

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2016 KA 1570

STATE OF LOUISIANA

VERSUS

CHATTLEY CHESTERFIELD

Judgment Rendered: JUN 02 2017

On Appeal from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket Number 01-13-0316, Section II

The Honorable Richard D. Anderson, Judge Presiding

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BEFORE: PETTIGREW, McDONALD, AND PENZATO, JJ.

PENZATO, J.

The defendant, Chattley Chesterfield, was charged by grand jury indictment with second degree murder (count one), a violation of La. R.S. 14:30.1, and attempted second degree murder (count two), a violation of La. R.S. 14:30.1 and La. R.S. 14:27. The defendant pled not guilty on both counts. After a trial by jury, he was found guilty as charged on count one, and guilty of the responsive offense of aggravated battery, a violation of La. R.S. 14:34, on count two.¹ On count one, he was sentenced to life imprisonment at hard labor with eligibility for parole consideration, pursuant to La. Code Crim. P. art. 878.1 and La. R.S. 15:574.4(E), after serving thirty-five years, as he was seventeen years old at the time of this offense, and on count two to ten years imprisonment at hard labor, to be served concurrently. He now appeals, assigning error to the sufficiency of the evidence. For the following reasons, we affirm the convictions and sentences.

STATEMENT OF FACTS

During the early morning hours of June 30, 2012, officers of the Baton Rouge Police Department (BRPD) received a computer-aided dispatch report after acoustic sensors detected multiple gunshots fired at approximately 2:27 a.m., at 3006 College Drive, the location of an International House of Pancakes (IHOP) restaurant.

Around the time of the shooting, between 2:30 and 3:00 a.m., Cory Champagne, a security guard who had just left work, was travelling on Rabey Street in route to pick up his girlfriend from Walmart on College Drive. After picking up his girlfriend, he turned back onto Rabey Street and entered the turning

¹ The defendant was charged and tried along with codefendants Essence Dyson and Samuel Nicholas. As with the defendant herein, the jury found codefendant Dyson guilty as charged of second degree murder on count one and guilty of the responsive offense of aggravated battery on count two. Dyson has also filed an appeal in this court, challenging the sufficiency of the evidence to support her convictions and the denial of her motion for new trial. **State v. Dyson**, 2016-1571 (La. App. 1st Cir. __/__/__). Codefendant Nicholas was found not guilty on both counts.

lane toward the interstate. While waiting at the traffic light, Champagne observed an over six-foot-tall black male exit the passenger side of the vehicle immediately behind Champagne's vehicle. The individual walked towards the IHOP restaurant, located in front of Walmart on College Drive, turned left towards the vehicle in front of Champagne's vehicle, and pulled out a pistol and fired three shots into the vehicle directly in front of Champagne's vehicle. The front seat passenger, victim Jordan Key, was fatally shot in the head, and the driver, Darius Vicks, was shot in the foot.² Champagne placed his car in park, drew his weapon, and ordered the shooter to stop and drop his firearm. The shooter approached the vehicle that he previously exited, a tan Toyota Camry, as it was being driven in reverse away from the point of the shooting.³ The shooter reentered the Toyota which was occupied by the driver and a third occupant, both also black males.

Lieutenant Cedric Muse of the East Baton Rouge Parish Sheriff's Office, the Walmart security officer on duty at the time of the incident, was outside in his vehicle when the gunshots were fired. After hearing the gunshots, Lieutenant Muse observed a black male running down Rabey Street toward the Toyota Camry as it was travelling in reverse. Lieutenant Muse positioned his unit in front of the Toyota as the shooter reentered the vehicle, which resumed travelling in reverse in an attempt to flee from the scene. After approaching a dead end at the Rabey Street and Balis Street intersection, the occupants exited the vehicle and fled on foot. Lieutenant Muse pursued them in a foot chase until they approached a wooded area. Lieutenant Muse advised BRPD of the direction in which the

² Deceased victim Key suffered two gunshot wounds, including a fatal shot that entered the right base of his skull, from the right side to the left, with the projectile being recovered from underneath the skin. The non-fatal gunshot wound was in his left shoulder and there was no projectile recovered as to that wound since the bullet travelled completely through the body, with the entrance being just slightly on the victim's back. Vicks was transported to the hospital by Emergency Medical Services with non-life threatening injuries.

³ Champagne recalled allowing a black or dark colored SUV being driven by a female to pass in front of him prior to the shooting.

individuals fled and returned to the abandoned vehicle. A firearm was in plain view on the floorboard in the back of the vehicle behind the driver's seat.⁴ Lieutenant Muse indicated that the firearm appeared to be jammed at the time, and he further observed two cell phones in plain view. Lieutenant Muse ran the license plate number of the Toyota Camry and determined that it was registered to a Cierra Henry.⁵ Noting that the vehicle was only occupied by males that night, Lieutenant Muse entered Henry's name into a police database which provided him with the name of her boyfriend, Michael Francois. Lieutenant Muse remained with the vehicle until BRPD officers arrived at the scene.

