

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
BRIAN S. MILLER, JUDGE

DIVISION IV

CACR07-132

October 3, 2007

ANTOINE DEMETRIS BAKER
APPELLANT

v.

STATE OF ARKANSAS
APPELLEE

AN APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT
[CR-06-1105]

HONORABLE CHRISTOPHER
CHARLES PIAZZA, JUDGE

AFFIRMED

A Pulaski County jury found appellant Antoine Baker guilty of murder in the first degree and sentenced him to 600 months in prison. Baker argues on appeal that the trial court erred in denying his motion for directed verdict. We affirm.

On appeal, a motion for directed verdict is treated as a challenge to the sufficiency of the evidence. *Boveia v. State*, 94 Ark. App. 252, 228 S.W.3d 550 (2006). In reviewing a challenge to the sufficiency of the evidence, we view the evidence in a light most favorable to the State and consider only the evidence that supports the verdict. *Barnes v. State*, 94 Ark. App. 321, 230 S.W.3d 311 (2006). The test for determining the sufficiency of the evidence is whether the verdict is supported by substantial evidence, direct or circumstantial. *Williams*

v. State, 363 Ark. 395, 214 S.W.3d 829 (2005). Substantial evidence is evidence that is of sufficient certainty and precision to compel a conclusion one way or the other and pass beyond mere suspicion or conjecture. *Id.*

There was substantial evidence supporting Baker's conviction. Baker was charged with capital murder in the death of Bryant Caster; however, the jury found him guilty of murder in the first degree. A person commits murder in the first degree if "with a purpose of causing the death of another person, the person causes the death of another person." Ark. Code Ann. § 5-10-102(a)(2) (Repl. 2006). A person acts purposely with respect to his 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(a) (Repl. 2006). A criminal defendant's state of mind, or mens rea, must often be shown through circumstantial evidence. *Johnson v. State*, 358 Ark. 460, 193 S.W.3d 260 (2004). The intent necessary to sustain a conviction for first-degree murder may be inferred from the type of weapon used, the manner of its use, and the nature, extent, and location of the wounds. *Edmond v. State*, 351 Ark. 495, 95 S.W.3d 789 (2003); *Robinson v. State*, 353 Ark. 372, 108 S.W.3d 622 (2003).

The trial evidence established that Baker purposefully caused the death of Caster, whose lifeless body was discovered by a Little Rock police officer at approximately 1:30 a.m. on April 27, 2005. The body was lying in the doorway of Caster's apartment and two guns were recovered by the police from the ditch behind the apartment. The police initially contacted Don McTyer regarding the killing because the police were informed that,

approximately two days before Caster's death, Caster fired shots at McTyer.

McTyer admitted that he and Caster disliked each other and that each had shot the other on prior occasions. He further testified that, on the night of Caster's death, McTyer had driven Baker and Willie Davis around in Davis's car. As they approached Valley Drive, someone in the car asked whether Caster lived on Valley Drive. When McTyer replied in the affirmative, Baker stated that he was "fixing to show us how it's done with Bryant." McTyer said that he dropped Baker and Davis off at Caster's apartment, drove the car around the corner, parked the car, and called a friend to pick him up. He testified that he later used a friend's car to pick up Baker from Britannie Baker's house.

Davis testified that McTyer gave him a gun before dropping him and Baker off at Caster's apartment. He said that Baker already had a gun in his possession. Davis identified the guns in State's Exhibits Ten and Eleven as the guns he and Baker used that night. Davis testified that, after McTyer dropped Baker and him off, they obtained entry to Caster's apartment under the guise of offering to share cocaine with Caster. He said that Baker fired at Caster while they were in Caster's kitchen. Caster returned Baker's fire and ran toward the front door of the apartment. Davis said that he began firing at Caster and chased Caster. Because Davis saw a police spotlight when he reached Caster's front door, he turned and ran toward the back of the building. Davis and Baker met at the back of the building and fled by foot. They dropped their guns while fleeing. Davis testified that he and Baker decided to split up and that Baker ran towards Judy Lane.

LaSonya Brooks, Baker's ex-girlfriend, recalled receiving a phone call from Baker on the morning of April 27, 2005, asking her to pick him up from his sister's house. She said that Baker was huffing and puffing and sounded like he had been running. Brooks testified that she picked Baker up later that morning and that, on their way home, they passed Valley Drive, where the police were still investigating. She testified that when she asked Baker whether he killed Caster, Baker replied, "Yeah, but don't worry about [it] because, because [sic] they think Southwest did it." She said that Baker also told her that he had dropped his gun in a puddle of water.

Baker's half-sister, Brittanie Baker, testified that, in the spring of 2005, she lived on Judy Lane. She said that Judy Lane was about a ten minute walk from Valley Drive. She said that on April 27, 2005, Baker came to her house at approximately 1:30 a.m. While there, Baker called and asked Brooks to pick him up, but Brooks called back and told him that McTyer would pick up Baker. About fifteen minutes later, someone picked up Baker. Britannie testified that, several days later, she heard Baker say that he had shot someone on the night that he came to her house.

Gary Lawrence, a firearms and tool mark examiner for the Arkansas State Crime Lab, testified that he inspected the two semi-automatic pistols recovered in connection with the death of Caster. He also inspected several forty-caliber spent casings, several nine-millimeter spent casings, and numerous projectiles involved with the case. Lawrence found that the bullets from Caster's body were a match to bullets from both guns.

In his defense, Baker presented the testimony of several witnesses who were housed with him in the detention facility. Each witness testified that Baker was not involved in the shooting.

Baker now argues that the testimony of Willie Davis should have been disregarded by the trial court because it was “inherently improbable, physically impossible, and so clearly unbelievable that reasonable minds could not differ thereon.” He asserts that the trial court should have instead relied upon the testimony of his witnesses. The jury is charged with the duty of resolving conflicting testimony and determining the credibility of witnesses. *See Boyd v. State*, ___ Ark. ___, ___ S.W.3d ___ (Mar. 15, 2007). The jury may resolve questions of conflicting testimony and inconsistent evidence and may choose to believe the State’s account of the facts rather than the defendant’s. *Harper v. State*, 359 Ark. 142, 194 S.W.3d 730 (Oct. 7, 2004).

When we view the evidence adduced at trial in a light most favorable to the State, there was sufficient evidence to compel the jury to find that Baker committed murder in the first degree. We, therefore, affirm the trial court’s denial of Baker’s motion for directed verdict.

Affirmed.

MARSHALL and BAKER, JJ., agree.