IN THE

Indiana Supreme Court

Supreme Court Case No. 21S-LW-00471

Amanda Dawn Carmack

Appellant (Defendant below),

–v–

State of Indiana

Appellee (Plaintiff below).

Argued: September 22, 2022 | Decided: January 12, 2023

Direct Appeal from the Grant Circuit Court,

No. 27C01-1909-MR-000008

The Honorable Mark E. Spitzer, Judge

Opinion by Justice Massa

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

Massa, Justice.

Amanda Carmack appeals her conviction after being sentenced to life without parole for the murder of her ten-year-old stepdaughter, S.C. On direct review, Carmack challenges the sufficiency of the evidence, arguing the State failed to satisfy its evidentiary burden in negating the mitigating factor of "sudden heat," a condition necessary to reduce her conviction to voluntary manslaughter. In reviewing the evidence supporting the judgment, we hold the State met its evidentiary burden to disprove the existence of sudden heat because of the lack of adequate provocation, accompanied by a sustained cooling-off period. Accordingly, we affirm the trial court's conviction and Life Without Parole sentence.

Facts and Procedural History

In October 2017, Carmack married her now-ex-husband, Kevin, blending their families with Carmack's three children, three nieces and nephews, and Kevin's daughter, S.C. Carmack homeschooled the seven children, while Kevin worked as an over-the-road truck driver. Carmack had a particularly strained relationship with S.C., often complaining she created the most trouble of all the children.

On August 22, 2019, Carmack penned a Facebook post complaining about one child in her home.[1] She stated: "I'm really at the end of my rope with this one. . . ." Tr. Vol. I, p. 174. That day, too, Carmack wrote a journal entry, alleging she had been lied to by unspecified individuals, and that she "just want[ed] to feel at peace. To know that the people I care about are honest with me." Ex. 84, p. 135.

One week later, on August 31, Kevin—who was away for work—received a text message from Carmack informing him that S.C. had taken

[1] The post contained the following language: "So . . . I've got a child that has been hiding food in their pants and flushing it after the meal. Regularly! This same child has also been sneaking hot cocoa packets and candy, eating them, and hiding them in their bed. Then… She tried to lie about it. That's just the past week. Previously, she has run away, stolen money from me and continually lied about everything she thinks I'm too busy/stupid to know about. I'm really at the end of my rope with this one. . . ." Tr. Vol. I, pp. 173–74.

her stepsister's charm bracelet, disassembled it, and given the pieces to other children at home. Around 3:30 p.m., Carmack set up a video call with Kevin, S.C., and herself to discuss the situation and possible consequences. The conversation lasted about fifteen minutes, and S.C. admitted to taking the charm bracelet from her stepsister. Kevin, who noticed Carmack's irritation, told her to "leave it alone until" he arrived at home the following morning. Tr. Vol. I, p. 178. Carmack obliged, but appeared "frustrated." Tr. Vol. II, p. 179. Kevin left the conversation with the general impression she wanted to discipline S.C. for her actions.

Sometime around 8:00 or 9:00 p.m., Kevin received a sharp text message from Carmack, which read: "I think we have a problem." Tr. Vol. I, p. 210. Two minutes later, Carmack sent a follow-up message, raising further alarms for Kevin: "I can't find [S.C.] She was supposed to be cleaning her room after I went through looking to see if there was anything. Asking kids when the last time they saw her." *Id.* Carmack then claimed she was uncertain on what to do, which puzzled Kevin because Carmack had contacted the police immediately the last time S.C. ran away in 2017.[2] Kevin told Carmack to call the police. In response, Carmack contacted the Gas City Police Department to report a missing child.

Officer Colton Shipley was dispatched to the residence, where Carmack told him S.C. was last seen wearing a sweatshirt with video-game characters on it, and that a pillow, blanket, and backpack were missing from her room. The officers searched the property, and observed several outbuildings in the backyard. The officers did not locate S.C. at that time.

