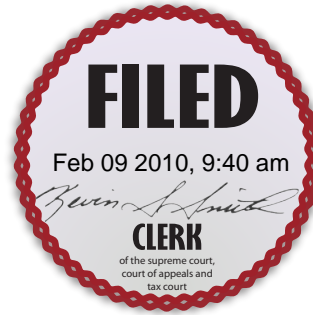


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

WALTER HAWKINS,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 49A02-0907-CR-699

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Mark Stoner, Judge
Cause No. 49G06-0807-MR-157529

February 9, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Walter Hawkins appeals his conviction for murder, following a jury trial. The sole issue presented for our review is whether there is sufficient evidence to support his conviction. We affirm.

Facts and Procedural History

The facts most favorable to the verdict indicate that on June 28, 2008, Hawkins was in the living room of his girlfriend's house when he shot Brittany Alexander once in the right thigh and once in the chest with a .380 caliber pistol. The gunshot wound to Alexander's chest was fatal. The State charged Hawkins with murder and one count of unlawful possession of a firearm by a serious violent felon, a class B felony.¹ Following a trial, the jury found Hawkins guilty of murder. In addition, Hawkins pled guilty to the unlawful possession of a firearm charge in exchange for a ten-year sentence on that charge. The trial court sentenced Hawkins to sixty years for murder to be served consecutively with the ten year sentence for unlawful possession of a firearm. Hawkins appeals his murder conviction.

Discussion and Decision

Hawkins contends that there were no witnesses to the shooting and, thus, there is insufficient evidence to support his conviction for murder.² We disagree.

A murder conviction may be sustained based on circumstantial evidence alone if that circumstantial evidence supports a reasonable inference of guilt. *Maul v. State*, 731 N.E.2d

¹ See Ind. Code § 35-47-4-5.

² A person who knowingly or intentionally kills another human being commits murder, a felony. Ind. Code § 35-42-1-1.

438, 439 (Ind. 2000). “On appeal, it is not necessary for the circumstantial evidence to overcome every reasonable hypothesis of innocence; rather it is only necessary that an inference reasonably tending to support the verdict may be drawn from the evidence.” *Green v. State*, 587 N.E.2d 1314, 1315 (Ind. 1992). Whether the evidence is direct or circumstantial, we will not reweigh it or assess the credibility of witnesses. *Watkins v. State*, 766 N.E.2d 18, 21 (Ind. Ct. App. 2002), *trans. denied*. We look to the evidence most favorable to the verdict and the reasonable inferences drawn therefrom. *Bruno v. State*, 774 N.E.2d 880, 882 (Ind. 2002). We will affirm the conviction if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. *Brown v. State*, 720 N.E.2d 1157, 1158 (Ind. 1999).

Here, witnesses identified Hawkins at the crime scene with the murder weapon in his hand. Freddie French, the mother of Hawkins’s girlfriend, testified at trial that she called 911 to report the shooting. In her call to 911, French reported that a girl had been shot by Walter Hawkins and that he was still at the scene and holding the gun.³ During her testimony, French affirmatively identified a photograph of the murder weapon as the same weapon that she observed in Hawkins’s hand. Similarly, another witness, Jada Cazares, testified at trial that she called 911 after she heard two gunshots. She testified that she saw a man walking down the street “wobbling” with a gun in his hand. Cazares thought the man may be

³ In addition to her direct testimony, a tape of the 911 call made by French was played for the jury and admitted into evidence. At trial, while French indicated her reluctance to testify against Hawkins, French admitted that she indeed called 911 and that Hawkins was at the crime scene with a gun in his hand. Tr. at 238-47.

intoxicated due to the way he was walking.⁴ She watched as the man sat down on the curb in front of a nearby yard. Cazares continued to watch the man sit on the curb until she saw police officers arrive and approach him with guns drawn. Officers apprehended Hawkins sitting on the curb just as described by Cazares. Another neighbor indicated to the police that the gun was in the grass nearby. Officers recovered the gun in the grass five or six feet away from where Hawkins was sitting and also recovered the magazine from that gun another forty feet away. Subsequent analysis revealed Hawkins's palm print on the gun's magazine. In addition, a bullet taken from Alexander's body during the autopsy was determined to have been fired from the same gun.

Based upon the foregoing, there was ample circumstantial evidence to support a reasonable inference of Hawkins's guilt. A reasonable jury could have found Hawkins guilty of murder beyond a reasonable doubt. We affirm his conviction.

Affirmed.

RILEY, J., and VAIDIK, J., concur.

⁴ The record indicates that Hawkins has two prosthetic legs and has some difficulty walking.