[Cite as *State v. Worley*, 2010-Ohio-5236.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94001

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

TAMARON WORLEY

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-521467

BEFORE: Dyke, J., Rocco, P.J., and Stewart, J.

RELEASED AND JOURNALIZED: October 28, 2010

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ANN DYKE, J.:

{¶ 1} Defendant-appellant, Tamaron Worley ("appellant"), appeals her conviction for obstructing justice. For the reasons set forth below, we affirm.

{¶ 2} On March 12, 2009, the Cuyahoga County Grand Jury indicted appellant on one count of obstructing justice in violation of R.C. 2921.32(A)(2). Appellant pled not guilty to the charge and after she waived her right to a jury, the case proceeded to a bench trial on July 27, 2009. At trial, the state presented the following individuals for examination: Karen Engram, Alicia Lightfoot, Lamont MacCannon, Detective Anthony Malone, and Detective Cody Cunningham. These individuals provided the following undisputed facts.

{¶ 3} On July 12, 2008, Lester Worley, a.k.a. "Little Man" ("Lester"), and Lamont Fulton were playing cards at Garfield Avenue in Cleveland, Ohio around 5:00 a.m. An argument erupted between Lester and Fulton over five dollars

owed in the card game. The argument became very heated and resulted in Lester briefly retreating to obtain a shotgun. When he returned, he pointed the gun and shot Fulton in the abdomen, ultimately causing his death.

{¶ 4} The state presented the following testimony to establish the events surrounding the shooting.

{¶ 5} Karen Engram testified that during the early morning hours of July 12, 2008, she witnessed three men in the street yelling at each other about five dollars that had been won in a card game. She then saw one of the men go to a silver vehicle and retrieve a long gun from the passenger seat. With the weapon, the man walked up the street, briefly spoke to one of the other men, and then fired one gunshot at the other man.

{¶ 6} Immediately thereafter, Engram witnessed the shooter turn around and walk backwards towards the silver vehicle. At the same time, Engram saw appellant run off her porch and proclaim to the shooter, "come on." They both entered the silver vehicle and appellant drove from the scene of the crime with the shooter in the passenger seat.

{¶ 7} Alicia Lightfoot testified that the victim, Lamont Fulton, came to her house, which was located on Garfield Road, to visit on July 12, 2008. On that evening, he decided to play a card game with the neighbor, Lester. The game ended and the two began arguing over five dollars.

{¶ 8} Lightfoot testified that she witnessed Lester retreat from the argument and walk down an alley next to a fence. Shortly after losing sight of

Lester, he reappeared with what appeared to be a stick, but was in actuality, a shotgun. Lester continued to argue with Fulton, then raised the gun, and shot him in the chest. Afterwards, Lester walked towards a silver vehicle, driven by appellant, which was "ready to go." Lester entered the passenger side with the gun in hand and the vehicle sped off.

{¶ 9} Lamont MacCannon provided that on July 12, 2008, he was standing outside on the porch when he saw Lester and Fulton arguing about five dollars. During the midst of the argument, Lester stepped by a fence and returned with what MacCannon believed was a stick but later discovered was a shotgun. Lester took the gun over to Fulton and the two exchanged a few more words before Lester shot Fulton in the chest. Lester stood over Fulton's body as MacCannon ran to assist Fulton. In response, Lester ran up the street and MacCannon heard a car engine start and a vehicle pull off.

{¶ 10} Detective Anthony Malone testified that he responded to Garfield Road on July 12, 2008. Upon arrival, paramedics were attending to Fulton, who had been shot in the chest and was breathing faintly. They treated him for only five minutes before transporting him away in an ambulance. Immediately thereafter, Det. Malone began interviewing witnesses.

{¶ 11} As a result of his interviews, Det. Malone proceeded to appellant's residence. He had previously run the license plate to the silver Saturn owned by appellant. When Det. Malone initially questioned her, appellant stated that she knew nothing about the incident or Lester's whereabouts. She permitted police

to search her home but the detectives did not find Lester at the home.

