FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-2473

AARONEY OKEVIOS REED,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Escambia County.
Jan Shackelford, Judge.

November 16, 2022

OSTERHAUS, J.

Aaron Okevios Reed appeals his manslaughter conviction arguing that the trial court should have suppressed a video recording made while he was in police custody in a hospital emergency room. Appellant also argues that the trial court should have granted his motion for judgment of acquittal. We see no merit in these arguments and affirm.

I.

The underlying homicide in this case occurred in the early morning hours near Pensacola in 2019. A man was shot while Appellant was standing within a couple feet of him. Appellant fled, but a few days later police picked him up on an unrelated charge.

During the subsequent police interview, Appellant admitted standing with the victim and others when the shots were fired that killed the victim. He didn't know where the shots came from. But Appellant described that he and others fled after the shots. And he described the route he took leaving the scene.

On the heels of this police interview, Appellant began acting oddly and asked to be taken to the hospital. Police remained with Appellant at the hospital. And they restrained him when Appellant became disorderly in the emergency room. Amidst the hubbub, officers stepped out of the room through an open glass door to "give the defendant an idea of privacy" in hopes of calming him down. One of the officers left a body camera in the room because of the threat of Appellant assaulting hospital staff. This camera subsequently recorded Appellant threatening to spit on a nurse. And when the nurse responded that Appellant would be committing a crime by spitting on him, Appellant yelled that he did not care because he had committed murder.

A medical examination of the victim later indicated that one of the gunshots striking the victim came from very close range, within two feet. An eyewitness placed Appellant next to the victim when the victim was shot. Police later found the murder weapon on the very same path that Appellant identified as the route he took after the victim was shot. The State ultimately charged Appellant with second degree murder with a firearm. Appellant was tried and convicted by a jury of the lesser included offense of manslaughter with a firearm. The trial court sentenced Appellant to life in prison.

II.

A.

Appellant argues first that the trial court erred by denying his motion to suppress the recording made by police at the hospital. Appellant contends that this recording was illegal under § 943.03, Florida Statutes (2021), which makes it illegal to intentionally intercept oral information. At trial, however, Appellant waived his right to appeal this issue when defense counsel stated "no objection" in response to introduction of this recording into

evidence. "[T]o raise an error on appeal, a contemporaneous objection must be made at the trial level when the alleged error occurred." *Carr v. State*, 156 So. 3d 1052, 1062 (Fla. 2015). By stating "no objection" to the introduction of a recording into evidence, an appellant waives the issue. *See Henry v. State*, 230 So. 3d 56, 57 (Fla. 1st DCA 2017).

But even if this issue wasn't waived, Appellant failed to demonstrate any error involving the admission of the recorded-statement evidence. The communication-privacy law Appellant relies upon protects privately made statements only insofar as the speaker has a reasonable expectation of privacy in his statements. *See* § 934.02, Fla. Stat. (defining a protected oral communication as "any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation"); *see also Smiley v. State*, 279 So. 3d 262, 264 (Fla. 1st DCA 2019) (recognizing that whether a statement qualifies as a privacy-protected oral communication depends upon whether a subjective expectation of privacy exists and whether such an expectation is reasonable). In this case, Appellant made the damaging admission about committing a murder while in police custody at the hospital. Persons generally lack a reasonable expectation of privacy when in police custody. *See Davis v. State*, 121 So. 3d 462, 485 (Fla. 2013). And "the objective reasonableness of an expectation of privacy in a hospital setting turns on the particular circumstances of each case." *State v. Butler*, 1 So. 3d 242, 247-48 (Fla. 1st DCA 2008). What particularly dooms Appellant's argument here is that he loudly communicated his incriminating statement to the hospital nurse (after being warned against spitting on the nurse). Appellant's proclamation could be easily heard outside the open glass door of Appellant's hospital room, including by a police officer. And so, the circumstances show that Appellant could have no reasonable expectation of privacy in this statement.

B.

Appellant also contends that the trial court erred by denying his motion for judgment of acquittal. "The standard of review historically applied to a determination of the legal sufficiency of evidence to support a criminal conviction, at least where there is

some direct evidence, is simply whether the State presented competent, substantial evidence to support the verdict." *Bush v. State*, 295 So. 3d 179, 200 (Fla. 2020). Appellate courts view the evidence in the light most favorable to the State and ask "whether a rational trier of fact could have found the existence of the elements of the crime beyond a reasonable doubt." *Id.* (quoting *Rogers v. State*, 285 So. 3d 872, 891 (Fla. 2019)).

Manslaughter contains two elements that must be proven beyond a reasonable doubt by the State: that the victim is dead and that the accused intentionally committed an act that caused the victim's death, or that the death of the victim resulted from the culpable negligence of the accused. § 782.07, Fla. Stat.; *Tyus v. State*, 845 So. 2d 318, 321 (Fla. 1st DCA 2003). Here, the State introduced eyewitness testimony indicating that Appellant was situated beside the victim as the only reasonable person who could have shot the victim. Additionally, Appellant placed himself at the crime scene when the shooting occurred and admitted to running down the path where the murder weapon was recovered by the police. Finally, Appellant could be heard yelling at the hospital about committing a murder. Based on this evidence, a reasonable juror could believe beyond a reasonable doubt that Appellant shot the victim. The evidence was therefore competent and substantial, and Appellant's argument fails.

III.

The judgment and sentence are AFFIRMED.

RAY and NORDBY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Kathleen Pafford, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Benjamin L. Hoffman, Assistant Attorney General, Tallahassee, for Appellee.