

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

Rahman A.E. Glasco, Jr.,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

April 22, 2024

Court of Appeals Case No.
23A-CR-1720

Appeal from the Marion Superior Court
The Honorable Jennifer Prinz Harrison, Judge

Trial Court Cause No.
49D20-2102-F4-5731

Memorandum Decision by Chief Judge Altice
Judges Bradford and Felix concur.

Altice, Chief Judge.

[1] Following a trifurcated jury trial, Rahman A.E. Glasco Jr. was convicted of unlawful possession of a firearm by a serious violent felon (SVF), a Level 4 felony, and criminal recklessness, a Level 5 felony. Glasco now appeals, challenging the sufficiency of the evidence as to both convictions.

[2] We affirm.

Facts and Procedural History

[3] On the morning of February 22, 2021, IMPD received two separate 911 calls from Tonya Smith, girlfriend of Glasco, regarding a shooting at her apartment. When asked for a description of the shooter in the first call, Smith named Glasco and gave the address to her apartment. IMPD officers arrived to Smith's, Apartment 104, around 1:30 a.m. The officers made contact with Smith, who was seemingly upset and scared, and found the apartment in "disarray," appearing as if "things had been knocked over like a struggle had ensued inside." *Transcript Vol. II* at 113. The officers found two 9mm shell casings as well as holes in the carpet but did not locate a firearm. Detective Christa Dobbs was called to the scene but left along with other officers after they were unable to locate Glasco.

[4] Later, Smith called 911 to inform IMPD that Glasco had returned to the apartment. Upon their arrival around 4:30 a.m., the officers saw Glasco standing in the hallway, facing the door of Apartment 115. Upon seeing a uniformed officer, Glasco ran outside of the apartment complex where he was

eventually apprehended. Officers then searched Apartment 115 and located a Glock 19 semiautomatic handgun, belonging to Smith, partially hidden behind a mirror. Other items of personal property were found in the otherwise vacant Apartment 115, including a laundry basket full of clothes and a phone.

[5] After being transported to district headquarters for questioning, Glasco told Detective Dobbs that he and Smith had been living together in Apartment 104 when he and Smith had an argument and Smith punched him in his face. Further, Glasco claimed that he was concerned that Smith's friends were coming to the apartment with mace. According to Glasco, the gun fired twice as he was attempting to gain control of it from Smith. He claimed that he "never had her gun," "never shot it," and "never pointed and grabbed it." Ex. 23 at 5:43. Glasco told Detective Dobbs that the shots were not warning shots but accidental, and that Smith was the "reason it went off the second time." *Id.* Glasco said that all he wanted to do was calm Smith down and that he placed the gun in a laundry basket before leaving the apartment. When he later returned to the apartment, he found the laundry basket outside in the hallway. After hearing Smith make the second 911 call, Glasco told a neighbor to collect the basket and move it from the hallway.

[6] On February 24, 2023, the State charged Glasco with unlawful possession of a firearm by a SVF, a Level 4 felony; carrying a handgun without a license, a Level 5 felony; domestic battery resulting in bodily injury to a pregnant woman, a Level 5 felony; criminal recklessness, a Level 5 felony; theft of a firearm, a

Level 6 felony; resisting law enforcement, a Class A misdemeanor; and interference with reporting of a crime, a Class A misdemeanor.

[7] Before trial, the State moved to dismiss the theft of a firearm and interfering with reporting of a crime charges. At the conclusion of the first phase of the trial, the trial court granted directed verdicts as to the resisting law enforcement and domestic battery charges. The jury found Glasco guilty of criminal recklessness and unlawful possession of a firearm but acquitted him of carrying a firearm without a license. In phases two and three of the trial, the jury found Glasco guilty of unlawful possession of a firearm by a SVF and that he was a habitual offender. Glasco was sentenced to an aggregate term of six years in the Department of Correction.

[8] Glasco now appeals the sufficiency of the evidence to support both his convictions. Additional information will be provided below as needed.

Discussion and Decision

[9] A claim challenging the sufficiency of the evidence warrants a deferential standard of appellate review, in which we neither reweigh the evidence nor judge witness credibility. *Owen v. State*, 210 N.E.3d 256, 264 (Ind. 2023). Rather, we consider only probative evidence and reasonable inferences that support the judgment of the trier of fact. *Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021). We will affirm the conviction unless no reasonable factfinder could find the elements of the crime proven beyond a reasonable doubt. *Id.* It is not necessary that the evidence overcomes every reasonable hypothesis of

innocence. *Drane v. State*, 867 N.E.2d 144, 147 (Ind. 2007). It is the factfinders job to determine whether the evidence in a particular case sufficiently proves each element of an offense, and we consider conflicting evidence most favorably to the trial court's ruling. *Willis v. State*, 27 N.E.3d 1065, 1066-67 (Ind. 2015).

