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# Alabama Court of Criminal Appeals

OCTOBER TERM, 2020-2021

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CR-19-0434

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Everett Bernard Abrams, Jr.

v.

State of Alabama

Appeal from Talladega Circuit Court  
(CC-19-104)

McCOOL, Judge.

Everett Bernard Abrams, Jr., appeals his conviction for the murder of his wife, Jennifer Abrams, a violation of § 13A-6-2, Ala. Code 1975, and his resulting sentence of 69 years' imprisonment.

### Facts and Procedural History

The evidence presented at Abrams's trial tended to establish the following facts. At the time of the events giving rise to this case, Abrams and his wife Jennifer lived together with their two children. On May 29, 2017, Cynthia Montgomery, Jennifer's mother, was speaking with Jennifer on the telephone while Jennifer was preparing dinner. Montgomery testified that, while she was speaking with Jennifer, she "hear[d] [Abrams's] voice in the background" (R. 71), and she testified as follows regarding what she heard:

"[Abrams] came through the door fussing about something that happened at work with his normal GD, MF, and things like that coming through the door. I'm familiar with the house, so I could tell that he was coming through the door and heard the door shut. The kitchen is that close or [Jennifer] was that close to the door. He came in, got to where, apparently, she was because his voice got much louder, and he started all over again with the cussing and carrying on and asking what was for supper. She said spaghetti. Which she had already told me that he would be mad about it because he said they had had spaghetti a couple of times, because that's

what the kids wanted and she was all about her kids. Just like she said, he came in the door, asked what was for dinner. She said spaghetti, and it was, 'Oh my God. GD. We're having effing spaghetti again.' At that point, Jennifer said, 'Mom, I told you' and 'I gotta go' and 'I'll talk to you later' and that was the last time I talked to her."

(R. 71-72.)

Abrams and Jennifer's son, Jaysun -- who was almost nine years old at that time -- testified that he was in the kitchen with Jennifer when Abrams arrived home and began "fussing and cussing." (R. 85.) Jaysun testified that, at that point, he "went in the living room ... and sat down and played on [his] phone" (R. 85), and, according to Jaysun, Abrams continued "fussing" for approximately 15 minutes (R. 91), at which point, Jaysun testified, he heard what "sounded like a police gun." (R. 88.) Jaysun testified that he then ran back to the kitchen, where he observed Jennifer sitting on the kitchen floor, bleeding, and a handgun on the kitchen countertop. According to Jaysun, Abrams told him and his sister to go outside, and Abrams ran to a neighbor's house to seek help and returned approximately five minutes later.

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Sequoyah Jackson, the Abramses' neighbor, testified that, on May 29, 2017, she was inside her house when she "heard someone hollering for help" and "saying 'somebody call 911.'" (R. 144.) According to Jackson, when she went outside, Abrams was "coming ... to [her] yard" (R. 144) with his children and "said there had been an accident" (R. 145) but "didn't say what kind of accident." (R. 146.) After telephoning emergency 9-1-1, Jackson went to the Abramses' house, where Abrams had returned, and, as to what occurred next, Jackson testified on direct examination as follows:

"A. ... I went to the [Abramses'] house ... and [w]hen I entered the house -- [Abrams] had told me to come in. When I entered that house, ... that's when I seen him holding [Jennifer].

"Q. Okay. And that's when he told you a little bit more --

"A. He ... told ... me that she had accidently -- when she -- he said that she grabbed the gun when he pulled it out his pocket.

"....

"A. And it accidentally went off or when she grabbed it, it -- grabbed the trigger, she -- he was just like it accidentally shot her.

"Q. Okay. So he told you that she grabbed the gun and it accidentally went off?

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"A. Yes, ma'am.

"Q. And did he demonstrate to you how that happened at that point?

"A. He said that he had pulled it out of his pocket and when -- she reached for it and it went off.

"....

"Q. Show me ... how he demonstrated with his hand.