On September 1, Indiana State Police obtained a search warrant for Carmack's residence, where they searched a white shed on the property, observing several trash bags inside. The officers felt the bags, which appeared to contain soft clothing or other materials. Because the officers

[2] After Carmack's relationship began in 2017, S.C. ran away from home, where she was found by a nearby park when she fled to her grandmother's workplace. Tr. Vol. II, p. 172.

operated under the assumption they were looking for a child who was alive and breathing, the officers did **not** open the trash bags.

That same day, Carmack went to the Gas City Police station to talk with police.[3] During her nearly four-hour long interview, Carmack managed to recall certain details from August 31 with a degree of precision. She remembered the time of her phone call with Kevin, and when she turned on the oven to fix dinner that evening. At the same time, when questioned about S.C. and her disappearance, Carmack had trouble remembering details. For example, Detective Michelle Jumper asked Carmack several times about whether it was a "mistake," but Carmack provided no audible responses to these questions. Tr. Vol. I, p. 225. Sergeant Robert Burgess also participated in the interview, and Carmack admitted to him that she had lost her temper with S.C., and struck S.C. on the side of her head before her disappearance. As the interview progressed, Carmack's answers became largely unresponsive. When asked about her involvement in S.C.'s disappearance, Carmack stated, "it doesn't matter." Tr. Vol. I, pp. 228–29. Carmack never denied killing her stepdaughter, but stared at Detective Jumper when asked the question.

On September 3, Carmack underwent a voluntary polygraph examination. Before the examination, Carmack had a chance to supply her own account of what happened to S.C. She told the examiner she was "tired of [S.C.] lying and stealing stuff" and that, after the incident involving the bracelet, she told S.C. she "didn't wanna see her anymore," and she "wish[ed] she would just go away." Tr. Vol. II, pp. 34–35. During the examination, Carmack was asked several questions, including three which were especially relevant:

(1) Did you cause **that girl** to go missing?
(2) Were you involved in **that girl** going missing in any way?

[3] Only parts of State's Exhibit 73, a flash-drive containing Carmack's police interview, which spanned nearly four hours, was played to the jury. The Original Transcript did not reflect the precise contents that were played to the jury, so the trial court ordered the Transcript corrected, and the eight-page Supplemental Transcript filed on May 20, 2022, clarifies which parts of Exhibit 73 were played to the jury.

(3) Do you know where **that girl** is now?[4] *Id.* at 30 (emphasis added).

Carmack answered "no" to each of these questions. *Id.* at 31, 35–36. After reviewing the results of the examination, the polygraph examiner determined she exhibited signs of deception.

At some point on September 3, Kevin walked into the white shed and found candles burning inside. Because Kevin thought burning candles in a shed was careless, he blew them out. When he asked Carmack about the candles, she said she stepped in "dog mess in the yard and had lit them to cover up the smell." *Id.* at 197. Kevin also discovered a notebook that day with Carmack's handwriting, which stated, among other things, "I'm sorry. I'm broken. … What's wrong with me[?]," "Things are jumbled and don't make sense," and, "I don't like being mean." *Id.* at 63, 198. Concerned with this unsettling content, Kevin delivered the notebook to Detective Josh Rozzi, who also worked for the Gas City Police Department. Detective Rozzi spoke with Kevin and Carmack about the journal entries that evening, and Carmack confirmed she wrote the notes.

During the early morning hours of September 4, Carmack traveled to the Gas City Police Department and asked to speak to detectives. Carmack told them she "remembered what happened to [S.C.]." *Id.* at 135. Carmack explained S.C.'s body was located inside trash bags in the white shed at home. She suggested she had been "so mad" at S.C., but did not identify the reasons for her anger. Ex. 88 at 01:03.35–1:03.44. She said she remembered sitting on S.C.'s head, putting her hands around her neck, and then grabbing an object to fasten around her neck. On this statement, the police obtained a second search warrant for her home.

