

MEMORANDUM DECISION

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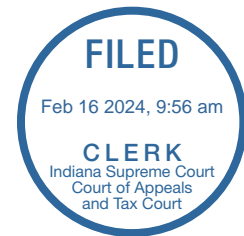


IN THE
Court of Appeals of Indiana

Jacquail Belcher,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



February 16, 2024

Court of Appeals Case No.
23A-CR-1758

Appeal from the Allen Superior Court
The Honorable Frances C. Gull, Judge

Trial Court Cause No.
02D05-2302-MR-4

Memorandum Decision by Judge Tavitas
Judges Mathias and Weissmann concur.

Tavitas, Judge.

Case Summary

- [1] On June 27, 2018, someone shot and killed Dernail Brown, Breondon Pinkston, and Deshaun Richards. The State later charged Jacquail Belcher with these murders and, following a jury trial, Belcher was convicted of three counts of murder. Belcher appeals and claims that the State failed to present sufficient evidence to identify him as the person who shot the victims. We disagree and, accordingly, affirm.

Issues

- [2] Belcher presents one issue for our review, which we restate as whether the State presented sufficient evidence to identify Belcher as the person who shot the victims.

Facts

- [3] Early in the evening of June 27, 2018, Brown, Pinkston, and Richards were at a residence in Fort Wayne. At about 6:00 p.m., they left the residence in a gray Chrysler 300. On two different occasions later that evening—shortly before and shortly after 10:00 p.m.—Richards called Belcher. All four men ended up at a house belonging to Richards' mother, Goldie Holman. Holman did not permit Richards to bring his friends to her house, and she was not home at the time the men arrived. At around 10:30 p.m., Holman returned home. Upon hearing his mother arrive at the back door, Richards met her at the door and told her that

his friends were there and not to be upset. Holman told the men to leave her house, and, after a few minutes, they complied with her request.

[4] Later that evening, Payge Cook was out walking with his brother when he observed a Chrysler 300 stopped at a four-way stop sign. Cook heard the sound of gunshots coming from the car and saw a person in the back seat of the car push the person in the front passenger seat, subsequently identified as Brown, out of the car. The person in the back seat then climbed out of the car and held Brown to the pavement. Cook described the man who had been in the back seat as a Black man in his mid-twenties with an average build, dreadlocked hair, shorter than six feet tall, and wearing light colored shorts and a dark shirt. As Brown lay on the street with the other man on top of him, the Chrysler drove two blocks down the street, ran through a red light, and crashed into another car.

[5] Seth Grant, who lived in a house near the intersection, heard the gunshots and came out to investigate. He saw Brown lying on the ground with the other man above him. Grant described this man as a Black man with a slender build, long hair that “looked like braided hair,” wearing light colored shorts and a red shirt. Tr. Vol. II p. 236. Grant heard this man yell at Brown, “Where is it? Where is it? Give it to me.” *Id.* at 237. The man also shook Brown “like he was searching” him. *Id.* When Grant yelled, “Hey,” the man over Brown ran away. *Id.* at 236. Grant went to check on Brown and dialed 911.

[6] Christine Cronin was also in the area at the time and saw a Black man “on top of another male.” Tr. Vol. III p. 7. She did not get a good look at the man, but she saw him run away when confronted by Grant.

[7] At around the same time, Grant Pettit was driving home through the area where the shooting occurred. He too heard the gunshots. When he reached the intersection, he saw Brown lying on the street with people standing around him. Pettit got out of his vehicle and approached Brown. He noticed that Brown had sustained a gunshot wound to his chest. Pettit had another bystander apply pressure to the wound while he performed CPR.

[8] The first police officer to arrive on the scene was Fort Wayne Police Department (“FWPD”) Officer Keith Harris, who responded to a report of a shooting. A bystander directed Officer Harris to the gray Chrysler that had crashed into another vehicle two blocks away from the intersection where Brown was lying on the street. Officer Harris exited his patrol car and approached the Chrysler, where he observed Pinkston motionless in the driver’s seat with his head back. Pinkston was “breathing slightly.” Tr. Vol. II p. 206. Officer Harris had to break the window to reach Pinkston. Officer Harris asked Pinkston if “somebody was alive in the vehicle.” *Id.* Pinkston could only utter, “Yeah.” *Id.* When looking for a way to remove Pinkston from the vehicle, Officer Harris saw another person, Richards, in the back seat of the car. Richards was slumped over and lying in a pool of blood. As Richards was removed from the car, he stopped breathing.

