

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 Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE
Court of Appeals of Indiana

Steven D. Boykin, Jr.,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



May 8, 2024

Court of Appeals Case No.
23A-CR-1657

Appeal from the Marion Superior Court
The Honorable Angela Dow Davis, Judge
The Honorable Ross F. Anderson, Magistrate

Trial Court Cause No.
49D27-2011-MR-33906

Memorandum Decision by Judge Foley
Judges Riley and Brown concur.

Foley, Judge.

- [1] Steven D. Boykin, Jr. (“Boykin”) was convicted after a bench trial of murder,¹ a felony; attempted murder,² a Level 1 felony; robbery³ as a Level 5 felony; and killing a domestic animal⁴ as a Level 6 felony, and the trial court found that a firearm enhancement⁵ had been proven. Boykin was sentenced to an aggregate term of 100 years executed in the Indiana Department of Correction (“the DOC”). Boykin appeals his convictions and raises the following restated issue for our review: whether the trial court properly rejected his claimed defense of automatism. Finding no error by the trial court, we affirm.

Facts and Procedural History

- [2] During the early morning hours of November 1, 2020, Boykin shot and killed his first cousin, Mia Harrison (“Harrison”), shot her son, Bennie Wilson (“Wilson”), multiple times, and shot and killed Wilson’s pit bull mix, Bluego, in his crate. The shootings occurred in Indianapolis, in the home where Harrison and Wilson lived. Boykin was apprehended by police attempting to flee the home through a second story window, and at that time, he had in his

¹ Ind. Code § 35-42-1-1(1).

² I.C. §§ 35-42-1-1(1), 35-41-5-1(a).

³ I.C. § 35-42-5-1(a)(1).

⁴ I.C. § 35-46-3-12(d).

⁵ I.C. § 35-50-2-11.

possession the firearm used in the shootings, as well as Harrison's backpack with numerous items taken from the home.

[3] Prior to the events of November 1, 2020, Boykin, Harrison, and Wilson had a loving relationship, and nothing occurred to provoke the shooting. On October 31, 2020, the day prior to the shooting, Boykin's "behavior was erratic the entire day," and "just crazy." Tr. Vol. 2 p. 187. Boykin had not slept for several days prior. At that time, Boykin was prescribed and was taking suboxone for his fentanyl addiction. On the afternoon of October 31, Boykin ingested methamphetamine with his girlfriend, April Blythe ("Blythe"), after having taken his suboxone. This was not the first time that Boykin had used methamphetamine, as he had smoked it a few days prior.

[4] Later that night, Boykin went to Harrison's home unannounced, and when Wilson came home from work, Boykin was sitting inside his van in the driveway of the home. Boykin was acting "weird" and had a firearm visible on the center console. Wilson retrieved the firearm and hid it inside the house. Wilson then called Blythe to come pick Boykin up. Blythe arrived to take Boykin home, and Wilson gave her Boykin's firearm. Blythe then attempted to drive Boykin home. However, he became extremely agitated and violent with her as they drove home. He demanded that she give his firearm back, and when she did not, he caused Blythe to veer into someone's front yard. Boykin then dumped Blythe's purse in order to get the firearm back. At that point, Boykin ran back to Harrison's home with the firearm.

[5] In the meantime, Harrison had arrived home from work sometime after 12:30 a.m., and Wilson informed her about Boykin's previous visit. Shortly thereafter, Boykin began knocking on the front door of Harrison's home. Wilson did not want to let Boykin inside, but Harrison answered the door and let Boykin inside. Boykin was acting normal, and the three of them sat and talked for a while. At some point, Boykin told Wilson he needed to use the restroom while the two were in the kitchen, and Wilson turned around to grab toilet paper to give Boykin. When Wilson turned back around, Boykin began shooting him. Boykin shot Wilson several times from a close distance, including once in the chest, once in the back, twice in the arms, and one shot that grazed his head. After being shot, Wilson ran upstairs and fled out a second story window. He drove to a nearby gas station for help, where he was able to call 911. Police and an ambulance showed up, and Wilson was taken to the hospital. After the police were informed of what happened to Wilson, they went to Harrison's home. Once there, they set up a perimeter and encountered Boykin in the backyard of the home, where they arrested him. When Boykin was arrested, he was in possession of a firearm with an extended magazine that was later determined to be the gun used in the shootings of Wilson and Harrison. He was also in possession of a backpack that contained items from Harrison's home. When the police entered the home, they discovered Harrison, who had been shot multiple times and was deceased, lying inside the front door. The police also discovered the body of Bluego inside his cage, who was deceased with two gunshot wounds.

