



IN THE  
**Indiana Supreme Court**

Supreme Court Case No. 22S-CR-306

**Marquis David Young,**  
*Appellant (Defendant below)*

–v–

**State of Indiana,**  
*Appellee (Plaintiff below).*

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Argued: November 3, 2022 | Decided: December 13, 2022

Appeal from the Lake Superior Court

No. 45G03-2012-MR-48

The Honorable Diane Ross Boswell, Judge

On Petition to Transfer from the Indiana Court of Appeals

No. 21A-CR-2341

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**Opinion by Justice Goff**

Chief Justice Rush and Justices Massa, Slaughter, and Molter concur.

## **Goff, Justice.**

In this case, Marquis David Young challenges the sufficiency of the evidence supporting his convictions for murder and two counts of attempted murder. He claims the jury could not have found beyond a reasonable doubt that it was he who fired the shots which rang out at a gas station in Gary in 2020. And, in an unusual twist on a sufficiency claim, Young contends that the State's own evidence proves he was not at the scene of the crimes when they took place. The State's case did indeed contain conflicts and uncertainties that could have led the jury to harbor reasonable doubt as to Young's guilt. We ultimately conclude, however, that the jury permissibly resolved these issues of fact against Young. We will not reweigh the evidence for ourselves. Consequently, we affirm Young's convictions.

## **Facts and Procedural History**

On May 3, 2020, at approximately 11:40 p.m., Young was inside the store of a gas station on the southwest corner of 45th Avenue and Broadway in Gary. He was smoking a cigarette and wearing a white shirt, black hooded coat, dark pants, black stocking cap, and white shoes with horizontal black stripes. Young left the store and got into a car next to one of the gas pumps. As Young began to drive forward, he found a Hyundai pulling up to the pump in front of him. The Hyundai was driven by Dion Clayton, with Virgil King and Ajee Spence as passengers. Clayton was wearing a bullet-proof vest for his safety as he had "a lot going on." *Tr. Vol. IV, p. 179.* Young reversed his car, drove around the pump, proceeded west along 45th Avenue, and turned north up Washington Street. Meanwhile, Clayton and King went into the gas station store. When they came out, Clayton talked to his uncle at another pump and King got back into the car.

Approximately two minutes after Young drove away, surveillance video captured somebody who appeared near an alleyway entrance opposite the gas station and walked across 45th Street. This person ran onto the gas station lot, fired multiple gunshots, then walked back

towards the alleyway and disappeared from view. Both Clayton and King had been hit. Police responded and, following a trail of blood, found Clayton dead two blocks away. Investigation of the scene led to the recovery of twenty-three bullet casings and multiple spent bullets.

As police investigated, they secured surveillance videos from three locations: the gas station (both interior and exterior); 4444 Broadway, a property abutting the alleyway some distance away; and Bugsy's Tavern, on the northeast corner of 45th Avenue and Broadway. The videos from the gas station exterior and Bugsy's Tavern showed the shootings, although their low quality did not permit police to identify the shooter by appearance. The Broadway video showed somebody in the alleyway tossing a lit object onto the ground and running towards 45th Avenue, apparently around the time of the shootings. Police searched for the discarded object two days after the shootings. There were multiple cigarette butts in the alleyway, but officers found a single cigarette in the immediate area where the lit object had fallen. This cigarette was photographed and collected. After receiving an anonymous tip about Young, police sent the cigarette to the Indiana State Police Laboratory. Young's DNA was found on the cigarette.

Police had also determined that the bullets were of .40 caliber and had been struck with a Glock-type firing pin. Upon searching Young's internet history, they discovered that he had searched for videos on disassembling and cleaning a Glock .40 caliber pistol in the two weeks after the shootings. And a search of Young's cellphone revealed that his location data had been turned off when the shootings occurred.