During the second search, the officers found S.C.'s body inside the garbage bags, along with dryer sheets, the backpack, pillow, and blanket Carmack reported S.C. taking when she allegedly left home. According to one officer who helped execute the search, "There was clothing and

[4] Trooper Matthew Collins, the Indiana State Police examiner who conducted the polygraph, clarified the term "that girl" was used intentionally and referred to S.C. Tr. Vol. II, pp. 46–47.

padding all the way around the body[;] so feeling the bag, you couldn't even tell it was a body…. [T]here was a lot of thought put into the way it was packaged for the purpose of disguising it." Tr. Vol. I, p. 176. Officers also found a candle inside the shed; one officer determined this evinced Carmack's intent to hide the smell from the body, which had reached an "advanced stage of decomposition[.]" Tr. Vol. II, pp. 121, 177. A DNA sample discovered from the bags revealed Carmack's DNA. And while the officers were at the home searching for the body, Carmack used a pad of paper to draft a series of letters addressed to Kevin, her children, and other individuals she knew. In the last of these letters addressed to S.C., she said:

> I'm sorry that I hurt you. I never meant for any of this to happen. I remember when we used to hang out. I wish we could get back to those days. I've only ever wanted to love you. I just don't think you knew how to handle that kind of caring. You were already so used to being cast aside. Seems like every time we had a great day, you found a way to push me away. I wish there was a way to fix this, but I really messed up. I'll see you in my dreams for the rest of my life. Ex. 85, p. 146.

During an autopsy, Dr. Scott Wagner observed a "very tight" double-knot ligature made of clothing fastened firmly around S.C.'s neck. Tr. Vol. II, p. 148. Dr. Wagner discovered the ligature had been affixed so securely that he could not fit his finger under the knot. After Dr. Wagner cut the piece of clothing, he observed a groove in her neck where the ligature had been located. This type of injury, Dr. Wagner testified, severed circulation in S.C.'s jugular vein and carotid arteries, while also cutting off air through her trachea. He also detected contusions in her chest and near her chin. Dr. Wagner ruled the death a homicide, concluding the cause of death was asphyxia due to **ligature** strangulation. He clarified there were signs of manual strangulation based on the chin contusions, but the ligature strangulation had been fatal.

The State charged Carmack with murder; Level 1 felony neglect of a dependent resulting in death; Level 2 felony domestic battery resulting in death; Level 6 felony strangulation, and the State filed a notice of intent to seek LWOP. Carmack filed an initial notice of defense of mental disease or defect that was later withdrawn.

During the closing arguments at the guilt phase, Carmack's counsel conceded Carmack had killed S.C., but contended she acted under "sudden heat"—that is, she was "overwhelmed" with S.C. and thus "there was no premeditation" to support a murder conviction. Tr. Vol. II, pp. 228–32. Defense counsel argued the jury's choice on the first count was one between murder and voluntary manslaughter, and the jury should find her guilty of the latter.

The jury returned guilty verdicts on each count. After the penalty phase, the jury found as an aggravating circumstance the victim was less than twelve-years-old, and that fact alone outweighed any mitigating circumstances. The jury recommended a sentence of life without parole, and after a sentencing hearing, the court—citing double jeopardy concerns—vacated the convictions on all counts except murder. The court then imposed the recommended LWOP sentence.

Carmack appeals the sufficiency of the evidence of her murder conviction, arguing the State failed to "rebut her contention that she was acting under extreme stress, causing sudden heat, when she killed S.C., and therefore her conviction should be mitigated or reduced to [voluntary] manslaughter."[5] Appellant's Br. at 9. The State argues it sufficiently carried its burden in negating "sudden heat" beyond a reasonable doubt before the jury. Appellee's Br. at 14. In support, the State advances two arguments: (1) the "run-of-the-mill disciplinary problems S.C. caused were insufficient to establish provocation as an objective matter" of law, and (2) "[t]he factfinder could have reasonably concluded from the evidence that Carmack's actions were not sudden." *Id.* at 16, 21.

