p. 160). Duncan identified Allen as the shooter, and, by Duncan's own admission, he rode away from the crime scene

in Allen's car. Immediately after the robbery and the shooting, Duncan referred to the fact that Beamon's firearm was unloaded and/or the fact that Beamon had been shot multiple times with a 9-millimeter weapon when he asked several people on Instagram whether they had any 9-millimeter bullets. In addition, after stating in messages to Swanigan that Beamon had cried and that Duncan felt bad about what had happened to Beamon, Duncan posted an image of himself holding two guns, one of which it can be inferred was Beamon's, with the caption "I need like 50". (Exh. Vol. III, p. 69). These actions are reasonably interpreted as Duncan boasting about robbing Beamon and participating in the offense. Duncan's messages to Swanigan on March 31, 2019, revealed that Duncan had possession of Beamon's firearm after Beamon's death and that Duncan had sold it. We conclude that the totality of this evidence supported the trial court's conclusion that Duncan participated as an accomplice in the robbery of Beamon which resulted in Beamon's death.

[17] On appeal, Duncan does not dispute that Beamon's death was a natural, probable, and foreseeable consequence of the robbery. Rather, Duncan's primary argument is that the evidence was insufficient because the State acknowledged at trial that it could not definitively prove whether it was Allen or Duncan who actually shot Beamon. However, "[i]n Indiana there is no distinction between the responsibility of a principal and an accomplice." *Wise v. State*, 719 N.E.2d 1192, 1198 (Ind. 1999). Therefore, the State was not required to allege and prove which one of the two participants in the robbery actually shot Beamon. *See, e.g., Hendricks v. State*, 162 N.E.3d 1123, 1137-38

(Ind. Ct. App. 2021) (upholding Hendricks’ conviction for felony murder where the State alleged that he was guilty either as the principle or as an accomplice of a robbery that resulted in the victim’s death and where the evidence did not definitely show which of two possible shooters actually shot the victim), *trans. denied*.

[18] Duncan also challenges the evidence supporting the second, third, and fourth of the accomplice liability factors set forth above, arguing that Allen may have acted alone to rob and shoot Beamon without Duncan’s knowledge of the plan beforehand, Duncan opposed the crime because he told Detective Benner that Beamon was not supposed to die, and that the evidence showed only that “Duncan witnessed a crime and was told to keep quiet about it.” (Appellant’s Br. p. 28). These arguments ignore the evidence before us supporting Duncan’s guilt, which, pursuant to our standard of review, is the only evidence we will consider on appeal. *See Fix*, 186 N.E.3d at 1138. We also observe that the trial court was under no obligation to credit Duncan’s statement that Beamon was not supposed to die, the statement itself does not amount to any opposition to the offense on Duncan’s part, and that this argument is unpersuasive given that the “State need not prove intent to kill in a felony murder charge, only the intent to commit the underlying felony.” *Palmer*, 704 N.E.2d at 127. Finding sufficient evidence that Duncan acted as an accomplice to the robbery that resulted in Beamon’s death, we do not disturb the trial court’s judgment.

CONCLUSION

[19] Based on the foregoing, we hold that the State produced sufficient evidence to prove beyond a reasonable doubt that Duncan committed felony murder.

[20] Affirmed.

[21] Altice, C. J. and Pyle, J. concur