"A. He said he pulled it out of his pocket and that she had reached, because she asked him about the gun, and it went off.

"Q. Okay. And you're showing ... your hand is lowered at ... your hip? Is at your hip level?

"A. Yes, ma'am.

"Q. And is that the way the defendant showed it to you?

"A. Yes, ma'am.

"Q. Is that ... where the gun went off?

"A. Yes, ma'am.

"Q. When she grabbed at it?

"A. Yes, ma'am.

"....

"Q. Did you see Jennifer Abrams in the house?

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"A. Yes, ma'am.

"Q. Tell me what her condition was when you saw her.

"A. She was on the floor. It was like -- you could still hear her breathing, like she was gargling blood. And it was like if you put her down -- that she was going to choke if he laid her down, so --

"....

"Q. Okay. Was she sitting?

"A. Yes. She was, like, in a sitting position, but he was holding her up. Because when he laid her down, she would start[ ] gargling.

"Q. So she was sitting, but kind of leaning or propping and he was trying to hold her?

"A. Yes, ma'am.

"....

"Q. Was Mrs. Abrams able to say anything?

"A. No, ma'am.

"Q. Did you see her injuries?

"A. On the side of her head.

"Q. Okay. Did you talk with the [Abramses'] kids when they were outside? Did you talk with the kids at all?

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"A. When we was out there, it was a bunch of us around. So directly speaking to me, no, ma'am. But when everybody was out there, they was like that their mom and dad was arguing about spaghetti or over spaghetti. Because I was the one that turned off the stove because they was cooking when the argument happened and ... they was like they heard a gunshot.

"Q. Okay. Were the children upset?

"A. Yes, ma'am. They kept asking was they mom gonna make it.

"Q. Okay. Were they crying?

"A. Yes, ma'am.

"Q. And, so, during that excited state, they made statements about the argument that they had heard?

"A. Yes, ma'am.

"....

"Q. And they indicated to you that the argument was over spaghetti?

"A. Yes, ma'am.

"Q. And you -- did you see spaghetti cooking on the stove?

"A. It looked like sloppy joe, maybe spaghetti meat, or something."

(R. 146-51.) On cross-examination, Jackson testified:

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"Q. Okay. All right. So was [Abrams] -- I imagine he was kind of in shock or was freaking out when you came in the kitchen. Was he?

"A. Yeah. He was ... saying 'why' and 'why'd you do this' and, like, 'why did you accidentally shoot ... yourself?' It was like he was asking 'why' and he was crying.

"Q. Okay. But he clearly told you that he had pulled that gun out of his pocket and when she went to grab it, it went off; correct?

"A. Yes."

(R. 153.) On redirect examination, Jackson testified:

"Q. Ms. Jackson, you did say that [Abrams] demonstrated to you how this so-called accident happened; correct?

"A. Yes, ma'am.

"Q. And at no time in his demonstration or in his relay to you about the facts did he say that that shot happened higher than his hip level?

"A. Right."

(R. 156.)

Following the shooting, Demarco Willis, an investigator with the Talladega County Sheriff's Office, was dispatched to Coosa Valley Medical Center, where Jennifer had been transported and where Inv. Willis spoke



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with Abrams. Regarding his conversation with Abrams, Inv. Willis testified:

"I just kind of asked [Abrams], I said, 'Well, man, if you don't mind me asking, kind of what happened so we can get kind of a quick rundown of what happened today.' And he said ... he had been into a semi-argument with another mother of one of his other children that was not in the home with him. He went back in the home, had spoke with the victim about her making dinner. I think she makes a reference that she was going to make spaghetti, according to him, at that time and he said, you know, 'I'm going to starve if I have spaghetti again.' ... He stated that he went up behind the victim -- I'm assuming that she was cooking -- made the statement to her, 'You think you're tough, don't you?' He said they normally play like that. She would normally kind of, I guess, push back at him because he's standing directly behind her is how he's explaining. That she would be in front of him; he's standing directly behind her. She would sometimes motion to push back and they're playing like that. Well, this time she supposedly grabbed him and he advised that he was leaning back for some purpose and he ultimately, in turn, hears a pop at that time and it appears that that's when he realizes that she's been shot."