Carmack directly appeals her murder conviction to this Court. *See* Ind. Appellate Rule 4(A)(1)(a).

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[5] At oral argument, Carmack's counsel conceded its original erroneous request for a conviction reduction to **involuntary** manslaughter was a mere typographical error in its appellate briefing, and clarified she only seeks a reduction to **voluntary** manslaughter. *See* Oral Argument at 02:58–03:15, *Carmack v. State of Indiana*, 21S-LW-00471, https://mycourts.in.gov/arguments/default.aspx?&id=2672&view=detail&yr=2022&when=9&page=1&court=&search=&direction=%20ASC&future=True&sort=&judge=&county=&admin=False&pageSize=20, archived at https://perma.cc/SLV9-9E7Y.

Standard of Review

On a fundamental level, sufficiency-of-the-evidence arguments implicate a "deferential standard of review," in which this Court will "neither reweigh the evidence nor judge witness credibility," but lodge such matters in the special "province" and domain of the jury, which is best positioned to make fact-centric determinations. *See Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018). In reviewing the record, we examine "all the evidence and reasonable inferences supporting the verdict," and thus "will affirm the conviction if probative evidence supports each element of the crime beyond a reasonable doubt." *Id.*

Carmack raises one issue on direct appeal: whether the State sufficiently disproved her assertion that S.C. was killed in **sudden heat**. Because she attacks the sufficiency of the evidence, we analyze her argument under a "deferential standard of review." *Id.*

Discussion and Decision

At the outset, the State urges us to hold as a matter of law that frustration with a child's behavior can never trigger sudden heat mitigating murder to manslaughter. Though courts in sister states have so concluded, see, e.g., *State v. Brown*, 836 S.W.2d 530, 554 (Tenn. 1992) and *State v. Taylor*, 452 N.W.2d 605, 606 (Iowa 1990), we need not make new law in this case. Indeed, the record here is so bereft of evidence of sudden heat that if there be any error, it was giving the jury this option in the first place, notwithstanding the cautious virtue of protecting the appellate record. The evidence is wholly lacking provocation to trigger sudden heat, while also revealing a sustained "cooling-off" period between the alleged frustration and ultimate murderous act. Accordingly, we affirm Carmack's murder conviction and LWOP sentence.

I. The State satisfied its evidentiary burden in negating the mitigating factor and voluntary manslaughter requirement of "sudden heat."

We start our analysis with the relevant degrees of homicide in Indiana. First, one commits murder if she "knowingly or intentionally" kills

another human. I.C. § 35-42-1-1. Second, if one "knowingly or intentionally kills another human being while acting under sudden heat," she commits voluntary manslaughter—a Level 2 felony. I.C. § 35-42-1-3(a). The existence of sudden heat is a "mitigating factor"—not an affirmative defense—and it "reduces what otherwise would be murder to voluntary manslaughter." I.C. § 35-42-1-3(b); *Isom v. State*, 651 N.E.2d 1151, 1152 (Ind. 1995). Once sudden heat has been "injected" into the heart of the case, "the burden is on the State to negate its existence." *Bane v. State*, 587 N.E.2d 97, 100 (Ind. 1992), *reh'g denied*. When injecting the issue, the defendant must point to some evidence in the record supporting sudden heat. *Watts v. State*, 885 N.E.2d 1228, 1234 n.2 (Ind. 2008). Because sudden heat functions as an "evidentiary predicate," *Bane*, 587 N.E.2d at 100, it requires the jury to decide whether the record evidence supports it. *Id.*

Sudden heat exists when a defendant is "provoked by anger, rage, resentment, or terror, to a degree sufficient to obscure the reason of an ordinary person, prevent deliberation and premeditation, and render the defendant incapable of cool reflection." *Brantley*, 91 N.E.3d at 572 (quoting *Isom v. State*, 31 N.E.3d 469, 486 (Ind. 2015)). The issue of whether adequate provocation legally exists is an objective—not a subjective—measure. *See Stevens v. State*, 691 N.E.2d 412, 426 (Ind. 1997); *Suprenant v. State*, 925 N.E.2d 1280, 1282–83 (Ind. Ct. App. 2010). Indeed, "[e]vidence of sudden heat may be found in either the State's case or the defendant's." *Brantley*, 91 N.E.3d at 572. And because juries are in the unique position to assess the veracity of evidence, they must decide whether the evidence contained in the record "constitute[s] sudden heat sufficient to warrant a conviction for voluntary manslaughter." *Id.* (internal quotations omitted).