[6] The State charged Boykin with one count of murder, one count of Level 1 felony attempted murder, one count of Level 3 felony aggravated battery, two counts of Level 2 felony robbery, Level 6 felony killing a domestic animal, Level 4 felony unlawful possession of a firearm by a serious violent felon, and a firearm enhancement. Boykin waived his right to a jury trial, and a bench trial was held on March 28, 2023. After the conclusion of the presentation of evidence, in lieu of closing arguments, the parties submitted post-trial briefs. Boykin asserted the defense of automatism and argued in his brief that, although he voluntarily consumed suboxone and methamphetamine, the unexpected and atypical effects that he experienced constituted involuntary intoxication that rendered his criminal actions involuntary. The trial court rejected the defense of automatism on grounds that the defense was unavailable due to Boykin’s voluntary intoxication. The trial court ultimately found Boykin guilty of murder, Level 1 felony attempted murder, one count of Level 2 felony robbery, Level 6 felony killing a domestic animal, and the firearm enhancement. The trial court imposed an aggregate 100-year executed sentence for Boykin’s convictions. Boykin now appeals.

Discussion and Decision

[7] Boykin argues that the trial court erred when it rejected his defense of automatism and found that his voluntary intoxication precluded the automatism defense. Contrary to Boykin’s assertion, the evidence in the record and the relevant law supported the trial court’s finding that the defense was unavailable to Boykin. “A person commits an offense only if he voluntarily

engages in conduct in violation of the statute defining the offense.” Ind. Code § 35-41-2-1(a). Our Supreme Court has explained that this statute “codified the axiom that voluntariness is a general element of criminal behavior and reflected the premise that criminal responsibility postulates a free agent confronted with a choice between doing right and doing wrong and choosing freely to do wrong.” *McClain v. State*, 678 N.E.2d 104, 107 (Ind. 1997) (citations and internal quotations omitted). “Once evidence in the record raises the issue of voluntariness, the State must prove beyond a reasonable doubt that the defendant acted voluntarily.” *O’Connell v. State*, 970 N.E.2d 168, 170 (Ind. Ct. App. 2012). In that situation, if the State fails to prove that a defendant’s conduct was voluntary, the State has not proved every element of the offense. *Id.* When we review a sufficiency claim, we do not reweigh evidence or judge witness credibility. *Gibson v. State*, 51 N.E.3d 204, 210 (Ind. 2016), *reh’g denied, cert. denied.* We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Love v. State*, 73 N.E.3d 693, 696 (Ind. 2017).

[8] At trial, Boykin raised the defense of automatism. Automatism has been defined as “the existence in any person of behavio[r] of which he is unaware and over which he has no conscious control.” *McClain*, 678 N.E.2d at 106. The defense of automatism bears on the voluntariness of a defendant’s actions. *Id.* at 107. Unlike automatism, voluntary intoxication is not a defense in Indiana. Indiana Code section 35-41-2-5 provides, “Intoxication is not a defense in a prosecution for an offense and may not be taken into consideration

in determining the existence of a mental state that is an element of the offense unless the defendant meets the requirements of [Indiana Code section] 35-41-3-5.” Under section 35-41-3-5:

It is a defense that the person who engaged in the prohibited conduct did so while he was intoxicated, only if the intoxication resulted from the introduction of a substance into his body:

(1) without his consent; or

(2) when he did not know that the substance might cause intoxication.

