

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**2015 KA 0758**

**STATE OF LOUISIANA**

**VERSUS**

**DEMETRICK TAYLOR**

**Judgment Rendered: DEC 23 2015**

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On Appeal from the Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
No. 03-11-0939

Honorable Anthony J. Marabella, Jr., Judge Presiding

\* \* \* \* \*

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\* \* \* \* \*

**BEFORE: McDONALD, McCLENDON, AND THERIOT, JJ.**

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## **McCLENDON, J.**

The defendant, Demetrick Ledale Taylor, was charged by amended bill of information with attempted second degree murder, a violation of LSA-R.S. 14:27 and 14:30.1. He pled not guilty and, following a jury trial, was found guilty as charged. The defendant filed a motion for new trial, which the trial court denied. Subsequently, the trial court sentenced the defendant to fifty years imprisonment at hard labor, without the benefit of parole, probation, or suspension of sentence. The defendant filed a motion to reconsider sentence, which the trial court denied. The defendant now appeals, alleging a single assignment of error relating to the sufficiency of the evidence introduced at trial. For the following reasons, we affirm the defendant's conviction and sentence.

### **FACTS**

Around 9:00 p.m. on November 11, 2010, Samuel Hayes (the victim) and Marcus White were standing in the parking lot of an apartment complex on North Donmoor Avenue in Baton Rouge. When a car pulled into the parking lot, Hayes and White looked inside to see if they knew the occupants of the vehicle. At that time, one of the vehicle's occupants exited and began to yell at Hayes and White for looking into the car. While walking in front of the vehicle, this individual drew and cocked a handgun and identified himself as being from "Sherwood."

As the armed male continued to approach them, Hayes and White decided to run in different directions. Hayes made his way through a neighboring apartment complex on Monet Drive, but he eventually crossed paths with the armed individual, who shot him five or six times. As a result of the shooting, Hayes sustained a spinal cord injury that resulted in permanent paralysis. Hayes had never seen his assailant or the vehicle prior to the night of the incident.

Following the shooting, Baton Rouge Police Department Detective Caan Castleberry received an anonymous tip that "Meechie" had shot Hayes. With assistance from another police officer, Detective Castleberry discovered that Meechie's real name was Demetrick Taylor. He subsequently prepared a six-person photographic lineup from which Hayes identified the defendant as the

person who shot him. Detective Castleberry secured an arrest warrant for the defendant, who was eventually arrested in Jennings, Louisiana.

### **SUFFICIENCY OF EVIDENCE**

In his sole assignment of error, the defendant argues that the evidence presented at trial was insufficient to support his conviction for attempted second degree murder. Specifically, he contends that the victim's identification of him was unreliable in light of the circumstances.

A conviction based on insufficient evidence cannot stand as it violates due process. See U.S. Const. amend. XIV; LSA-Const. art. I, § 2. The standard of review for the sufficiency of the evidence to uphold a conviction is whether or not, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. **Jackson v. Virginia**, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560 (1979). See also LSA-C.Cr.P. art. 821(B); **State v. Ordodi**, 06-0207 (La. 11/29/06), 946 So.2d 654, 660; **State v. Mussall**, 523 So.2d 1305, 1308-09 (La. 1988). The **Jackson** standard of review, incorporated in Article 821(B), is an objective standard for testing the overall evidence, both direct and circumstantial, for reasonable doubt. When analyzing circumstantial evidence, LSA-R.S. 15:438 provides that the factfinder must be satisfied the overall evidence excludes every reasonable hypothesis of innocence. See **State v. Patorno**, 01-2585 (La.App. 1 Cir. 6/21/02), 822 So.2d 141, 144.

In arguing against the sufficiency of the evidence introduced at trial, the defendant does not argue that an attempted second degree murder did not occur. Rather, he contends that the victim lacked credibility to reliably identify him as the perpetrator. As support for this contention, the defendant states that the victim was under the influence of alcohol and extreme stress at the time of the initial confrontation, and he was in intensive care at the time he actually made the identification.

When the key issue is the defendant's identity as the perpetrator, rather than whether the crime was committed, the State is required to negate any

reasonable probability of misidentification. Positive identification by only one witness is sufficient to support a conviction. It is the factfinder who weighs the respective credibilities of the witnesses, and this court will generally not second-guess those determinations. **State v. Hughes**, 05-0992 (La. 11/29/06), 943 So.2d 1047, 1051; **State v. Davis**, 01-3033 (La.App. 1 Cir. 6/21/02), 822 So.2d 161, 163-64.

Detective Castleberry testified at trial that he received the anonymous tip identifying Meechie as the person who shot Hayes. He consulted with another police officer, who helped to identify Meechie as the defendant. In his own testimony, the defendant admitted that Meechie was his nickname. Detective Castleberry also testified that the victim seemed lucid at the time he identified the defendant from the photographic lineup.

The victim testified at trial and admitted that he had never seen the defendant before the night of the incident. He further admitted to having consumed alcohol on the night of the shooting, but said he had consumed "about two beers." The victim described that he immediately recognized the defendant when he was presented with the photographic lineup. During his testimony, the victim twice reiterated his unequivocal identification of the defendant as the person who shot him.

The defendant testified at trial. While he admitted that his nickname was Meechie, he denied any involvement in the shooting. Instead, he stated that he went to a "lady friend's" house after he left work (between 5:00 p.m. and 6:00 p.m.) on the day of the shooting. The defendant stated that he did not leave this location until approximately noon the next day.

Despite the defendant's contention that the victim's identification of him lacked credibility and has no probative value, the jury obviously concluded otherwise. The trier of fact is free to accept or reject, in whole or in part, the testimony of any witness. The trier of fact's determination of the weight to be given evidence is not subject to appellate review. An appellate court will not reweigh the evidence to overturn a fact finder's determination of guilt. **State v.**

**Taylor**, 97-2261 (La.App. 1 Cir. 9/25/98), 721 So.2d 929, 932. We are constitutionally precluded from acting as a "thirteenth juror" in assessing what weight to give evidence in criminal cases. See State v. Mitchell, 99-3342 (La. 10/17/00), 772 So.2d 78, 83.

Viewed in the light most favorable to the State, the evidence presented at trial established that the defendant shot Hayes five or six times, ultimately resulting in his permanent paralysis. The jury believed Hayes's testimony over the defendant's own self-serving testimony. After a thorough review of the record, we cannot say that the jury's determination of the defendant's guilt was irrational under the facts and circumstances presented to them. See Ordodi, 946 So.2d at 662.

This assignment of error is without merit.

#### **CONCLUSION**

For the foregoing reasons, we affirm the defendant's conviction and sentence.

**CONVICTION AND SENTENCE AFFIRMED.**