

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



---

ATTORNEY FOR APPELLANT

Paul Podlejski  
Anderson, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana

Sierra A. Murray  
Deputy Attorney General  
Indianapolis, Indiana

---

## IN THE COURT OF APPEALS OF INDIANA

---

Jordan M. Zirkle,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

August 8, 2022

Court of Appeals Case No.  
21A-CR-1743

Appeal from the Madison Circuit  
Court

The Honorable Mark Dudley,  
Judge

Trial Court Cause No.  
48C06-1808-MR-2072

**Altice, Judge.**

## Case Summary

- [1] Following a jury trial, Jordan M. Zirkle was found guilty of the murder of David Phillips II and not guilty of the murder of Trinity Parker. The trial court sentenced him to fifty-five years of incarceration. Zirkle appeals, arguing that the trial court erred when it denied his motion for a directed verdict and that the evidence was insufficient to convict him.
- [2] We affirm.

## Facts & Procedural History

- [3] In 2018, Zirkle, Daniel Jones, Taylor Wheeler, and Brittney Vontress-Cox became acquainted through a web of drug and homelessness contacts. Wheeler and Vontress-Cox shared an apartment, and Zirkle and Jones were roommates, living in a school bus parked on Zirkle's grandmother's property. In the summer of 2018, Jones began dating Wheeler, and Zirkle began dating Vontress-Cox. Throughout this period, the group's lives revolved around the procurement and use of drugs.
- [4] In July 2018, Vontress-Cox introduced Jones to David Roberts. Shortly thereafter, Jones called Roberts, advised him that the police were looking for him, and offered to pick up Roberts and help him find a place to stay. Roberts agreed, and Jones and Zirkle, driving Zirkle's grandmother's Chevrolet Tracker, picked up Roberts and brought him back to their school bus. In the process, Roberts asked Jones whether the woman he was dating, Trinity Parker, could come along to hide with him. Jones, who claimed to be a part of a motorcycle

club called the “Outlaws,” then reached out to his contacts for information on Parker. Upon discovering that Parker was previously a confidential informant and that there was a “contract” out to kill her, Jones informed Roberts that he intended to kill Parker. *Transcript Vol. II* at 26. Jones threatened to kill Roberts and his family unless Roberts lured Parker to a hotel parking lot. Roberts complied.

[5] After picking up Parker, Jones and Zirkle set out with Roberts and Parker in the Chevrolet Tracker under the guise of finding a suitable place for Roberts and Parker to hide. They arrived at a two-story, abandoned farmhouse in a sparsely populated area of a neighboring county. Jones, Zirkle, and Roberts led Parker into the house. On the pretext of showing Parker around the house, the group went upstairs. Zirkle and Roberts went back downstairs first. Sometime later, Parker, followed by Jones, headed back downstairs and, while on the steps, Jones shot Parker in the head. Parker stumbled, and Jones shot her in the head again; she then fell the rest of the way down the stairs and collapsed on the landing, where Jones shot her a third time. Parker died from the gunshot wounds.

[6] Jones, Zirkle, and Roberts all returned to the car and left the rural farmhouse. Jones and Zirkle dropped off Roberts before returning to their bus. A couple days later, Jones contacted Roberts and arranged for him and Zirkle to pick up Roberts and go to the Rangeline Nature Preserve, a local park. Once they arrived at the park, Jones and Zirkle led Roberts out of the car and onto a trail. After some discussion over whether they should kill Roberts, Jones and Zirkle

decided that they would just hurt him instead. Zirkle, at Jones's direction, beat up Roberts, who did not fight back. Roberts later testified that he understood that he was beaten for witnessing Parker's murder. Thereafter, the men left the park together.

[7] About a week later, on August 6, 2018, Jones and Zirkle were at Vontress-Cox and Wheeler's home discussing Parker's murder. The group agreed that Roberts was a witness who they needed to "deal with," but they were unable to communicate with or locate him. *Id.* at 249. They knew that Roberts was good friends with David Phillips II, so Vontress-Cox, who knew Phillips, agreed to lure him to her home by offering to purchase his food stamps card.