(R. 196-97.)

Alvis Crow, Jr., an investigator with the Talladega County Sheriff's Office, also spoke with Abrams at Coosa Valley Medical Center and testified as follows regarding Abrams's explanation of the shooting:

"[Abrams] said what happened was he was at the house with his wife, Jennifer. He was outside in the backyard. He was

talking to his baby's mother. They were having an argument. He said he had a .22 Derringer type gun that he kept on his person because of recent threats that were made toward him by this other mother. He said that he got into an argument with her and he came inside. When he came inside, he went up to Jennifer, said the kids are hungry, you need to start cooking. She says, 'I've already started cooking. I've got -- I'm cooking spaghetti.' He said -- he made the comment that 'if I have spaghetti again, I'm going to die.' She's over there cooking. He said he goes up to her -- he goes up behind her, does what they call hunching or humping where he gets up behind her and rubs against her backside. When he did that, she didn't hump back; she started to turn. When she started to turn, at the same time, he was reaching in his pocket to get the gun out because he didn't want his son to know he had the gun. She turned around, grabbed his arm, and when she grabbed his arm, the gun just went off and went pow."

(R. 206-07.) Inv. Crow testified that Abrams claimed the shooting occurred "just right as soon as he pulled [the gun] out of his pocket." (R. 208.) However, it appears that Abrams provided additional statements to Inv. Crow at a later time, and, according to Inv. Crow, "the stories that [Abrams] gave ... during the interviews, they always changed. The angle of his shots from the first time [Inv. Crow] spoke with him was down at the pocket and then it went up." (R. 228.)

Dr. Alfredo Paredes, a medical examiner with the Alabama Department of Forensic Sciences, conducted an autopsy and concluded

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that Jennifer died as a result of a gunshot wound to her left temple. According to Dr. Paredes, by examining the gunpowder residue and "powder tattooing" around the "entrance hole" on Jennifer's temple (R. 256), he concluded that the concentric pattern of the "tattooing" indicated that the bullet that killed Jennifer "entered perpendicular to the skin of the temple," i.e., that "the muzzle end of the gun was directly perpendicular to ... [Jennifer's] temple area" (R. 257) and "ha[d] to be a close range" (R. 259) to leave such "tattooing." When asked if he thought Jennifer's wound was "consistent with a firing from hip level," taking into consideration Abrams's and Jennifer's respective heights, Dr. Paredes testified: "No, I don't think so."<sup>1</sup> (R. 265.) In support of that conclusion, Dr. Paredes testified that, if the gun had been "fired at an angle, the gunpowder residue [would] have a cone-like configuration instead of being concentrically around the central hole." (R. 256.)

Brandon Best, a forensic scientist specializing in firearm-and-toolmark analysis, testified that he took the gun used to kill Jennifer and

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<sup>1</sup>Evidence indicated that Abrams was no more than approximately two inches taller than Jennifer. (R. 201, 250.)

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conducted "test fires at different [perpendicular [(R. 117)] distances" into "white piece[s] of cloth" that constitute "standard testing materials." (R. 110.) By comparing the diameter of the stippling pattern on Jennifer's skin with the diameters of the stippling patterns on the cloths used in the test fires, Best concluded, as did Dr. Paredes, that the gun was fired at Jennifer from close range. Specifically, Best testified that the gun was "up to but no more than six inches ... from [Jennifer's] skin or her body" when she was shot. (R. 125.)

