

ARKANSAS COURT OF APPEALS

DIVISION II

No. CACR07-1126

LISA ANN RIVERS,

APPELLANT

V.

STATE OF ARKANSAS,

APPELLEE

Opinion Delivered 24 SEPTEMBER 2008

APPEAL FROM THE MADISON
COUNTY CIRCUIT COURT,
[NO. CR-2006-2-4]

THE HONORABLE MARY ANN
GUNN, JUDGE

AFFIRMED

D.P. MARSHALL JR., Judge

During an afternoon of drinking alcohol, using methamphetamine and marijuana, and horseback riding, Lisa Rivers began arguing about money with her boyfriend, Melvin “Junior” Burks. Rivers picked up and pointed a .30-.30 lever-action rifle at Burks, who was standing several feet away. Then she shot him once and killed him. Rivers told police that she did not remember putting her finger on the trigger. She claimed that the gun fired by accident. A jury convicted Rivers of first-degree murder, and a sentence enhancement because she used a firearm. On appeal, Rivers challenges the sufficiency of the evidence supporting her convictions. She argues that the State failed to prove that she purposely killed Burks.

We affirm Rivers’s convictions because she clearly failed to preserve her no-intent argument for appeal. At the end of the State’s proof, Rivers’s lawyer said: “It’s

incumbent upon me, I understand I need to at this time move for a Directed Verdict on the charge of Murder in the First Degree and also the Motion should include a Motion to Dismiss challenging the sufficiency of the evidence.” Her lawyer did not renew the motion at the close of all the evidence. Rivers thus waived her sufficiency challenge for two reasons. She did not recite the specific deficiencies in the State’s proof. And she failed to renew her motion. Ark. R. Crim. P. 33.1; *Meadows v. State*, 358 Ark. 396, 402, 191 S.W.3d 527, 530–31 (2004).

Even were we to reach the merits of Rivers’s argument, substantial evidence supports her convictions. *Williams v. State*, 304 Ark. 509, 511–12, 804 S.W.2d 346, 347 (1991). A person acts purposely with respect to his or her conduct or a result of his or her conduct when it is the person’s conscious object to engage in conduct of that nature or to cause the result. Ark. Code Ann. § 5-2-202(1) (Repl. 2006). The intention to commit a crime is seldom proven by direct evidence, and is usually inferred from the circumstances. *Williams*, 304 Ark. at 513, 804 S.W.2d at 348. Rivers admitted that she intended to point the .30-.30 rifle at Burks to scare him into returning her money to her. Though she claimed that she did not know the rifle was loaded, Rivers told police that she knew that it was cocked when she aimed it at her boyfriend during their argument. And right after the shooting, Rivers said to Burks, “Cowboy up. I just nicked you.” The jury could infer from these circumstances that Rivers purposely shot and killed Junior Burks. Ark. Code Ann. § 5-10-102(a)(2)

(Repl. 2006); *Williams*, 304 Ark. at 513, 804 S.W.2d at 348.

Affirmed.

PITTMAN, C.J., and HEFFLEY, J., agree.