The State charged Young with the murder of Clayton and the attempted murders of King and Spence. *See* Ind. Code § 35-42-1-1(1) (2019); I.C. § 35-41-5-1. At the jury trial, the State argued that the diverse pieces of evidence meshed into a coherent picture, as follows: Young was at the gas station, smoking, just before the shooting. He saw the car carrying Clayton, King, and Spence arrive. Young drove away west along 45th Avenue and north up Washington Street. He presumably stopped somewhere on the northern side of the alleyway because he tossed a cigarette there, just outside 4444 Broadway, and ran south back towards

45th Avenue. Shortly thereafter, the State argued, Young emerged from the alleyway and started firing shots at the gas station. In an effort to hide his crimes, he had turned off his cellphone location data and later searched for how to clean his gun. Young did not present any defense evidence. The trial court denied his motion for a directed verdict. The jury found Young guilty as charged and the trial court sentenced him to 115 years.

On appeal, Young argued that the State's evidence was insufficient to prove beyond a reasonable doubt that he was the shooter. In a split 2-1 published opinion, the Court of Appeals reversed Young's convictions. *Young v. State*, 187 N.E.3d 969, 970 (Ind. Ct. App. 2022). The majority set aside most of Young's concerns about discrepancies in the video footage, but held that the State had failed to present the "substantial evidence of probative value" necessary to support the verdicts. *Id.* at 975 & n.5 (internal citation and quotation marks omitted). Judge Crone dissented, opining that the jury was entitled to resolve conflicts in the evidence and that probative evidence did support a reasonable inference of Young's guilt. *Id.* at 976–77. The State filed a petition to transfer, which we granted, vacating the Court of Appeals decision. *See* Ind. Appellate Rule 58(A).

## Standards of Review

Our well-established standard of review for the sufficiency of the evidence to support a conviction reflects two fundamental constitutional imperatives. Our state constitution mandates that, in any criminal case, "the jury shall have the right to determine the law and the facts." Ind. Const. art. 1, § 19. It is the role of the jury, as fact-finder, "to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction." *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). When there are conflicts in the evidence, the jury must resolve them. *Lott v. State*, 690 N.E.2d 204, 208 (Ind. 1997). This responsibility means that a criminal trial is "the 'main event' at which a defendant's rights are to be determined." *McFarland v. Scott*, 512 U.S. 849, 859 (1994) (internal citation omitted).

Equally critical to the trial process is the federal guarantee that nobody may be convicted “except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.” *In re Winship*, 397 U.S. 358, 364 (1970). To preserve the jury’s primacy in determining whether the State has met this burden, appellate courts “consider only the evidence most favorable to the State together with all reasonable and logical inferences which may be drawn therefrom.” *Lyles v. State*, 970 N.E.2d 140, 142 (Ind. 2012). A conviction must be affirmed unless “no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Jenkins v. State*, 726 N.E.2d 268, 270 (Ind. 2000). Hence, “the task for us, as an appellate tribunal, is to decide whether the facts favorable to the verdict represent substantial evidence probative of the elements of the offenses.” *Drane*, 867 N.E.2d at 147.

This Court has recognized, however, a class of evidence that is so demonstrative of innocence that an appellate court may rely on it to reverse a guilty verdict. Where “video evidence indisputably contradicts the trial court’s findings, relying on such evidence and reversing the trial court’s findings do not constitute reweighing.” *Love v. State*, 73 N.E.3d 693, 699 (Ind. 2017). A contradiction is indisputable if “no reasonable person could view the video and conclude otherwise.” *Id.* Indisputability depends on “whether the video is grainy or otherwise obscured, the lighting, the angle, the audio and whether the video is a complete depiction of the events at issue, among other things.” *Id.* But if the video is “not clear or complete or is subject to different interpretations,” then the fact-finder receives the usual deference. *Id.* at 699–70.

## **Discussion and Decision**

### **I. The State presented sufficient evidence to identify Young as the shooter.**

The case against Young presented no direct evidence identifying him as the shooter. Nobody testified that they saw Young commit the crimes. Rather, the State built its case entirely on circumstantial evidence. In a

circumstantial case, no single piece of evidence in isolation—no “smoking gun”—is offered to persuade the jury to convict. Yet a jury may be convinced, beyond a reasonable doubt, by looking at “a web of facts in which no single strand may be dispositive.” *Kriner v. State*, 699 N.E.2d 659, 664 (Ind. 1998). Indeed, the “evidence in the aggregate may point to guilt where individual elements of the State’s case might not.” *Id.* Just as in the probable cause context, when presented with a sufficiency challenge we look at the “whole picture” without taking a “divide-and-conquer approach” to individual pieces of evidence. *See McGrath v. State*, 95 N.E.3d 522, 529 (Ind. 2018) (internal citation and quotation marks omitted).