[9] Boykin claims that his ingestion of methamphetamine and suboxone caused him to experience unexpected and atypical effects and caused him to act unconsciously and involuntarily, which constituted automatism. Boykin’s assertion that his voluntary ingestion of the two drugs caused him to have an atypical behavioral reaction that caused him to act involuntarily seems to be a blend of involuntary intoxication and automatism. We agree with the trial court that Boykin’s claimed defense was meritless and unavailable to him.

[10] In order to prove involuntary intoxication, Boykin was required to prove that he did not know that the substances he was ingesting might cause intoxication. However, Boykin presented no evidence that he lacked knowledge that ingesting suboxone and methamphetamine might cause intoxication. Both Boykin and Blythe testified that Boykin had smoked methamphetamine just several days before the date of the crimes, so this supported the inference that

he was aware that methamphetamine might cause him to become intoxicated. Boykin also did not present any evidence that his ingestion of suboxone and methamphetamine *could* cause the violent behavior that he engaged in or that it had been recognized in the scientific community that the combination of such drugs could result in involuntary behavior. Boykin’s testimony only established that he could not remember committing the offenses, which is not sufficient to establish that he acted involuntarily. *See McClain*, 678 N.E.2d at 107 n.5 (“It is one thing to say a person acted involuntarily, and quite another to say that the person has no memory of the event.”); *Schlatter v. State*, 891 N.E.2d 1139, 1143 n.1 (Ind. Ct. App. 2008) (stating that defendant’s claim that he had no memory of sexually assaulting his daughter while voluntarily intoxicated was more akin to amnesia, which is not deemed to not be automatistic, than automatism). Therefore, the evidence did not support the defenses of involuntary intoxication or automatism, and the trial court properly rejected Boykin’s defense.

[11] Further, the defense of automatism was not legally available to Boykin due to his voluntary intoxication. We review questions of law de novo. *Hernandez v. State*, 220 N.E.3d 68, 71 (Ind. Ct. App. 2023). In *Sanchez v. State*, 891 N.E.2d 509, 517 (Ind. 2001), our Supreme Court stated that “even if there may be an act rendered involuntary by intoxication, . . . the legislature has decreed that the intoxication, if voluntary, supplies the general requirement of a voluntary act.” In *Schlatter*, this court reviewed a defendant’s claim that he was so intoxicated by alcohol that he did not act voluntarily when he sexually assaulted his daughter. 891 N.E.2d 1139. The defendant asserted that the evidence revealed

that he acted involuntarily at least partially due to his intoxication and that he was unaware of his actions because he did not remember them. *Id.* at 1143. However, this court concluded that, based upon *Sanchez*, the defense of automatism was not available to the defendant due to his voluntary intoxication. Because the automatism defense is a claim that the defendants did not act voluntarily as required by Indiana Code section 35-41-2-1(a), and because the defendant in *Schlatter* acted voluntarily in becoming intoxicated, we held that he could not claim that his actions, which resulted from his intoxication, were involuntary. *Id.* Therefore, he could not claim that his actions were involuntary, and the automatism defense was not available to him. *Id.*

[12] The same is true here. Although Boykin asserts that he acted involuntarily as he did not remember his actions in killing Harrison, shooting Wilson, and killing Bluego because of the unexpected effects of his ingestion of suboxone and methamphetamine, the defense of automatism was not available to him. To the extent Boykin was intoxicated when he committed these criminal offenses, the evidence indicates that Boykin chose to ingest suboxone together with the illegal substance of methamphetamine. Thus, Boykin became voluntarily intoxicated and, pursuant to *Sanchez*, such action in becoming voluntarily intoxicated supplies the requirement of a voluntary act. Boykin's voluntary act of becoming intoxicated, therefore, negated his claim that his actions that resulted from the intoxication were involuntary. The defense of

automatism was not available to Boykin, and the trial court properly rejected the defense.

[13] Affirmed.

Riley, J., and Brown, J., concur.

ATTORNEYS FOR APPELLANT

Timothy J. O'Connor
O'Connor & Auersch
Indianapolis, Indiana

Talisha R. Griffin
Marion County Public Defender Agency
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Jodi Kathryn Stein
Deputy Attorney General
Indianapolis, Indiana