Premeditation, unlike sudden heat, is "the deliberate formation of an intent to perform a future act," *Currin v. State*, 497 N.E.2d 1045, 1047 (Ind. 1986), where a defendant has conceivably "mulled over in the mind" prior to the act. *Henderson v. State*, 264 Ind. 334, 337, 343 N.E.2d 776, 778 (1976). Yet premeditation "may be as instantaneous as successive thoughts," as the precise duration between the inception of intent and the killing "need not be appreciable to constitute premeditation." *Currin*, 497 N.E.2d at 1047. Thus, whether premeditation exists is a question whose answer may be reasonably inferred from the particular circumstances of a crime. *Id.*

We find support for this "instantaneous" school of premeditation. *See Wright v. State*, 168 N.E.3d 244, 268 n.17 (Ind. 2021). Some of our nineteenth century precedents subscribed to that venerable notion. *See*, *e.g.*, *Koerner v. State*, 98 Ind. 7, 10 (1884) ("It is as much premeditation, if it be entered into the mind of the guilty agent a moment before the act, as if it entered ten years before."). And one of our recent decisions confirmed that ancient view. *See Wright*, 168 N.E.3d at 268. Conversely, some cases have reached the opposite conclusion. *See*, *e.g.*, *Barker v. State*, 238 Ind. 271, 279, 150 N.E.2d 680, 684 (1958) (finding it "difficult to conceive" that "premeditation may be practically simultaneous with the act of killing").

Even so, the distinction drawn by our precedents is likely inapposite: Indiana's murder statute does **not** require premeditation. *See Wright*, 168 N.E.3d at 268 n.17; *compare* I.C. § 35-13-4-1 (Burns 1975) (repealed 1976) (murder defined as a killing accomplished "purposefully and with premediated malice"), *with* I.C. § 35-42-1-1 (murder defined as the "knowing or intentional killing of another human being"). That said, **premeditation** as a concept is still accorded credence in Indiana when courts endeavor to approximate and define "sudden heat." *See*, *e.g.*, *Brantley*, 91 N.E.3d at 572. And its presence here, even if nearly instantaneous, negates any notion of sudden heat.

A. Manifest Lack of Adequate Provocation

First, the State argues that it negated Carmack's claim of sudden heat because there is "no evidence of provocation." Appellee's Br. at 16. Here, the State proposes a per se rule: "run-of-the-mill disciplinary problems" within the typical course of parenting cannot establish adequate provocation necessary to mitigate murder to voluntary manslaughter. *Id.* Its proposal is not without support: Two states have adopted that bright-line rule. *See Brown*, 836 S.W.2d at 554; *Taylor*, 452 N.W.2d at 606. And while we have never explicitly adopted that precise rule formulation, our precedents supply a useful frame to determine whether the disciplinary problems here fit within Indiana's provocation standard. They do not.

We start with *Robinson v. State*, 453 N.E.2d 280 (Ind. 1983), where this Court declared the following proposition: The act of a child wetting the bed while under parental supervision does not constitute provocation that

gives rise to sudden heat. *Id.* at 283–84. *Robinson* is instructive, and serves as the proper starting point in this lineage of case law. In *Robinson*, this Court reasoned that, while the mother and husband "may have been angered by the fact that the three-year old child had wet the bed and was unresponsive to questioning," it was "clearly not sufficient provocation," and the disciplinary acts of slapping, knocking, kicking, and dropping were unjustified. *Id.* Indeed, the Court held it was "reasonable that an ordinary person would understand that repeatedly knocking a small child against a chair and kicking her could fatally injure the child." *Id.* at 284.