- [9] Both Pinkston and Richards were rushed to the hospital, where they were pronounced dead. Pinkston had gunshot wounds in his arm, upper back, and lower back. All of the bullets that struck Pinkston had traveled from back to front and from right to left. Richards had a gunshot wound to his head. The bullet had entered on the right side of Richards' head and traveled to the left.
- [10] In the meantime, FWPD Officer Lisa Woods responded to the intersection where Brown lay on the street. Officer Woods observed the gunshot wound to Brown's chest. The entrance wound was on the middle of the left side of his back, and the exit wound was on the front of his chest. Brown died from his injury on the scene. Officer Woods found a .40 caliber handgun near Brown. The bullets that killed Brown, Pinkston, and Richards, however, were fired from a 9 mm handgun. Based on the trajectory of the bullets and the eyewitness testimony, police determined that the shooter must have been sitting on the right side in the back seat and was likely the man seen running away from Brown.
- [11] FWPD Detective Martin Grooms headed the investigation and learned that a nearby church had surveillance cameras that may have captured the suspect fleeing the scene. The surveillance camera footage did show someone who looked like Belcher leaving the area.
- [12] Holman contacted Detective Grooms on July 2, 2018, and reported that her son, Richards, was at her home with Brown and Pinkston about an hour before the shooting. Holman did not tell Detective Grooms that Belcher had also been

at her home “because she was scared.” Tr. Vol. III p. 26. For reasons that are unclear from the record, Holman did not get along well with Detective Grooms. On July 3, 2018, Detective Grooms received a tip from the FBI implicating Belcher. Two weeks later, Brown’s family contacted Detective Grooms and gave him a photograph of Belcher, as they believed Belcher to have been the shooter. The next day, Holman spoke with Detective Grooms and revealed that a fourth man was at her home with her son along with the other victims on the night of the shooting. She gave a physical description of the fourth man, but she refused to view a photo array.

[13] Several weeks after the shooting, Holman’s nephew showed Holman a photo on social media depicting Richards with another man who went by the nickname “Baby Joc.” Tr. Vol. II p. 188. Holman did not inform Detective Grooms of this at the time.¹ A few days later, the police received an anonymous telephone tip that the person responsible for the triple shooting had fled to a specific location on the night of the shooting, called “Break and Run,” and that the suspect’s nickname was “Joc.” Tr. Vol. III p. 27. The case went cold for over three years.

[14] Eventually, FWPD Detective Benjamin MacDonald took over the investigation. On March 11, 2022, FWPD Detective Kimberly Seiss obtained a sample of Belcher’s DNA. Subsequent testing showed with a high degree of

¹ In fact, Holman gave Detective Grooms the name of another person that she thought the police should investigate.

certainty that Belcher contributed to DNA found on the armrest of the right rear passenger door of the Chrysler 300. The tests also showed with a moderate degree of certainty that Belcher contributed to DNA found on the interior door handle of the right rear passenger door.

[15] Knowing that Detective Grooms and Holman did not get along well, Detective MacDonald asked Holman again if she would look at a photo array. Holman agreed to do so and, on January 27, 2023, identified Belcher as the man that had been with Richards and the other victims in Holman's home shortly before the shooting. Holman also recognized Belcher as the same man in the social media photo her nephew had shown her in 2018.

[16] Detective MacDonald arrested Belcher on January 30, 2023, and the State issued a press release regarding the arrest. On February 1, 2023, the State charged Belcher with three counts of murder and alleged that he used a handgun during the commission of the crimes.

[17] That same day, Matt Belcher ("Matt")—who is unrelated to the defendant—saw the news about Belcher being charged with murder. Matt was in the Allen County Jail on drug charges. Matt contacted his mother and told her to contact the detective working on the case because Matt had information pertinent to the investigation. When Detective MacDonald spoke with Matt, he appeared to be nervous and did not ask the detective for a deal before speaking with him. In fact, Detective MacDonald told Matt that he could make no promises regarding the drug charges Matt was facing.

[18] According to Matt, Belcher told Matt that Belcher had “smoked three people.” Tr. Vol. III p. 164. Matt explained that “smoked” meant to “[k]ill[] somebody.” *Id.* Belcher said that he carried a “.40-caliber . . . and a 9 possibly.” *Id.* Belcher said that he killed the three people because they were “going after” Belcher’s cousin. *Id.* at 163-64. The State ultimately entered into a plea agreement with Matt regarding his pending charges, in which he agreed to plead guilty to a Level 3 felony and the State dismissed two Level 2 felony charges.² As a condition of the plea agreement, Matt agreed to testify truthfully against Belcher.

[19] A jury trial was held in May 2023. Belcher presented the testimony of two alibi witnesses—his adopted mother and his sister. The jury found Belcher guilty as charged. The jury also found that Belcher used a firearm during the murders. On July 6, 2023, the trial court sentenced Belcher to consecutive terms of sixty-five years on each count plus an additional twenty years for the firearms enhancement, for an aggregate term of 215 years of incarceration. Belcher now appeals.