A useful analog for our analysis here comes from *Kriner*.<sup>1</sup> In that case, the defendant stood accused of murdering a guard in a foundry security booth. 699 N.E.2d at 660. This Court recalled that “a murder conviction may be based entirely on circumstantial evidence” and held the following facts sufficient to support the conviction. *Id.* at 663. Surveillance video from a camera several hundred yards from the crime scene captured the defendant parking his car, retrieving something from the back seat, and walking towards the security booth. *Id.* at 661. An hour later, the video captured him returning in a different shirt. *Id.* Police found a shotgun in bushes nearby. *Id.* A lead projectile recovered from the crime scene was consistent with that shotgun. *Id.* at 662. The defendant’s landlord testified to being the owner of the gun. *Id.* A pair of the defendant’s shoes bore a similar pattern to a footprint made in blood at the security booth. *Id.* Testimony revealed that the defendant and the victim had insulted and threatened one another and the defendant admitted to paying money to the victim earlier in the day. *Id.* at 661, 663. This money was not found on

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<sup>1</sup> The cases principally relied on by both parties bear less resemblance to the present case. Young offers *Webb v. State*, in which the Court of Appeals held that no probative evidence placed the defendant at the scene of the crime, let alone identified him as the shooter. 147 N.E.3d 378, 380 (Ind. Ct. App. 2020). We find the evidence of Young’s guilt considerably more coherent and convincing than the evidence in *Webb*. The State offers *Meehan v. State*, which largely hinged on a single, highly incriminating piece of evidence—the defendant’s DNA on a glove inside the point of entry for a burglary—rather than on the assembly of various suggestive facts into a cohesive whole. 7 N.E.3d 255, 258–59 (Ind. 2014).

the victim or in the security booth after the murder. *Id.* at 663. In affirming the defendant’s conviction, this Court explained that the facts and permissible inferences in the case worked in “combination” to “reinforce one another” and showed more as a “composite” than each did in isolation. *Id.* at 664 (quoting *Mitchell v. State*, 541 N.E.2d 265, 268 (Ind. 1989)). As such, “the evidence viewed as a whole and most favorably to the judgment” supported the defendant’s guilt. *Id.*

As in *Kriner*, the pieces of evidence before us here fit together into a coherent whole that incriminates the defendant. In other words, the totality of the evidence favorable to the State, and the reasonable inferences that the jury could draw from that evidence, were substantially probative of Young’s guilt.

To begin with, Young was filmed at the gas station mere minutes before the shootings. Ex. 196 at 00:10–01:15.<sup>2</sup> At that time, he was smoking a cigarette and wearing a white shirt, dark pants, and white shoes with horizontal black stripes. *Id.* at 00:20–01:08. As he was leaving the gas station, Young saw the car carrying Clayton, King, and Spence. *Id.* at 01:50–02:11. Young was known to Clayton and King. Tr. Vol. IV, pp. 162–63, 172. Clayton was wearing a bullet-proof vest for protection. *Id.* at 175, 179. The jury could thus infer that Young knew his intended victims were at the gas station. Young then drove west on 45th Avenue and north on Washington, from where a right turn would have brought him to the alleyway. Ex. 196 at 02:05–02:40.

Video from the infrared surveillance camera at 4444 Broadway showed a figure enter the scene from the north, toss a lit item, then run southward. *Id.* at 04:04–04:10. Less than two minutes later, it showed a figure walking northward.<sup>3</sup> *Id.* at 05:48–06:00. Detective Reginald Sanders testified that

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<sup>2</sup> For ease of reference, most citations to the video evidence in this opinion are made to Exhibit 196, the State’s demonstrative composite video.

