

Cite as 2009 Ark. App. 610

**ARKANSAS COURT OF APPEALS**

DIVISION I

No. CACR09-255

SCORPIO LARON CARROLL,  
APPELLANT

V.

STATE OF ARKANSAS,  
APPELLEE**Opinion Delivered** 23 SEPTEMBER 2009APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
[NO. CR-2008-1809]THE HONORABLE BARRY SIMS,  
JUDGE

AFFIRMED

**D.P. MARSHALL JR., Judge**

A jury convicted Scorpio Carroll of first-degree murder in the shooting death of Louis “Lou Dog” Wilby. The circuit court sentenced Carroll to forty-five years’ imprisonment. On appeal, Carroll challenges the sufficiency of evidence supporting his first-degree murder conviction and use-of-a-firearm sentencing enhancement. Ark. Code Ann. § 5-10-102 (Repl. 2006); Ark. Code Ann. § 16-90-120 (Supp. 2009). (Carroll also strikes a passing blow to his multiple-prior-felonies sentencing enhancement. But he fails to give any reasons why this enhancement was improper, so we will not address that issue. *Davis v. State*, 375 Ark. 368, 375, \_\_\_ S.W.3d \_\_\_, \_\_\_ (2009).)

First-degree murder requires proof that the defendant “cause[d] the death of

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another person,” with the “purpose of causing the death of another person.” Ark. Code Ann. § 5-10-102(a)(2). The sentencing enhancement requires conviction of a felony “employ[ing] any firearm of any character as a means of committing or escaping from the felony[.]” Ark. Code Ann. § 16-90-120(a).

We consider the evidence in the light most favorable to the verdict. Wilby was shot in the back in front of several people. One witness said that Carroll spoke about killing Wilby before the shooting. Two witnesses saw Carroll shoot Wilby in the back: one saw the shooting; the other saw Carroll reach into his waistband, heard a weapon discharge, and then watched Wilby fall to the ground. The witnesses also testified that the men argued over Wilby courting Carroll’s girlfriend, and one witness heard Carroll accuse Wilby of being “the police.”

Carroll, moreover, confessed to shooting Wilby. Police Officer White testified that Carroll admitted his guilt, though the confession was neither entered into evidence nor played in open court. Once the State introduced proof of Carroll’s out-of-court confession, it had only to offer independent proof that a crime had occurred. *Goodsell v. State*, 104 Ark. App. 183, 184, \_\_\_ S.W.3d \_\_\_, \_\_\_ (2008). The State proved this and more with the other witnesses’ testimony.

All this testimony is substantial evidence because it compels the conclusion, without resorting to suspicion or conjecture, that Carroll committed first-degree

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murder with a firearm. *Baughman v. State*, 353 Ark. 1, 5, 110 S.W.3d 740, 742 (2003). Carroll raises questions about one witness's drinking, another witness's untrue and inconsistent statements to the police, and supposed conflicts in the testimony as a whole. But these were all matters of credibility for the jury. *Baughman*, 353 Ark. at 5–6, 110 S.W.3d at 743.

Embedded in Carroll's sufficiency argument is a challenge to the voluntariness of his confession. This is not a separate point on appeal, but rather one of Carroll's arguments about the proof's alleged weakness. We may go to the record to affirm. *Allen v. Allison*, 356 Ark. 403, 408–09, 155 S.W.3d 682, 686 (2004). And this record shows no preservation of this issue below. The voluntariness of Carroll's confession thus boils down to another question about the weight of the evidence, which was for the jury. *Baughman*, 353 Ark. at 5–6, 110 S.W.3d at 743.

Affirmed.

ROBBINS and BAKER, JJ., agree.