

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Brandon W.M. McCormick,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

November 17, 2023

Court of Appeals Case No.
23A-CR-265

Appeal from the Marion Superior
Court

The Honorable Mark D. Stoner,
Judge

Trial Court Cause No.
49D32-2102-MR-5572

Memorandum Decision by Chief Judge Altice
Judges Weissmann and Kenworthy concur.

Altice, Chief Judge.

Case Summary

- [1] Brandon McCormick appeals his conviction of murder, a felony. His sole challenge is to the sufficiency of the evidence.
- [2] We affirm.

Facts & Procedural History

- [3] During the early afternoon on October 22, 2020, McCormick went to a Marathon gas station at 38th Street and High School Road in Indianapolis and entered the attached smoke shop. McCormick, who was dressed in black and wore black gloves, selected a black baseball hat and then several vape products for purchase while talking and flirting with the employee at the smoke shop, Flor Zamora. This encounter lasted about eight minutes, during which Zamora showed him a lighter shaped like a gun that prompted McCormick to raise his shirt and show her a handgun tucked in his waistband.
- [4] After making his purchases, McCormick went to play a “carnival game” of sorts that was being run by Walter Stein in the parking lot to the side of the smoke shop.¹ *Transcript Vol. 3* at 22. McCormick lost over \$1000 playing this game and then angrily reentered the smoke shop. He told Zamora about his loss, and she responded, “why would you spend all that money if that game is a

¹ Stein regularly operated this game at gas stations around town and had been at this location before. He had Lamar Owens accompany him as a security guard and, on this occasion, Owens’s brother was also present. Owens explained that while some people would win cash, TVs, or hover boards, others lost thousands of dollars.

scam?” *Id.* at 33. She explained to him, “you’re never going to win with that game.” *Id.* McCormick then asked if she knew them (meaning Stein), and Zomora said she did not. He then stated, “So you don’t mind if I shoot them?” *Id.* Zomora did not take him seriously and responded, “that’s not my business.” *Id.*

[5] McCormick went back outside, where Zomora believed McCormick began to argue with Stein. She based this belief on a customer telling her, “they’re arguing out there, there’s some white guy arguing with the raffle guy that he wants his money back.” *Id.* at 34.

[6] McCormick eventually left the premises and later returned with Shonika Anderson. McCormick was close friends with Anderson’s boyfriend, Travis Lang. Anderson drove a light blue Sonata, which had been stolen the previous day, to pick up McCormick. Lang’s younger brother, Elija, came with her. McCormick rode in the front passenger seat, and Elija was in the back.

[7] At some point that afternoon, Owens, Stein’s security guard, saw the Sonata with three occupants “pull behind the gas station.” *Id.* at 25. Upon seeing two men getting out of the Sonata, Owens stepped out of his brother’s truck with a gun. Then “the car pulled off, and they ran another way.” *Id.*

[8] Later, just before 7:00 p.m., Anderson parked the Sonata on the side of the gas station, the opposite side of where Stein’s game was set up. McCormick gave Anderson cash to purchase marijuana from Stein, who had just entered the smoke shop. McCormick and Elija stayed in the Sonata as Anderson went into

the smoke shop and spoke with Stein. Anderson and Stein exited together after a couple of minutes and walked to the side of the building, where Stein had set up shop.

[9] All told, Anderson was away from the Sonata for about ten minutes when she returned and gave McCormick the marijuana. She prepared to drive away but McCormick told her to stop. Anderson believed McCormick was unhappy with the drugs. From the video surveillance, it appears that Stein was called over to the Sonata about ten seconds after Anderson entered it. Stein can be seen on the video walking toward the driver side of the Sonata and just out of view of the camera. Seconds later, McCormick opened the front passenger side door, stepped out, and quickly shot Stein three times in the torso. The video depicts the shooter dressed all in black and wearing a black hat. The Sonata and its occupants then sped away. Stein died from his injuries.

[10] According to Anderson, McCormick threatened her to stay quiet and took a picture of her identification. He disposed of the handgun somewhere along the drive. Later that night, Anderson overheard McCormick telling Lang, her boyfriend, that he shot the man over a game that he had lost.

[11] Zamora identified McCormick in a photo array the day after the shooting, and Anderson was pulled over driving the stolen Sonata (identified via the surveillance footage from gas station) two days later. McCormick's palm prints were found on the Sonata's "passenger side front door chrome accent." *Id.* at 70. Further, a subsequent search of the home where McCormick lived with his

mother resulted in the discovery of blue-tipped ammunition and an empty FN America gun case, which were consistent with the spent casings found at the scene of the shooting and the bullet fragments recovered during Stein's autopsy. And the day before the shooting, McCormick sent a picture via Facebook Messenger to a friend of a "an all-black, semi-automatic handgun, specifically an FN 5.7 handgun." *Id.* at 167. McCormick told his friend that it was a "[l]ong story" as to how he got it. *Exhibits* at 81.

[12] In February 2021, the State charged McCormick with murder, and a jury found him guilty as charged on December 13, 2022. The trial court subsequently sentenced him to sixty years in prison with five years suspended to probation.

[13] McCormick now appeals his conviction, challenging the sufficiency of the evidence. Additional information will be provided below as needed.

Discussion & Decision

[14] For sufficiency of the evidence challenges, it is well established that we consider only probative evidence and reasonable inferences that support the judgment of the trier of fact and will neither reweigh evidence nor judge witness credibility. *Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021). "We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." *Id.* "The testimony of a single eyewitness to a crime is sufficient to sustain a murder conviction." *Green v. State*, 756 N.E.2d 496, 497 (Ind. 2001).

[15] Here, McCormick complains that the State made its case “mostly on a memory impaired, high, liar, and thief” and notes that the murder weapon was never recovered. *Appellant’s Brief* at 9. He presented the same argument to the jury, but the jury still found him guilty.

[16] Anderson testified that she witnessed McCormick shoot Stein multiple times. Further, her eyewitness testimony was bolstered by other evidence, which established that McCormick was at the scene hours before the shooting, dressed in black (like the shooter) and carrying a concealed handgun, and that he had suggested to Zamora that he might shoot Stein after being scammed that day. Additionally, forensic evidence tied McCormick to the recently stolen Sonata and specifically to the front passenger seat, which was the shooter’s position as established by video surveillance footage. While the murder weapon was never recovered, the State showed that McCormick had recently possessed a handgun that could fire the same type of ammunition used in the shooting and that similar ammunition and an empty gun case were found later in the residence he shared with his mother.

[17] We reject McCormick’s blatant invitation for us to reweigh the evidence and to judge Anderson’s credibility. The State presented ample evidence to sustain the conviction.

[18] Judgment affirmed.

Weissmann, J. and Kenworthy, J., concur.