<sup>3</sup> The State does not mention that this section of the Broadway video appears to show (albeit in infrared) that the figure was wearing white shoes with horizontal black stripes, similar to those Young was wearing inside the gas station. Ex. 151 at 24:13–24:18.

the video was recorded at a date and time corresponding to the shootings. Tr. Vol. III, p. 135. Detective Kristopher Adams testified that, two days after the shootings, he used the recorded Broadway video and a live video feed to direct Detective Antwan Jakes to the location “exactly where” the recorded video showed the lit item being discarded. Tr. Vol. IV, pp. 27–28. A cigarette butt was found there. *Id.* Detective Anthony Rendina testified that he saw no other cigarettes in the “immediate vicinity.” *Id.* at 97–98. The jury could thus have believed that police recovered the very cigarette shown in the Broadway video. The chances of the DNA detected on that cigarette coming from anybody but Young were “270 nonillion times” to one. *Id.* at 136. From this evidence, the jury could infer that Young was the figure captured on video in the alleyway, first seen tossing a cigarette and running southward towards the gas station, and next seen walking back northward.

Video from Bugsy’s Tavern showed the shooter coming into view near the alleyway entrance, carrying out the shootings, running back towards the alleyway entrance, and disappearing from view. Ex. 196 at 04:33–05:05. Exterior surveillance footage from the gas station showed the shooter wore a light-colored shirt, dark pants, and white shoes (the top half of the body was almost entirely out of shot). *Id.* at 04:45–04:59. Detective Sanders testified that the shooting took place between the time when a person went down the alleyway and the time when a person walked back up it, as captured by the Broadway camera. Tr. Vol. III, p. 146. The jury could infer that Young, having run down the alleyway, was in fact the person who was seen on video near the alleyway entrance and firing the shots at the gas station.

Detective Samuel Perez testified that the casings and bullets police collected at the gas station were .40 caliber. Tr. Vol. IV, pp. 63, 70. The casings had been struck by “a Glock-type firing pin most commonly known from a Glock firearm.” *Id.* at 68. Detective Jakes testified that Young searched, in the week or two after the shootings, for how to clean and disassemble a Glock .40 caliber gun. Tr. Vol. V, p. 37. The jury could thus infer that Young had access to a gun capable of firing the casings and bullets recovered from the crime scene. And Young’s cellphone location



data was turned off at the time of the crime, suggesting he intended to conceal his whereabouts. *Id.* at 36.

To summarize, the jury could reasonably have inferred that Young spotted the victims at the gas station, drove somewhere nearby with alleyway access, tossed his cigarette in the alleyway, ran to the gas station to carry out the shootings, walked back up the alleyway to get away, and later looked up how to clean the weapon he had used. His deactivated location data suggested he was concealing his activity. No single “smoking gun” was presented, but we cannot say that a reasonable fact-finder was unable to draw the conclusion that Young was guilty.

## **II. The doubts Young raises about the evidence present factual disputes that the jury was entitled to resolve.**

While Young recognizes our deferential standard of review, he urges us to find that the evidence necessarily left room for reasonable doubt. Reasonable doubt may arise, he submits, “from the evidence presented, a lack of evidence presented, or a conflict in the evidence.” Appellant’s Br. at 11 (citing *Kien v. State*, 782 N.E.2d 398, 407 (Ind. Ct. App. 2003)). He draws our attention to three alleged failures of proof: uncertainty whether the cigarette collected by police was the lit item captured on the Broadway video; differences in the appearance of the figure in the Broadway video from that of Young himself; and the apparent inconsistency in two videos placing him respectively in the alleyway and at the gas station at the exact same time.

We agree that the jury might have derived a reasonable doubt from the identified problems with the evidence. But the issues surrounding this evidence presented debatable questions of fact that the jury could reasonably have determined either for or against the defense. And, applying our standard of review, we may not substitute our weighing of the evidence for that of the jury. Nor will we divide and conquer the evidence by interpreting each piece individually in the defendant’s favor, rather than considering the composite picture and drawing reasonable

inferences in support of the verdict. *Drane*, 867 N.E.2d at 146; *McGrath*, 95 N.E.3d at 529.