Five years later in *Patterson v. State*, 532 N.E.2d 604 (Ind. 1988), this Court ratified *Robinson*: bed-wetting was not adequate provocation when applied to a six-year-old. *Id.* at 607. There, the stepmother beat her stepdaughter "with a pole all over her body," before "slamm[ing]" the child in the bathtub—the act which ended her life. *Id.* at 606. But this Court again held the act of wetting the bed was not enough to reduce the defendant's murder conviction to voluntary manslaughter. *Id.* at 607.

Our law has demanded more from parents in other contexts. For example, more than ten years after *Patterson,* this Court in *Powers v. State*, 696 N.E.2d 865 (Ind. 1998), ascribed the same doctrinal view to a five-month old "crying" while in bed. *See id.* at 868–69. In *Powers*, the defendant—who confessed to having "snapped" because of the child's uncontrollable crying—picked up the child, hit him on the head with both a bottle and toy car, then dropped him to the floor. *Id.* at 868. There, we held that crying itself did not trigger sudden heat. *Id.* And for good measure: voluntary manslaughter could not protect parents from responding to the expected cry of a newborn with deadly violence.

The State further directs us to *Commonwealth v. Vatcher*, 781 N.E.2d 1277 (Mass. 2003), where a sister state high court faced similar circumstances. In that case, unlike here, a father argued on appeal that he was entitled to a jury instruction on sudden heat following the shooting of his eleven-year-old son. *Id.* at 1280. The son had "an extended temper tantrum" before the fatal shooting. *Id*. at 1281. That tantrum was more volatile than anything based on this record: there, the boy "threw waffles in the trash, threw other objects around the house, kicked a brass planter, and

attempted to destroy his mother's birthday cards." *Id.* Even more to the point, the son brazenly engaged his father in a physical "wrestling match," before he hit him, followed him, and cursed at him. *Id.* These explosive actions, according to the mother, were "not atypical." *Id.*

The Supreme Judicial Court of Massachusetts affirmed the trial court's rejection of a voluntary manslaughter instruction, holding there was no serious evidentiary dispute about sudden heat because, "however frustrating, annoying, and even infuriating" the son's behavior might have been to the father, "it did not rise to adequate provocation within the meaning" of Massachusetts law. *Id.* at 1282 (internal quotations omitted). One might ask: weren't the son's actions provocative in the "ordinary sense of the term," and therefore justified that type of parental discipline? *Id.* No, the Court held in *Vatcher*: they could not "reasonably be said to have called forth the stark break down in self-control" that reduces murder to manslaughter. *Id.* While the actions would not have "surprised" the father, the son's extended temper tantrum would not have been enough to stir "such a state of passion, anger, fear, fright, or nervous excitement as would eclipse his capacity for reflection or restraint." *Id.* (quoting *Commonwealth v. Sirois*, 777 N.E.2d 125, 132 (Mass. 2002)).

While the facts here are analogous to *Vatcher*, they fall well below its explosive, volatile, and dangerous circumstances. Here, S.C.'s actions do not even raise an eyebrow for adequate provocation under Indiana law. *See Patterson*, 532 N.E.2d at 607; *Powers*, 696 N.E.2d at 868–69. Because adequate provocation is measured under an objective person standard, see *Stevens*, 691 N.E.2d at 426 and *Suprenant*, 925 N.E.2d at 1282–83, we conclude that no ordinary parent under these facts would have responded with strangulation. Indiana law, too, provides a clear and discernible bright-line rule: anger alone cannot provoke sudden heat. *Wilson v. State*, 697 N.E.2d 466, 474 (Ind. 1998). That rule is categorical. *See id.* So whatever the **subjective** degree to which S.C.'s behavior might have been anger-inducing for Carmack, it was inadequate to elicit sudden heat. These findings are reasonably supported by the record: neither the State nor Carmack proffered evidence at trial to suggest Carmack's response was an appropriate measure under these circumstances. Rather, S.C.'s behavioral issues fit generally within the expected parenting experience, see *Powers*,