² The plea agreement also called for a ten-year sentence, with three years thereof executed. The State also agreed that it would not object to alternative placement such as home detention or work release. Before Matt agreed to testify against Belcher, the State had offered Matt a plea agreement calling for a sixteen-year sentence, with eight years thereof executed. All of this was disclosed to the jury during Belcher’s trial.

Discussion and Decision

A. Standard of Review

[20] Belcher claims that the State failed to present sufficient evidence to support his convictions for murder. Claims of insufficient evidence “warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility.” *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020) (citing *Perry v. State*, 638 N.E.2d 1236, 1242 (Ind. 1994)). “When there are conflicts in the evidence, the jury must resolve them.” *Young v. State*, 198 N.E.3d 1172, 1176 (Ind. 2022). We consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence. *Powell*, 151 N.E.3d at 262 (citing *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018)). “We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt.” *Id.* at 263. We affirm the conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (quoting *Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007)).

B. Sufficient Evidence Supports Belcher’s Convictions

[21] To convict a person of murder, the State must prove that the person “knowingly or intentionally kill[ed] another human being[.]” Ind. Code § 35-42-1-1. Belcher

argues only that the State failed to prove that he was the shooter. “The identity of the perpetrator of a crime is a question of fact, not law, and the weight given to identification evidence and any determination of whether it is satisfactory or trustworthy is a function of the trier of fact.” *Watkins v. State*, 551 N.E.2d 1145, 1147 (Ind. 1990) (citing *Whitt v. State*, 499 N.E.2d 748, 750 (Ind. 1986)).

[22] Belcher points to several issues regarding the testimony and evidence identifying him as the shooter. For example, he notes that Holman saw a photo from social media of Belcher with her son, Richards, before she identified Belcher in the photo array. But the jury was aware of this, yet apparently credited Holman’s testimony that she saw Belcher with Richards around one hour before the shooting. Also, telephone records indicate that Richards telephoned Belcher twice that night.

[23] Belcher also matched the appearance of the person captured fleeing the scene on the surveillance cameras from the nearby church. He also generally matched the description given by the eyewitnesses of the man they saw exit the car and confront Brown as he lay on the pavement. Belcher notes that there were inconsistencies in the eyewitness testimony regarding the description of the man they saw with Brown, such as his height, complexion, nature of his hair, and precisely how tall he was. Yet any inconsistencies in identification testimony go to the weight of that testimony, and it is the jury’s role to determine the credibility of the witnesses. *Lee v. State*, 735 N.E.2d 1112, 1115 (Ind. 2000) (citing *Parsley v. State*, 557 N.E.2d 1331, 1335 (Ind. 1990)).

[24] Further, Matt testified that Belcher told him that he had killed three people and that he carried a “.40-caliber . . . and a 9 possibly.” Tr. Vol. III p. 164. The victims were shot with a 9 mm handgun. Although Belcher now attacks Matt’s credibility, the jury was informed that Matt received a substantial benefit in exchange for his testimony implicating Belcher in the murders. We may not reweigh Matt’s testimony or credibility on appeal. Moreover, Belcher’s DNA was identified as contributing to DNA collected from the back seat of the Chrysler, and the police determined that, based on the trajectory of the bullets that hit the victims, the shooter was sitting in the back seat. All of this supports the jury’s determination that Belcher was the shooter.

[25] Belcher stresses that the State did not charge him until over four years after the shootings. He argues that this means that the State had no probable cause to file charges at that time, and thus the case against him was, and still is, unsupportable. But whether the State had probable cause to charge Belcher before it finally did so in February 2023 is irrelevant. “[P]rosecutors are not under a duty to bring charges as soon as probable cause exists.” *Allen v. State*, 813 N.E.2d 349, 368 (Ind. Ct. App. 2004) (citing *United States v. Lovasco*, 431 U.S. 783, 791 (1977)). Instead, “[a] prosecutor’s belief that further investigation is warranted to solidify the case is a reason for a pre-indictment delay.” *Id.* (citing *United States v. Sowa*, 34 F.3d 447 (7th Cir. 1994)). “It is proper for a prosecutor to delay filing charges ‘until he is completely satisfied that he should prosecute and will be able promptly to establish guilt beyond a reasonable doubt.’” *Id.* (quoting *Lovasco*, 431 U.S. at 795). The pertinent question is not

when the prosecuting attorney believed there was sufficient probable cause to charge Belcher. The question is whether the State proved beyond a reasonable doubt that Belcher was the shooter at trial. The jury concluded that the State did sufficiently prove Belcher was the shooter, and we will not disturb this determination on appeal.

Conclusion

[26] The State presented sufficient evidence to identify Belcher as the person who shot Brown, Pinkston, and Richards. We, therefore, affirm Belcher's convictions.

[27] Affirmed.

Mathias, J., and Weissmann, J., concur.

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