### **A. Evidence tied Young’s cigarette to the figure seen on video.**

Young contends that there was a “gap in the evidence” supposedly placing him in the alleyway. Appellant’s Br. at 11. He argues that Detective Adams’s own testimony cast doubt on whether the cigarette recovered from the alleyway was the item shown on the Broadway video. Young cites the following exchange between the State and Detective Adams:

Q: Okay. And you said you saw somebody throw down a cigarette or a cigar?

A: Correct.

Q: Did you know which one?

A: No.

*Id.* at 12 (quoting Tr. Vol. IV, pp. 33–34).

According to Young, Detective Adams meant that he did not know whether the cigarette he found was the one that was discarded in the video. We read the testimony differently. Detective Adams appears to have meant that he did not know whether the lit item in the video was a cigarette or a cigar. In any case, the jury heard testimony that the police carefully directed their attention to the place where the lit item appeared to fall and that, although it was two days later, only one cigarette was found in the immediate area. Tr. Vol. IV, pp. 27-28, 34, 88-89, 97-98; Tr. Vol. V, p. 8. It was the jury’s responsibility to weigh all the evidence. It cannot be said that no substantial probative evidence identified the cigarette that was found with the item shown in the video.

## **B. Video footage did not indisputably exonerate Young.**

Young argues that a comparison of his appearance in the gas station interior video and the figure in the Broadway video demonstrates that they are not the same person. According to Young, he had a thicker build and was wearing black headgear, whereas the figure in the alleyway was slimmer and wore white headgear.

This claim is subject to the standard of review for video evidence set out in *Love v. State*. As an appellate court, we may draw our own factual conclusions only from video that “indisputably contradicts” the verdict. 73 N.E.3d at 699. The quality and characteristics of a video, including poor lighting and grainy resolution, affect whether its evidence is indisputable. *Id.* If differing interpretations are reasonable, we defer to the fact-finder. *Id.* at 699–700.

The gas station interior video showed Young wearing a black stocking cap. Ex. 196 at 00:20–01:08. Young correctly notes that his head area appears as a light patch in the Broadway video. *Id.* at 04:08–04:10. But that video was captured by an infrared camera. Tr. Vol. III, p. 168. Detective Sanders explained that this type of camera detects warmth and cannot be used to determine color. *Id.* at 169. A light-colored garment might appear light on an infrared camera, but so might a warm dark-colored garment. *Id.* As such, it is not indisputable that the light area around the head of the figure in the Broadway video indicated the color white, rather than something dark but warm. Moreover, even if the figure were wearing white headgear, that fact would not indisputably exonerate Young.

As to the purportedly slimmer build of the figure in the Broadway video, we cannot deem this indisputable. The resolution of the picture is poor and the whole area of the alleyway where the figure appears is dark. It is not clear beyond reasonable disputation that the figure shown was not Young.

### **C. The jury could reasonably have resolved the issue of the conflicting timestamps in the State’s favor.**

We come finally to Young’s strongest challenge to the sufficiency of the evidence. All the videos bore timestamps. Concerning the Broadway video, Detective Sanders testified that he reviewed the accuracy of its timestamp and determined that it was “dead-on accurate” by comparison of the recording system with “official U.S. government time.” *Id.* at 134. The video from Bugsy’s Tavern, however, had an erroneous timestamp. *Id.* at 130–31. Detective Sanders testified about the process he performed for working out the degree of error that existed on the day of the shootings. *Id.* at 131. On August 23, 2020, Sanders inspected the system and found it to be fast by one day, 17 minutes, and 24 seconds. On May 24, 2021, he visited again and found it was fast by one day, 22 minutes, and 8 seconds. He concluded from those inspections that the system sped up by 1.03 seconds per day. Thus, the degree of error on May 3, 2020, the day of the shootings, was calculated as one day, 15 minutes, and 28 seconds. By subtracting this error from the timestamp displayed on the Bugsy’s Tavern video at the time of the shootings, Sanders concluded that the footage was recorded on May 3. *Id.* at 132. The gas station video timestamps were also incorrect, but there was no evidence as to their degree of error.