{¶ 12} Det. Malone made a report concerning this encounter with appellant. In the report, he stated that appellant informed him that she dropped Lester off in the area of 79th Street and Superior Avenue. Other than that, she did not provide police with any information. Finally, Det. Malone testified that Fulton later died as a result of the gunshot wound.

{¶ 13} Detective Cody Cunningham testified that he, along with his partner Sergeant Ken Boton and Detective Charles Battle, interviewed witnesses and took photographs of the crime scene. He also went back to appellant's house to arrest her after he discovered that she had driven the shooter, Lester, from the scene of the crime. Cunningham testified that he arrived at appellant's home around 11:00 a.m. and her children answered the door. When Det. Cunningham asked to speak with appellant, the individuals told him she was sleeping and would not let him inside. Det. Cunningham directed them to wake her and they went upstairs. They returned only to tell the detectives that appellant refused to wake up. Det. Cunningham told them again to wake her and bring her downstairs. After going through that process a couple of times, appellant finally came downstairs.

{¶ 14} Once downstairs, detectives spoke with appellant regarding the shooting. First, she denied knowing anything about the incident. She claimed that Lester merely asked her for a ride to 79th Street and Superior Avenue. Initially, she also asserted that Lester did not have a shotgun when she gave him

the ride. Finding appellant's version of the facts unbelievable, they arrested her and transported her to the police station.

{¶ 15} At the station, appellant changed her story a number of times. First, she stated that she heard a loud bang and Lester came inside the house of Jessica King, his girlfriend, asking appellant for a ride.

{¶ 16} After Det. Cunningham learned from other witnesses that appellant was not being truthful, he again questioned her regarding the incident. This time, appellant told Det. Cunningham that before the shooting, she saw Lester enter the house, retrieve a shotgun, and exit the home. She followed him and as she was leaving, she witnessed Lester walking down the street with a shotgun. Still unconvinced as to this version of the events, Cunningham returned her to jail.

{¶ 17} He again retrieved appellant from jail, this time seeking a more accurate portrayal of the situation. Cunningham testified that during her third opportunity, appellant stated that she followed Lester down the street and, while she was behind a truck or SUV, saw a white blast from a shotgun. She stepped out from behind the vehicle to see a male lying in the middle of the street. Lester then began walking towards appellant, who proclaimed "come on" to Lester and the two left in her vehicle. Finally, appellant told the detective that she dropped Lester off at 79th Street and Superior Avenue. Once she dropped her brother off, she never contacted the police.

{¶ 18} Following presentation of the state's case-in-chief, appellant moved for acquittal pursuant to Crim.R. 29(A). The trial court denied this request and

appellant proceeded to testify on her own behalf.

{¶ 19} Appellant testified that she was at King's house when her brother, Lester, came home during the early morning hours of July 12, 2008. He got the card table and took it down the street.

{¶ 20} A while later she heard a loud argument in the street. She went outside to the card table and told Lester to stop fighting. After she returned to King's house, she again heard shouting. She again went outside, heard someone say "shoot me," and saw a flash and poof. She did not know who shot the gun, nor did she see Lester with a gun prior to the shooting. Responding to the gun shot, appellant ran back to King's house, retrieved her car keys and purse and entered her silver Saturn. Without her saying a word, Lester jumped in the back seat with his gun still smoking.

{¶ 21} She testified that Lester looked "crazed" and she was scared because he was screaming at her to "Pull the fuck off." She stated that she was not trying to help him escape but rather was frightened and attempting to remove herself from "the situation." Lester told appellant to drop him off at a building located on 79th Street. She did as directed and proceeded directly home thereafter.

{¶ 22} Immediately upon arriving home, she met with Det. Malone. She informed Malone where she dropped Lester off and then allowed him to search her home. After the police towed her vehicle from the house, she returned inside and her brother telephoned. She told him to surrender to police.

{¶ 23} Later that evening, Det. Cunningham came to her house and arrested her. At the police station, appellant maintains she provided the same version of events given during her testimony at trial.

{¶ 24} Following her testimony, appellant rested her case and renewed her motion for acquittal. The trial court denied her second request and on July 29, 2009, found appellant guilty of obstructing justice as charged in the indictment. On August 27, 2009, the trial court sentenced appellant to one year of community control sanctions and 80 hours of community service work.