At the close of evidence, Abrams moved for a judgment of acquittal on the basis that, he said, the State had "not proved [its] case to the sufficiency of reasonable doubt." (R. 270.) The trial court denied Abrams's motion and submitted the case to the jury, along with an instruction on reckless manslaughter, § 13A-6-3(a)(1), Ala. Code 1975, as a lesser-included offense of murder, and the jury found Abrams guilty of murder. The trial court sentenced Abrams to 69 years' imprisonment, and Abrams provided oral notice of appeal at the sentencing hearing. Rule 3(a)(2), Ala. R. Crim. P.

### Analysis

On appeal, Abrams argues that the trial court erred by denying his motion for a judgment of acquittal because, he says, the State's evidence was not sufficient to sustain his murder conviction. This Court's role in reviewing the sufficiency of the evidence is well settled:

" 'In determining the sufficiency of the evidence to sustain a conviction, a reviewing court must accept as true all evidence introduced by the State, accord the State all legitimate inferences therefrom, and consider all evidence in a light most favorable to the prosecution.' " Ballenger v. State, 720 So. 2d 1033, 1034 (Ala. Crim. App. 1998), quoting Faircloth v. State, 471 So. 2d 485, 488 (Ala. Crim. App. 1984), aff'd, 471 So. 2d 493 (Ala. 1985). "The test used in determining the sufficiency of evidence to sustain a conviction is whether, viewing the evidence in the light most favorable to the prosecution, a rational finder of fact could have found the defendant guilty beyond a reasonable doubt.' " Nunn v. State, 697 So. 2d 497, 498 (Ala. Crim. App. 1997), quoting O'Neal v. State, 602 So. 2d 462, 464 (Ala. Crim. App. 1992). "When there is legal evidence from which the jury could, by fair inference, find the defendant guilty, the trial court should submit [the case] to the jury, and, in such a case, this court will not disturb the trial court's decision.' " Farrior v. State, 728 So. 2d 691, 696 (Ala. Crim. App. 1998), quoting Ward v. State, 557 So. 2d 848, 850 (Ala. Crim. App. 1990). "The role of appellate courts is not to say what the facts are. Our role ... is to judge whether the evidence is legally sufficient to allow submission of an issue for

decision [by] the jury." Ex parte Bankston, 358 So. 2d 1040, 1042 (Ala. 1978).

" "The trial court's denial of a motion for judgment of acquittal must be reviewed by determining whether there was legal evidence before the jury at the time the motion was made from which the jury by fair inference could find the defendant guilty. Thomas v. State, 363 So. 2d 1020 (Ala. Cr. App. 1978). In applying this standard, this court will determine only if legal evidence was presented from which the jury could have found the defendant guilty beyond a reasonable doubt. Willis v. State, 447 So. 2d 199 (Ala. Cr. App. 1983). When the evidence raises questions of fact for the jury and such evidence, if believed, is sufficient to sustain a conviction, the denial of a motion for judgment of acquittal does not constitute error. McConnell v. State, 429 So. 2d 662 (Ala. Cr. App. 1983)." "

"Gavin v. State, 891 So. 2d 907, 974 (Ala. Crim. App. 2003), cert. denied, 891 So. 2d 998 (Ala. 2004) (quoting Ward v. State, 610 So. 2d 1190, 1191 (Ala. Crim. App. 1992)).

" " 'Circumstantial evidence alone is enough to support a guilty verdict of the most heinous crime, provided the jury believes beyond a reasonable doubt that the accused is guilty.' White v. State,

294 Ala. 265, 272, 314 So. 2d 857, cert. denied, 423 U.S. 951, 96 S. Ct. 373, 46 L. Ed. 2d 288 (1975). 'Circumstantial evidence is in nowise considered inferior evidence and is entitled to the same weight as direct evidence provided it points to the guilt of the accused.' Cochran v. State, 500 So. 2d 1161, 1177 (Ala. Cr. App. 1984), affirmed in pertinent part, reversed in part on other grounds, Ex parte Cochran, 500 So. 2d 1179 (Ala. 1985)."