[8] Once Phillips arrived, Vontress-Cox and Wheeler went into another room while Jones and Zirkle argued with Phillips until he agreed to help locate Roberts. The plan was for Phillips to call Roberts and ask him to meet at a specific address in Anderson. Roberts anticipated the set up and refused.

[9] After it became clear that they would not succeed in convincing Roberts to meet, Jones, Zirkle, Phillips, Vontress-Cox, and Wheeler took Wheeler's gold Chevrolet Cavalier to the Village Pantry to buy snacks using Phillips's food stamp card. The cashier noticed that, while inside of the store, Jones spoke to Phillips using harsh and forceful language, including directives like "get the f\*\*\*king drinks" and "take [your] b\*\*ch ass to the car." *Transcript Vol. III* at 38-39, 43. Zirkle sat in the car while the others shopped.

[10] After buying snacks, the group loaded back in the car. Vontress-Cox was in the driver's seat, Jones was in the passenger seat, and Zirkle and Wheeler were in the backseat with Phillips between them. Jones instructed Vontress-Cox to drive to the Rangeline Nature Preserve. On the way there, Jones began yelling at Phillips, threatening to kill him, and telling him not to look at anyone and not to talk. Phillips begged for his life. Wheeler later testified that she began to feel scared, not only of Jones, but of Zirkle as well, who she viewed as collaborating with Jones to intimidate and threaten Phillips.

[11] When they arrived at the nature preserve, Jones told Vontress-Cox and Wheeler that they could leave and that he would contact them when they were ready to be picked up. Jones and Zirkle then set off side-by-side into the park with Phillips walking ahead of them. They eventually left the path and entered a more secluded part of the forest. Jones then pulled out his gun and brandished it towards Phillips, asking Phillips again where he could find Roberts. Phillips repeated that he did not know. With Zirkle standing alongside Jones, Jones shot Phillips twice in the head, killing him. Jones then called Vontress-Cox, and she picked up Jones and Zirkle near the original location. As he entered the car, Zirkle told Wheeler that "it was better than sex watching the life leave his eyes." *Transcript Vol. II* at 187.

[12] In the ensuing days, Zirkle and Jones were repeatedly overheard telling others that Phillips was dead. Wheeler heard Zirkle say that "David Phillips went to heaven and he got what he deserved." *Id.* at 188-89. Adam Southerland, a friend of Vontress-Cox's who had been robbed by Roberts and Phillips, testified

that Zirkle and Jones told him that he “wouldn’t have to worry” about Phillips ever again. *Transcript Vol. III* at 73-74.

- [13] On August 8, 2018, responding to a call about two men with a gun at a park, police found Zirkle and Jones. Jones had a .22 caliber gun and Phillips’s food stamp card in his possession. Jones was arrested for possession of a firearm without a license. Subsequently, Roberts and Vontress-Cox separately came forward and interviewed with the Sheriff’s department, providing information regarding the murders of Parker and Phillips. The bodies were eventually located, and Wheeler and Zirkle were also arrested.
- [14] On August 17, 2018, the State charged Zirkle with Level 3 felony criminal confinement and the murder of Phillips. On August 30, 2018, the State charged Zirkle with the murder of Parker. On May 10, 2021, at the State’s request, the trial court dismissed the charge for Level 3 felony criminal confinement and amended Zirkle’s charges to the murder of Parker (Count I) and murder of Phillips (Count II).
- [15] At the jury trial, Zirkle moved for a directed verdict, but the motion was denied. Thereafter, Zirkle presented additional evidence, before resting his case. Following trial, Zirkle was found not guilty of Count I, the murder of Parker, and guilty of Count II, the murder of Phillips. Following a sentencing hearing, the trial court sentenced Zirkle to fifty-five years of incarceration.

[16] Zirkle now appeals, arguing that the evidence is insufficient to sustain the conviction and that the trial court erred when it denied his motion for a directed verdict.