{¶ 25} Appellant now appeals her conviction and presents two assignments of error. Finding both assignments interrelated, we will address them simultaneously. Appellant's first assignment of error provides:

{¶ 26} "The trial court erred in denying appellant's motion for acquittal pursuant to Ohio Criminal Rule 29, where evidence is not sufficient to support a conviction."

{¶ 27} Her second states:

{¶ 28} "The evidence presented at trial was insufficient to prove the charges at bar beyond a reasonable doubt."

{¶ 29} Within these assignments of error, appellant argues that the evidence was insufficient to support her conviction for obstructing justice. For the following reasons, we disagree.

{¶ 30} Crim.R. 29(A) governs motions for acquittal and provides for a judgment of acquittal if the evidence is insufficient to sustain a conviction.

Pursuant to Crim.R. 29, a court shall not order an entry of judgment of acquittal if the evidence is such that reasonable minds can reach different conclusions as to whether each material element of a crime has been proved beyond a reasonable doubt. A Crim.R. 29(A) motion for acquittal "should be granted only where reasonable minds could not fail to find reasonable doubt." *State v. Apanovitch* (1987), 33 Ohio St.3d 19, 23, 514 N.E.2d 394; *State v. Jordan*, Cuyahoga App. Nos. 79469 and 79470, 2002-Ohio-590.

{¶ 31} The standard for a Rule 29 motion is virtually identical to that employed in testing the sufficiency of the evidence. *State v. Thompkins*, supra. In *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus, the Ohio Supreme Court set forth the following standard of review to be applied by an appellate court when reviewing a claim of insufficient evidence:

{¶ 32} "An appellate court's function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of a defendant's guilt beyond a reasonable doubt. The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. (*Jackson v. Virginia* [1979], 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560, followed.)"

{¶ 33} The elements pertinent in the prosecution of appellant are provided in R.C. 2921.32(A)(2), which states in part, as follows:

{¶ 34} "(A) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for crime or to assist another to benefit from the commission of a crime, * * * shall * * * [p]rovide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension."

{¶ 35} Appellant maintains that she did not purposely hinder apprehension of Lester, but rather, was merely seeking to leave the scene of the crime when her brother jumped into her vehicle with the smoking gun. Because he looked crazed and was mentally disturbed, she drove him to 79th Street per his directives as she feared for her own safety. In support of this argument, appellant points to the fact that she informed police of the location she dropped off Lester and even attempted to convince him to surrender to police. We find appellant's argument unpersuasive.

{¶ 36} Our review of the evidence and pertinent law reveals the state adequately established that appellant purposely hindered the apprehension of Lester. A person acts purposely when "it is his specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is his specific intention to engage in conduct of that nature." R.C. 2901.22(A).

{¶ 37} The evidence introduced at trial adequately established that appellant drove Lester from the crime scene immediately after he shot and killed Fulton, thereby hindering the police's apprehension of Lester. Both Engram and

Lightfoot testified that they witnessed appellant drive away from the crime scene with Lester in her vehicle. Appellant admitted to this fact. Additionally, Engram specifically testified that, immediately after the shooting, she saw appellant come down the steps of the house carrying her purse and keys and told Lester to "come on." As a result, the two entered the vehicle and left the scene. Det. Cunningham confirmed this statement when he testified that appellant admitted to him during her interrogation that she told Lester to "come on." This evidence demonstrates that appellant purposely, and not unintentionally, transported her brother away from the scene of the crime.

{¶ 38} Moreover, the state sufficiently established that appellant hindered the apprehension of Lester by taking him away from the scene of the crime. The police, who arrived only minutes following the shooting, were unable to arrest Lester after the shooting. In fact, he eluded apprehension for well over a month following the shooting. Therefore, a rational trier of fact could have found that the essential elements of obstruction of justice were proven beyond a reasonable doubt. Appellant's two assignments of error are overruled.

Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of

Appellate Procedure.

ANN DYKE, JUDGE

KENNETH A. ROCCO, P.J., and
MELODY J. STEWART, J., CONCUR