"Hollaway v. State, 979 So. 2d 839, 843 (Ala. Crim. App. 2007) (quoting White v. State, 546 So. 2d 1014, 1017 (Ala. Crim. App. 1989)).

" "In reviewing a conviction based on circumstantial evidence, this court must view the evidence in the light most favorable to the prosecution. The test to be applied is whether the jury might reasonably find that the evidence excluded every reasonable hypothesis except that of guilt; not whether such evidence excludes every reasonable hypothesis but guilt, but whether a jury might reasonably so conclude. United States v. Black, 497 F.2d 1039 (5th Cir. 1974); United States v. McGlamory, 441 F.2d 130 (5th Cir. 1971); Clark v. United States, 293 F.2d 445 (5th Cir. 1961)."

"Bradford v. State, 948 So. 2d 574, 578–79 (Ala. Crim. App. 2006) (quoting Cumbo v. State, 368 So. 2d 871, 874–75 (Ala. Crim. App. 1978)).

"A person commits murder if '[w]ith intent to cause the death of another person, he causes the death of that person.' § 13A–6–2(a)(1), Ala. Code 1975. With regard to the intent element, this court has stated:

"'Normally there is no direct evidence of intent. "'Intent, we know, being a state or condition of the mind, is rarely, if ever, susceptible of direct or positive proof, and must usually be inferred from the facts testified to by witnesses and the circumstances as developed by the evidence.'" Ex parte C.G., 841 So. 2d 292, 301 (Ala. 2002), quoting Pumphrey v. State, 156 Ala. 103, 106, 47 So. 156, 157 (1908)."

"Brown v. State, 11 So. 3d 866, 914 (Ala. Crim. App. 2007)."

Chambers v. State, 181 So. 3d 429, 433-34 (Ala. Crim. App. 2015). "Intent "'may be inferred from the character of the assault, the use of a deadly weapon[,] and other attendant circumstances.'" Pilley v. State, 930 So. 2d 550, 564-65 (Ala. Crim. App. 2005) (quoting Farrior v. State, 728 So. 2d 691, 695 (Ala. Crim. App. 1998), quoting in turn Jones v. State, 591 So. 2d 569, 574 (Ala. Crim. App. 1991), quoting in turn Johnson v. State, 390 So. 2d 1160, 1167 (Ala. Crim. App. 1980)). See also Edwards v. State, 139 So.



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3d 827, 837 (Ala. Crim. App. 2013) ("In a prosecution for murder, the intent of the defendant 'must be inferred by the jury from a due consideration of all of the material evidence.'" (quoting Rivers v. State, 624 So. 2d 211, 213 (Ala. Crim. App. 1993))). Because "[t]he question of intent is hardly ever capable of direct proof[,] [s]uch questions are normally questions for the jury." Connell v. State, 7 So. 3d 1068, 1090-91 (Ala. Crim. App. 2008) (quoting Oryang v. State, 642 So. 2d 989, 994 (Ala. Crim. App. 1994), quoting in turn Loper v. State, 469 So. 2d 707, 710 (Ala. Crim. App. 1985)).

In this case, Abrams does not dispute the uncontradicted evidence establishing that Jennifer was killed by a handgun that was in his possession while he and Jennifer were in their kitchen. Indeed, Abrams notes that he "never denied he was removing the gun from his pocket to place it out of the way when it discharged and the bullet struck his wife and ultimately caused her death." (Abrams's brief at 4.) Abrams argues, however, that the shooting was accidental and that the State did not present evidence sufficient to prove that he had the intent to cause Jennifer's death. We disagree.

