

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

David Roman Winters,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff.

April 14, 2023

Court of Appeals Case No.
22A-CR-1676

Appeal from the St. Joseph
Superior Court

The Honorable Stephanie E.
Steele, Judge

Trial Court Cause No.
71D01-2003-F5-62

Memorandum Decision by Judge Pyle

Chief Judge Altice and Judge Riley concur.

Pyle, Judge.

[1] In this appeal, David Roman Winters (“Winters”) argues that there is insufficient evidence to support his conviction for Level 6 felony criminal recklessness while armed with a deadly weapon.¹ To convict Winters, the State had to prove beyond a reasonable doubt that Winters, while armed with a deadly weapon, recklessly committed an act that created a substantial risk of bodily injury to Derria Willis (“Willis”). See IND. CODE § 35-42-2-2; (App. Vol. 2 at 29). 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.” I.C. § 35-41-2-2(c). “[I]ntent may be inferred from a defendant’s conduct and the rational and usual sequence to which such conduct logically and reasonably points.” *Shepherd v. State*, 155 N.E.3d 1227, 1233 (Ind. Ct. App. 2020), *trans. denied*.

[2] Testimony at the May 2022 jury trial revealed that Winters and Willis are the parents of a two-year-old daughter. At approximately 9:00 p.m. on December 23, 2019, Winters dropped off their daughter at Willis’ apartment. Willis was extremely angry because a female had answered Winters’ cell phone when Willis had attempted to contact him. While Winters was sitting on the couch in the living room, Willis yelled at Winters as she walked back and forth between the living room and the kitchen. Winters told Willis to “stop playing with him” and fired two shots at Willis as she walked into the kitchen. (Tr. Vol. 2 at 98).

¹ IND. CODE § 35-42-2-2.

According to Willis, if she had been walking any slower, she would have been shot. Police officers that responded to the scene noticed two bullet holes in the dining nook's wall. At trial, Winters testified that the shooting was an accident. He specifically testified that when he stood up from the couch, his gun fell on the floor and accidentally discharged.

[3] Winters argues that there is insufficient evidence to support his conviction because the shooting was an accident. However, Winters' argument amounts to a request that we reweigh the evidence, which we will not do. *See Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). After weighing the evidence and the credibility of the witnesses, the jury determined beyond a reasonable doubt that Winters, while armed with a deadly weapon, recklessly performed an act that created a substantial risk of bodily injury to Willis. Accordingly, we affirm Winters' conviction for Level 6 felony criminal recklessness while armed with a deadly weapon.

[4] Affirmed.

Altice, C.J., and Riley, J., concur.