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FILED
Apr 16 2010, 9:46 am
CLERK
of the supreme court, court of appeals and tax court

IN THE
COURT OF APPEALS OF INDIANA

DONALD WOODS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0904-CR-192
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Mark Jones, Judge Pro-Tem
Cause No. 49G05-0703-FA-45266

April 16, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Donald Woods appeals his conviction of attempted murder, a Class A felony.[1] He asserts there was insufficient evidence he had the specific intent to kill his victim. We affirm.

FACTS AND PROCEDURAL HISTORY

The facts most favorable to the judgment follow. At approximately 3:00 a.m. on March 18, 2007, Jose Raines was home alone and asleep on his couch when a loud noise awakened him. He looked up to find Donald Woods standing over him. After the two men exchanged words, Woods pulled a gun out of his pocket, pointed it at Raines, and threatened to kill him. Woods asked Raines about money and property, including a Playstation and some DVDs. During this exchange, Raines grabbed for the gun. As the two men struggled, the gun discharged. The bullet went past Raines' head and embedded in the wall behind him. Raines "felt the gunpowder and everything else." (Tr. at 445.) As the struggle continued, the magazine fell out of the gun. Raines managed to push Woods out the back door of his apartment. Once outside, Woods continued to cock the gun back and forth as if it were jammed.

Police officers arrived in response to a 911 call. When they were in front of Raines' residence, they heard the distinct sound of a gun being cocked at the rear of the house. They saw Woods around the corner of the house. The officers told Woods to stop and drop his gun. Woods ran toward his residence, and the officers followed. Woods entered his house,

[1] Ind. Code § 35-42-1-1 (murder); Ind. Code § 35-41-5-1 (attempt).

placed a second magazine in the gun, opened the front glass storm door, and shot at one of the officers. The officer heard the bullet go by his head and returned fire. The officer's shot hit Woods. The officers arrested Woods after he exited the house and doubled up on the front porch, injured from the officer's shot.

The State charged Woods with two counts of attempted murder, a Class A felony; one count of attempted robbery, a Class B felony;[2] one count of burglary, a Class B felony;[3] one count of resisting law enforcement, a Class D felony;[4] and one count of carrying a handgun without a license, a Class A misdemeanor.[5] The jury found Woods guilty of all the charges.

DISCUSSION AND DECISION

Woods challenges only one of his convictions, claiming there was insufficient evidence he intended to kill Raines. Our standard of review for sufficiency claims is well established. We do not reweigh evidence or judge the credibility of the witnesses, and we consider only the evidence most favorable to the verdict and the reasonable inferences that can be drawn from that evidence. *Corbin v. State*, 840 N.E.2d 424, 428 (Ind. Ct. App. 2006). We will not disturb the judgment if there is substantial evidence of probative value to support the verdict. *Id*. In reviewing a challenge to the sufficiency of the evidence to

[2] Ind. Code § 35-41-5-1, Ind. Code § 35-42-1-1.
[3] Ind. Code § 35-43-2-1.
[4] Ind. Code § 35-44-3-3.
[5] Ind. Code § 35-47-2-1.

support a conviction, we respect "the jury's exclusive province to weigh conflicting evidence." *Id*.

To convict Woods of attempted murder, the State had to prove beyond a reasonable doubt that Woods, while acting with the specific intent to kill another person, engaged in conduct constituting a substantial step toward killing that person. Woods claims the State failed to prove he had specific intent to kill. According to Woods, he had no intent to kill Raines when he pointed a gun at Raines, threatened to kill him, and engaged in a struggle with Raines over the gun, during which the gun discharged. He asserts, "There was no evidence about whose finger or fingers were on the trigger or who applied the requisite pressure . . . needed for Woods' gun to fire." (Appellant's Br. at 7.) Moreover, Woods notes, Raines admitted he did not know how the gun discharged. Raines said, "[F]or some odd reason, one shot went off." (Tr. at 445.)

Intent is a mental function and, as such, must be inferred from the circumstances surrounding the event. *White v. State*, 772 N.E.2d 408, 412 (Ind. 2002). "[A]bsent an admission, the trier of fact must resort to reasonable inferences based upon an examination of the surrounding circumstances to determine whether, from the person's conduct and the natural consequences thereof, a showing or inference of intent to commit that conduct exists." *Isom v. State*, 589 N.E.2d 245, 247 (Ind. Ct. App. 1992), *trans. denied*. Firing a gun in the direction of the victim is sufficient to support an inference of intent to kill. *Olive v. State*, 696 N.E.2d 381, 382 (Ind. 1998).

There was evidence from which the jury could reasonably infer that Woods intended to kill Raines. After Woods and Raines exchanged words over property and money, Woods pointed a gun at Raines and threatened to kill him. Raines grabbed for the gun and as the two men struggled the gun discharged while pointed at Raines' head. After Raines managed to push Woods out the back door of his apartment, Woods continued to cock the gun back and forth as if it were jammed. This evidence supports the intent element of attempted murder. *See*, *Corbin*, 840 N.E.2d at 429 (holding evidence sufficient to find specific intent to kill when Corbin struggled with a police officer, took the officer's gun, fired a shot, and stated, "I'm going to kill you."). Accordingly, we affirm.

Affirmed.

KIRSCH, J., and DARDEN, J., concur.