In Edwards, supra, this Court considered the same argument in a case with similar facts. In that case, Terrence Tyree Edwards was tried for the murder of his girlfriend, Nina Gardner, after Gardner was shot and killed in the couple's kitchen. Evidence presented at trial indicated that Edwards and Gardner were arguing on the evening Gardner was shot and that, later that evening, Edwards telephoned members of Gardner's family and asked them to telephone emergency 9-1-1, although he did not indicate why he needed emergency services. When police officers responded to the call, they found Edwards kneeling on the floor near Gardner, who had been shot in the chest, and Edwards asked the officers to assist Gardner, but Gardner was already dead. At trial, Edwards's defense was that the shooting was accidental. According to Edwards, after the argument that preceded the shooting, he was attempting to leave the couple's house when Gardner approached him with a handgun and threatened him, at which point, Edwards said, the couple struggled for control of the gun, which discharged during the struggle and killed Gardner.

The jury convicted Edwards of the murder of Gardner, and Edwards argued on appeal that the shooting was accidental and that the State had not presented evidence sufficient to prove that he had intended to murder Gardner. This Court noted, however, that "forensic evidence cast doubt on Edwards's version of events." Edwards, 139 So. 3d at 837. Specifically, forensic evidence indicated that Gardner had been shot from a distance of approximately four or five feet, which tended to refute Edwards's claim that Gardner was holding the gun when she was shot. In addition, evidence indicated that Gardner had been shot through her right wrist -- a fact that, because Gardner was right-handed, tended to refute Edwards's claim that the gun was in Gardner's hand when she was shot. Thus, this Court affirmed Edwards's conviction after concluding that, "[b]ecause Edwards shot [Gardner] with a handgun, the jury could have readily concluded that Edwards intended to kill [Gardner] when he pulled the trigger." Id.

Similarly, Abrams's defense in this case was that Jennifer was accidentally shot. In support of that defense, Abrams made statements to Inv. Crow and to his neighbor in which he indicated that the fatal shot

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occurred because Jennifer reached for the gun "just right as soon as he pulled [the gun] out of his pocket" and thus occurred at an angle from "down at the pocket" and "happened [no] higher than his hip level." However, "forensic evidence cast doubt on [Abrams's] version of events." Edwards, 139 So. 3d at 837. Specifically, Dr. Paredes testified that his examination of Jennifer's fatal wound indicated that "the muzzle end of the gun was directly perpendicular to ... [Jennifer's] temple area" when the gun discharged and that the discharge had to have occurred at "a close range." Thus, Dr. Paredes testified, he did not believe that the gun was fired from Abrams's "hip level." Best's testimony tended to corroborate Dr. Paredes's testimony; specifically, Best testified that, by comparing the results of his test firings with the nature of Jennifer's fatal wound, he had concluded that the gun could not have been "more than six inches ... from [Jennifer's] skin or her body" when she was shot, which tended to refute Abrams's claim that the shot occurred at his "hip level." In addition, Best testified that a "single-action firearm," such as the one used to kill Jennifer, "is one that the hammer must be pulled back manually ... before the trigger is pulled to fire it" (R. 98) and that, as a result, the gun could

have discharged during a struggle only "[i]f the hammer were cocked back." (R. 125.) Thus, Dr. Paredes's and Best's testimony tended to refute Abrams's claim that the gun discharged accidentally when Jennifer reached for it as he pulled it from his pocket and, instead, tended to indicate that the gun had been cocked and that, when it discharged, it was no more than six inches from Jennifer's temple and was pointed perpendicularly at the side of Jennifer's head, i.e., from a height level with her head. Such circumstantial evidence, which is not inferior to direct evidence, Chambers, supra, is inconsistent with an accidental shooting and provided a basis upon which the jury could have concluded beyond a reasonable doubt that Abrams, from close range, deliberately pointed the cocked gun at Jennifer's head and intentionally pulled the trigger. See Shatwell v. State, 430 S.W.3d 142, 146 (Ark. Ct. App. 2013) (noting that a "gun fired at close range to victim's head can be substantial evidence of defendant's purposeful intent"); Alex v. State, 930 S.W.2d 787, 790 (Tex. App. 1996) (holding that there was sufficient evidence to support the defendant's conviction for the murder of his wife when "forensic evidence suggest[ed] that [the wife] was shot at close range and at an angle

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inconsistent with an accidental shooting"); and State v. Williams, 625 So. 2d 280, 282 (La. Ct. App. 1993) (noting that "[n]umerous cases have held that specific intent to kill may be inferred when a wound is inflicted at close range or when a weapon is pointed directly at the victim").