## **Discussion & Decision**

[17] Initially, we observe that Zirkle’s motion for a directed verdict was made at the close of the State’s case, and the trial court denied that motion. Zirkle then presented evidence in his defense. Therefore, any error in the denial of his motion for a directed verdict is waived. *See Cox v. State*, 19 N.E.3d 287, 290-91 (Ind. Ct. App. 2014) (citing *Snow v. State*, 560 N.E.2d 109, 111 (Ind. 2000)) (“[O]ne who elects to present evidence after a denial of [their] motion for directed verdict made at the end of the State’s case waives appellate review of the denial of that motion.”). Accordingly, we consider Zirkle’s sufficiency claim only.

[18] Zirkle argues that the State presented insufficient evidence to convict him of aiding, inducing, or causing murder. In reviewing a challenge to the sufficiency of the evidence, we neither reweigh the evidence nor judge the credibility of witnesses. *McCallister v. State*, 91 N.E.3d 554, 558 (Ind. 2018). Instead, we consider only the evidence supporting the conviction and the reasonable inferences flowing therefrom. *Purvis v. State*, 87 N.E.3d 1119, 1124 (Ind. Ct. App. 2017). If there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt, the judgment will not be

disturbed. *Baumgartner v. State*, 891 N.E.2d 1131, 1137 (Ind. Ct. App. 2008). It is not necessary that the evidence overcome every reasonable hypothesis of innocence; rather, the evidence is sufficient if an inference may reasonably be drawn from it to support the conviction. *Drane v. State*, 867 N.E.2d 144, 147 (Ind. 2007).

[19] Zirkle contends that the circumstances surrounding his involvement in the murder of Phillips were insufficient for the jury to reasonably infer that Zirkle intentionally<sup>1</sup> or knowingly<sup>2</sup> aided, induced, or caused Jones to murder Phillips. He argues that the evidence establishes that he was merely present at the scene of Phillips’s murder, and that his actions at the scene of the crime did not rise to the level of participation required for accomplice liability.

[20] There is no distinction in Indiana between the responsibility of a principal and an accomplice; therefore, an accomplice can be charged as a principal and convicted on proof that he aided in the commission of a crime. *See Wise v. State*, 719 N.E.2d 1192, 1198 (Ind. 1999). Moreover, the State does not need to show that the accomplice personally participated in every element of the offense. *Madden v. State*, 162 N.E.3d 549, 557 (Ind. Ct. App. 2021).

---

<sup>1</sup> Ind. Code § 35-41-2-2(a) defines the “intentionally” standard of culpability as: “[a] person engages in conduct ‘intentionally’ if, when he engages in the conduct, it is his conscious objective to do so.”

<sup>2</sup> I.C. § 35-41-2-2(b) defines the “knowingly” standard of culpability as: “[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.”



[21] Mere presence at the scene of the crime is insufficient to establish accomplice liability on its own. *Id.* However, in determining whether Zirkle aided Jones in the murder of Phillips, the jury could have considered presence at the scene of the crime as long as it appears alongside any of the following evidence: “[1] companionship with another engaged in the crime; [2] failure to oppose the commission of the crime, and [3] the course of conduct, before, during, and after the occurrence of the crime.” *Id.* (citing *Wright v. State*, 950 N.E.2d 365, 368 (Ind. Ct. App. 2011)).

[22] Here, while the State demonstrated that Zirkle was present at the scene of the crime, it also established Zirkle’s close companionship with Jones before and during the commission of the murder. The two lived together for a month prior to the murders of Parker and Phillips and were widely viewed as operating in tandem with one another throughout the period leading up to, during, and between the two murders. The evidence also reflected that Zirkle failed to oppose the commission of the murder, despite repeated opportunities to do so. Zirkle could have let Phillips go, helped him flee, or aided the police in the apprehension of Jones. Finally, in statements and actions after the murder, Zirkle boasted about his role in Phillips’s death. Zirkle is quoted saying, “it was better than sex watching the life leave his eyes” and “David Phillips went to heaven and got what he deserved.” *Transcript Vol. II* at 187, 188-189. On this record, we find that the State presented sufficient evidence that Zirkle aided, induced, or caused Jones to shoot and kill Phillips. We decline to disturb Zirkle’s conviction as it was amply supported by the evidence.

[23] Judgment affirmed.

Vaidik J. and Crone, J., concur.