Young points out, correctly, that the timestamps created a conflict in the evidence. The “dead-on accurate” Broadway video showed a figure running through the alleyway at 11:43:47 p.m. on May 3. Ex. 151 at 22:34. When corrected according to Detective Sanders’s calculation, the Bugsy’s Tavern video seemed to show that, at the very same time, the shootings were taking place at the gas station.<sup>4</sup> Ex. 150 at 04:15. The following table summarizes the alleged conflict in the evidence:

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<sup>4</sup> In closing, the State used as a demonstrative exhibit a video, Exhibit 196, which combined footage from multiple cameras. This composite placed a 25-second interval between the figure running past the Broadway camera in the alleyway and his appearance on 45th Avenue. Ex. 196 at 04:07–04:32.

	<b>Broadway video</b>	<b>Bugsy’s Tavern video</b>
<b>Timestamp accuracy</b>	“Dead on accurate”	One day, 15 minutes, and 28 seconds fast
<b>Time video captured</b>	11:43:47 p.m. on May 3	Timestamp: 23:59:15 on May 4  Corrected time: 23:43:47 on May 3
<b>Scene captured on video</b>	A figure running down the alleyway and tossing a cigarette	A figure opening fire on the gas station lot

Young argues that, since he could not physically be in the alleyway and at the gas station simultaneously, no reasonable juror could have concluded beyond a reasonable doubt that he was the shooter at the gas station.

We conclude that this inconsistency in the evidence did not compel a finding of reasonable doubt. It was precisely the kind of dispute which the jury was responsible for deciding by weighing the evidence and resolving conflicts in it. Trials are intended for this purpose. Young had the opportunity to cross-examine Detective Sanders about the timestamps and to argue about them to the jury. The jury, having listened to Detective Sanders testify and having assessed his credibility, did not have to believe every word he said. *See Wood v. State*, 999 N.E.2d 1054, 1064 (Ind. Ct. App. 2013). Even if the jury believed everything Sanders told them he observed, the jury did not have to take his inductive conclusions at face value.<sup>5</sup> Sanders did not testify as to when he inspected the Broadway video system and found its timestamp to be accurate. *See Tr. Vol. III*, p. 134. It was not certain that it was perfectly accurate on May 3. Nor was evidence

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<sup>5</sup> Indeed, Detective Sanders gave two different answers for how fast he calculated the Bugsy’s Tavern timestamp to be on May 3. *Compare Tr. Vol. III*, p. 131 (one day, 15 minutes, and 28 seconds), *with id.* at 142 (one day, 17 minutes, and 24 seconds). His second answer appears to have been erroneous, but it produced another conflict in the evidence.

presented to show that the timestamp on the Bugsy’s Tavern video system had sped up at a constant rate over the course of fifteen months. This was an unspoken assumption. The jury could reasonably have determined, considering all the evidence, that the most likely explanation for the inconsistent timestamps was a slight error of a few seconds either in Sanders’s observations or in his inferences about the state of the video systems on the day of the shootings. The jury was not required to find that the apparent incompatibility of the timestamps outweighed the rest of the web of facts that suggested Young was indeed the shooter. Looking, as we must, at the evidence favorable to the verdict, and drawing only favorable inferences, we cannot say there was no substantial probative evidence of Young’s guilt.

## Conclusion

We reiterate the point made by Judge Crone, dissenting in the Court of Appeals, that the evidence of guilt reviewed on appeal “need not overcome every reasonable hypothesis of innocence” to pass muster. *Young*, 187 N.E.3d at 976. It is sufficient that a reasonable jury could have inferred that the defendant committed the crimes charged. We leave the weighing of all the evidence and resolution of conflicts in it to the jury. Because a reasonable inference that Young was guilty as charged may be drawn from the whole picture of the evidence in this case, the judgment of the trial court is affirmed.

Rush, C.J., and Massa, Slaughter, and Molter, JJ., concur.

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