In addition, the State presented text messages exchanged between Jennifer's cellular telephone and Abrams's cellular telephone in the two months preceding Jennifer's death that reflected contentious discussions between the couple regarding Abrams's desire for a divorce and reflected that Jennifer believed Abrams was romantically involved with another woman at that time. In addition to the forensic evidence tending to indicate that Jennifer's death was not accidental, evidence of such marital discord in the two months preceding Jennifer's death provided further circumstantial evidence of Abrams's intent to murder Jennifer. See State v. Spinks, 239 W. Va. 588, 608, 803 S.E.2d 558, 578-79 (2017) (holding that the admission of evidence of "marital discord," including the victim's plans to divorce the defendant and "arguments ... over petty things," was not an abuse of discretion because such evidence was relevant to the defendant's intent); State v. Marks, 297 Kan. 131, 143, 298 P.3d 1102,

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1112 (2013) (noting that "[e]vidence of marital discord is competent as bearing on a spouse defendant's motive and intent" to murder his wife); People v. Fisher, 449 Mich. 441, 453, 537 N.W.2d 577, 582 (1995) (holding that "evidence showing marital discord" was admissible as "evidence of premeditation and deliberation"); Gattis v. State, 637 A.2d 808, 818 (Del. 1994) ("In a prosecution for homicide arising out of a marital or romantic relationship, evidence of previous discord between the victim and the defendant is clearly material to issues of motive and intent."); and State v. Smith, 275 Conn. 205, 217, 881 A.2d 160, 171 (2005) (same).

Accepting the evidence set forth above as true, construing that evidence in a light most favorable to the State, and according the State all legitimate inferences from that evidence, Chambers, supra, we conclude that there was sufficient evidence from which the jury could have found beyond a reasonable doubt that Abrams deliberately shot Jennifer with the intent to kill her. Thus, the question of Abrams's intent was a question for the jury -- as it typically is, Connell, supra -- and, as a result, the trial court did not err by denying Abrams's motion for a judgment of acquittal and submitting the murder charge to the jury.

In concluding that there was sufficient evidence to sustain Abrams's conviction, we acknowledge Abrams's argument that there was insufficient evidence of his intent to kill Jennifer because there was "no evidence that [he] had any prior history of physical abuse against [Jennifer]" and "no police reports, arrests, or testimony of any history of domestic violence." (Abrams's brief at 6, 7.) Thus, Abrams argues, in the absence of any "history of physical violence, it would be impossible to conclude that [he] intended to kill his wife." (Id. at 9.) However, contrary to Abrams's contention, a history of domestic violence is not required to prove that a defendant accused of murdering his or her spouse had the requisite intent to kill. In fact, this Court has held that intent may be formed in an instant and therefore need not be planned, premeditated, or formed in advance of committing the crime. Whatley v. State, 146 So. 3d 437, 475 (Ala. Crim. App. 2010); Fitch v. State, 851 So. 2d 103, 138 (Ala. Crim. App. 2001). Thus, although evidence of any past domestic violence between Abrams and Jennifer would certainly have been relevant to a determination of whether Abrams intended to kill Jennifer, Hulsey v.



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State, 866 So. 2d 1180, 1190 (Ala. Crim. App. 2003), such evidence was not necessary to prove Abrams's intent.

Conclusion

Based on the foregoing, the judgment of the trial court is affirmed.

AFFIRMED.

Windom, P.J., and Kellum, Cole, and Minor, JJ., concur.