696 N.E.2d at 868–69 and *Patterson*, 532 N.E.2d at 607, and do not rise to the level of adequate provocation for voluntary manslaughter. At most, Carmack's subjective parenting issues with S.C. could have been addressed through rote disciplinary measures—not strangulation. Nothing about these facts suggests she was adequately provoked by S.C.

B. Sustained "Cooling-Off" Period

The State also argues that, even if S.C.'s behavior were found to be provocative, "there was nothing sudden about the anger and rage Carmack experienced at the time the killing took place." Appellee's Br. at 21. We agree: there was an adequately sustained "cooling-off" period, which would also foreclose a finding of voluntary manslaughter here.

In Indiana, voluntary manslaughter requires evidence of an impetus to kill that arises "suddenly." *Stevens*, 691 N.E.2d at 426. Thus, voluntary manslaughter can be "supported if there exists evidence of sufficient provocation to induce passion that renders a reasonable person incapable of cool reflection." *Roark v. State*, 573 N.E.2d 881, 882 (Ind. 1991). "Any appreciable evidence of sudden heat" will indeed justify an instruction on voluntary manslaughter. *Id.* Yet even where sudden heat is present, there may be a sufficient "**cooling off**" period in the record, which will, in turn, negate any sudden heat that might have otherwise plausibly overwhelmed the defendant. *See id.* at 883 (emphasis added). If there was any identifiable **break** in the factual sequence between the **onset** of the provocation and the **commission** of the homicide, a jury could reasonably find evidence of deliberation and cool reflection, which together would forthrightly defeat any claim of sudden heat. *See Stevens*, 691 N.E.2d at 427; *see also Harrington v. State*, 584 N.E.2d 558, 564 (Ind. 1992).

To better understand the essence of a cooling-off period, *Boone v. State*, 728 N.E.2d 135 (Ind. 2000), provides illustration. In *Boone*, this Court found the defendant, who had been in a fight with a friend the night before the fatal attack, had enough time to cool off and reflect on her decisions before going over the next morning to the victim's house and shooting her with a gun. *Id.* at 138. A night of sleep furnished ample time for reflection, and the ride over to the victim's house the next morning provided a final chance to consider her actions. *Id.* It was **not** sudden.

The record supports a clear break in the chain to defeat sudden heat: the bracelet incident. *See Suprenant*, 925 N.E.2d at 1284. When S.C. took her stepsister's bracelet, Carmack did not kill her instantly, but contacted Kevin—first by text message, then by video call around 3:30 p.m. Assuming the onset of provocation was the act of stealing the bracelet, the only thing "sudden" about her response was contacting Kevin. And the contents of the conversation reveal the parents discussed the matter with S.C., and Kevin told Carmack to wait to impose any punishment until he came home. That delayed corrective measure, however, frustrated Carmack, according to Kevin. It was not until later that evening between 8:00 and 9:00 p.m. when Kevin received a text from Carmack, which read, "I think we have a problem." Tr. Vol. I, p. 210. Similar to *Boone*, in which the defendant contemplated her lethal plans, the jury here could have found that Carmack had ample time to consider her actions. *See* 728 N.E.2d at 138. For this reason, this break supports a reasonable finding by the jury that Carmack's decision to contact Kevin was a deliberate break in the chain of alleged provocation. Reviewed cumulatively, this evidence shows a cooling-off period sufficient to sustain the jury's conclusion there was no sudden heat.

Conclusion

Because we find the State sufficiently carried its evidentiary burden in negating the mitigating factor and voluntary manslaughter requirement of "sudden heat," we affirm Carmack's murder conviction and LWOP sentence.

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

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