

ARKANSAS COURT OF APPEALSDIVISION III
No. CACR11-1292ANTONIO LAMONT SMITH
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered May 23, 2012

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
SECOND DIVISION
[60CR-2010-1477]HONORABLE CHRISTOPHER
CHARLES PIAZZA, JUDGE

AFFIRMED

DAVID M. GLOVER, Judge

Appellant, Antonio Lamont Smith, was tried by a jury and found guilty of the offenses of first-degree murder and possession of a firearm by certain persons. As his sole point of appeal, he challenges only his first-degree murder conviction, contending that it is not supported by substantial evidence because the State did not prove that he “purposely” killed the victim, Cizano Jones. We affirm.

In reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the State, and only evidence supporting the verdict is considered. *James v. State*, 2010 Ark. 486, ____ S.W.3d _____. We affirm a conviction if there is substantial evidence to support it, and substantial evidence is that which is of

sufficient force to compel a definite conclusion without resorting to suspicion or conjecture. *Id.*

First-degree murder requires purposeful intent. “A person commits murder in the first degree if: . . . (2) 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 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). Intent or state of mind must often be inferred from the circumstances surrounding an event because it is seldom capable of proving by direct evidence. *James, supra.* In cases of first-degree murder, intent may be inferred from the type of weapon used; the manner of its use; and the nature, extent, and location of the wounds. *Id.*

Here, testimony from the trial established that on the day of the shooting, March 12, 2010, appellant was with Kisma Gary and Cizano Jones (who by all accounts was a dear friend of appellant’s) and that they drank alcohol and smoked marijuana during the day. Around 8:00 p.m., Gary testified that she, appellant, Jones, and Clarence Hayes drove to Little Rock in Hayes’s car to buy some “sherm”¹; that they then went to Clarence Hayes’s house, smoking the first sherm “cigarette” in the car on the way; and that the second “sherm stick” was smoked at Hayes’s house by appellant and Jones. Gary

¹According to one of the witnesses, “sherm” is marijuana laced with PCP.

described appellant's conduct after arriving at Hayes's house as "wiggling out." She said that he was hollering, screaming, and taking his clothes off. She said that he said something about wanting sex and that he pulled a gun out, pointed it straight at her, and yelled, "I need some p---y!" She said that she walked over to him to try to get the gun away, and he pointed it at her chest. She described how she unlocked the door, opened it, and ran. She stated that she ran to her grandmother's house and called the victim, Jones. She said that Jones reported that everything had calmed down and asked her to come back. She said that very soon after she hung up, appellant and Hayes pulled up to her grandmother's house, and she did not see Jones with them. She said that appellant just stood there; that her grandmother arrived and asked him what was wrong; that appellant said to Hayes, "Let's go"; and that Hayes said something about "that man around there in a puddle of blood." Gary stated she knew at that point that appellant had shot Jones. She also testified that appellant used to ask her why she needed Jones, was he her "body guard or something?" She expressed her belief that appellant wanted to be alone with her, to have a romantic relationship.

The forensic evidence showed that Jones was hit with three bullets; that the bullets were fired downward; and that the fatal wound was a gunshot to his forehead. One of Hayes's neighbors, Jeven Cowans, testified that on the night of the shooting, he was eating dinner with his wife when he heard a gunshot; that he heard another gunshot about

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thirty-five to forty seconds later; and that he told his wife to go to the back of the house and call 911.

The State also put on evidence from Leroy Vance (a cell mate of appellant's following the shooting), who testified that appellant essentially "tried out" several versions of events in an effort to come up with a version that would be less incriminating. Vance testified, for example, that appellant "offered me the scenario of Clarence [Hayes] pushing [the victim] in front of the gunfire. He offered the scenario of he was angry because [the victim] said something about his child's mother. He said that Clarence pushed [the victim], and I asked him, I said, if you didn't see [the victim] by the time you had shot him three times, you know, how did you see Clarence push him?" Vance also recounted that appellant told him he was trying to "get with" Gary, to "hook up" with her.

Upon completion of the State's case, appellant moved for a directed verdict, and the trial court denied the motion. Appellant then testified on his own behalf. He did not deny firing his gun several times, acknowledging "emptying his gun." He stated, "All I know I just aimed it, called myself trying to just crack a joke, you know, what I'm saying. I just aimed it, called myself trying to scare them, and when he jumped up, he ran towards Clarence, and he pushed him backwards." Appellant's version of events was somewhat chaotic, but his defense can be summarized with his following testimony: "I just went to shooting. I just started shooting. I started shooting just to scare them. I didn't think nobody was going to get hurt." He denied pointing his gun at Gary.

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Viewing the evidence in the light most favorable to the State, it supports the inference of a purposeful intent. Three gunshot wounds to the victim alone, at least two of which were fired thirty-five to forty seconds apart, runs counter to appellant's "accidental" shooting theory. Couple that fact with the testimony concerning appellant's romantic interest in Gary and his post-shooting, jail-cell efforts to concoct a less incriminating version of events, and we hold that there was substantial evidence to support the verdict.

Affirmed.

ABRAMSON and HOOFFMAN, JJ., agree.