[10] Glasco maintains that the State did not present sufficient evidence to disprove his defense of necessity to the charge of unlawful possession of a firearm by a SVF. Additionally, Glasco claims that the State did not present sufficient evidence to support his conviction for criminal recklessness.

I. Unlawful Possession of a Firearm by a SVF

[11] Glasco argues that the State failed to negate his defense of necessity, specifically, the taking possession of the firearm was a necessity because of Smith's actions. In order to prevail on a claim of necessity, Glasco must show: (1) the act was done to prevent a significant evil; (2) there was no adequate alternative; (3) the harm caused by the act was not disproportionate to the harm avoided; (4) he had a good faith belief that the act was necessary to prevent greater harm; (5) this belief was objectively reasonable; and (6) he did not substantially contribute to the creation of the emergency. *Belton v. State*, 6 N.E.3d 1043, 1046 (Ind. Ct. App. 2014). The State can refute this defense by disproving at least one element beyond a reasonable doubt. The decision whether a claim of necessity has been disproved is entrusted to the factfinder. *Id.* "Where a defendant is convicted despite [his] claim of necessity, this court will reverse the conviction only if no

reasonable person could say [at least one element of] the defense was negated by the State beyond a reasonable doubt.” *Id.*

[12] Glasco claims that taking possession of the gun was necessary to prevent either Smith or one of her friend’s using mace against him. After carefully considering the probative evidence, we conclude the record contains facts and inconsistencies from which a juror could reasonably conclude that Glasco did not possess the gun out of necessity. First, the initial 911 call named Glasco as the shooter and, upon seeing uniformed officers, Glasco ran outside the apartment complex. Additionally, Glasco made multiple inconsistent statements during interrogation about who possessed the gun and how it discharged. Further, the record contains evidence for a reasonable juror to conclude that Glasco attempted to conceal the weapon.¹ *See, Stone v. State*, 555 N.E.2d 475, 477 (Ind. 1990) (“Attempts to conceal evidence may be considered by the jury as revealing consciousness of guilt”).

[13] In sum, Glasco’s account of his actions contains evidence from which the jury could conclude that he did not act to prevent an identifiable greater harm, that he did not act reasonably or in good faith, and that he created the situation he

¹ Glasco notes the trial court’s declaration at sentencing that the jury’s acquittal of Glasco on the carrying-without-a-license charge meant that Glasco never “carried” the firearm outside of the apartment, and therefore argues that evidence about anything that occurred outside the apartment should be barred. However, courts are not to consider verdicts as consistent with any particular conclusion because juries reach inconsistent verdicts for many reasons. *See Beatie v. State*, 924 N.E.2d 643, 648-49 (Ind. 2010). (“The evaluation of whether a conviction is supported by sufficient evidence is independent from and irrelevant to the assessment of whether two verdicts are contradictory and irreconcilable.”)

wanted to avoid. Glasco's arguments to the contrary are nothing more than an improper request for this court to reweigh the evidence that was presented at trial.

II. CRIMINAL RECKLESSNESS

- [14] Glasco also claims that the State did not present sufficient evidence to support his criminal recklessness conviction. To prevail on a claim of criminal recklessness, the State must prove beyond a reasonable doubt that Glasco (1) intentionally, knowingly, or recklessly, (2) performed an act, (3) that created a substantial risk of bodily injury to another person, (4) by shooting a firearm into an inhabited dwelling. Ind. Code § 35-42-2-2.
- [15] Glasco claims that the evidence does not establish that he fired the gun with the mens rea required. To establish that Glasco engaged in the conduct recklessly, the State must prove he “engage[d] in the conduct in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involved a substantial deviation from acceptable standards of conduct.” Ind. Code § 35-41-2-2. Glasco claims that the evidence at hand supports that he fired the gun accidentally rather than intentionally, knowingly, or recklessly, observing that an accidental discharge cannot be considered reckless. *See Springer v. State* 798 N.E.2d 431, 432 (Ind. 2003).
- [16] While this may be true, there is evidence in the record from which a reasonable juror could conclude that the gunshots were not a result of an accidental discharge but rather a “plain, conscious, and unjustifiable disregard of harm.”

Ind. Code § 35-41-2-2. The evidence showed that Glasco participated in a heated argument that led to the firing of the weapon and the eventual distressed 911 call naming him as the shooter. Additionally, Glasco made various inconsistent statements regarding the shooting and possession of the weapon until he eventually claimed it was accidental. Glasco's request that we find the shots to be accidentally discharged is essentially an invitation to reweigh the evidence, which we cannot do.

[17] Accordingly, the State presented sufficient evidence to convict Glasco of the offenses of unlawful possession of a firearm by a SVF and criminal recklessness, and his convictions are therefore affirmed.

[18] Judgment affirmed.

Bradford, J. and Felix, J., concur.

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