BRPD Detective Sherri Harris, of the homicide division, and Corporal Aleesha Kuhn responded to the scene of the getaway vehicle (the Toyota Camry) abandoned at Rabey Street. Corporal Kuhn took photographs of the Toyota Camry and an orange and red baseball cap located on the ground just outside of the vehicle.⁶ She also photographed the victims' vehicle, a white Grand Prix located behind Iberia Bank at the Perkins Road and Acadian Thruway intersection, including photographs showing blood on the seats, interior and exterior of the front-passenger door, and the front-driver's door. Ski masks were also located in the victims' vehicle and a loaded revolver was located in the trunk.

⁴ Cheryl Swearingen, a forensic scientist at the Louisiana State Police Crime Laboratory (LSPCL) and expert in firearm examination, examined the .40 caliber semi-automatic pistol found in the Toyota Camry along with two bullets and three bullet cartridge cases recovered from the deceased victim and the victims' vehicle, and determined that the bullets and shell casings were fired from the pistol.

⁵ Henry initially reported that her vehicle had been stolen that night in a carjacking. However, during police questioning about five hours after the incident, she admitted that her claim was untruthful.

⁶ Glenn Fahrig, a LSPCL expert in DNA analysis, testified that Francois could not be excluded as the major contributor of mixed DNA samples from the baseball cap located on the ground near the Toyota Camry and the front-passenger handle of the Toyota Camry. Mark William Perlin, chief scientist and expert in DNA evidence interpretation, testified regarding the match between the DNA sample from the pistol used in the shooting and the defendant's DNA profile, stating that it "is 108,000 times more probable than a coincidental match." Codefendant Nicholas was also a contributor to the DNA profile from the pistol, at a likelihood of 3.21 thousand times more probable than coincidental.

Detective Harris took statements from Champagne and Francois at the Victim's Crime Unit. Francois admitted to being the driver of the getaway vehicle at the time of the shooting, identified a co-perpetrator by nickname as Chad Youngin, referred the police to a video entitled "Mista I'm Grown Music Video" featuring the co-perpetrator, and made an identification through a photographic lineup using still shots from the video.⁷ Francois indicated that he did not know the other individual who was in the vehicle. After Francois' interview, he was placed under arrest and charged with first degree murder. Detective Harris contacted police informants and determined that Chad Youngin was the defendant, Chatley Chesterfield, and obtained a warrant for the defendant's arrest. However, the police were initially unable to locate the defendant. Detective Harris interviewed the surviving victim, Vicks, after he was discharged from the hospital. Vicks indicated that after the shooting, he tossed from the vehicle a firearm that he claimed was in the deceased victim's possession at the time of the shooting.⁸ Vicks further informed the police that he was familiar with the defendant, and suggested that the police investigate codefendant Essence Dyson, recalling that he and the deceased victim had an encounter with Dyson just before the shooting. Vicks further provided the police with Dyson's phone number.

Detective Harris obtained a search warrant for the cell phones in evidence and the records showed that the phone obtained from the Toyota Camry, the vehicle occupied by the perpetrators, received a phone call from the number that Vicks provided as codefendant Dyson's telephone number. On July 18, 2012, Detective Harris conducted an interview of Dyson.⁹ Dyson admitted to being at

⁷ The music video also featured codefendant Nicholas, also known as "Mista Cain".

⁸ The police later interviewed a witness who indicated that Vicks was armed that night while working as a security guard at a party and that Vicks consumed alcohol that night. The day after the shooting, the police recovered the firearm that was tossed by Vicks, a .22 caliber pistol.

⁹ The parties agreed to play the majority of the recorded interview at trial.

the scene and talking to the victims just before the shooting. She indicated that she was in the vehicle located behind the victims at the time of the shooting, and that she saw the shooter's face clearly, but did not know him.

On September 14, 2012, approximately three months after the warrant was obtained for his arrest, the defendant was located, apprehended, and interviewed by the police after being advised of his **Miranda**¹⁰ rights and executing a waiver of rights form. During the five-part interview (the recordings consisted of five, one hour long interviews), the defendant at the onset admitted to being at the scene of the shooting, but provided inconsistent scenarios. He initially denied knowing the identity of the shooter, and later named the shooter as Darius Joseph, a fellow member of a group that included local rappers and referred to themselves as the "Cain Muzik Mafia." The defendant ultimately admitted but wavered as to whether he was the shooter, at one point indicating that months before the instant offenses, the deceased victim, Key, had tried to kill the defendant or had shot at him, but Key's gun jammed, and that Key brandished a gun the night of the instant shooting.

ASSIGNMENT OF ERROR

In the sole assignment of error, the defendant challenges the sufficiency of evidence on both counts, alleging that he acted in self-defense. Thus, on appeal the defendant does not deny shooting the victims in this case. Citing his pretrial confession, the defendant contends that Jordan Key shot at him in the past and brandished a firearm on the night in question. The defendant argues that he was justifiably in fear for his life when he approached the vehicle occupied by the victims and fired his weapon in self-defense. The defendant notes that the State did not analyze the contents of Key's phone, suggesting that the contents may have

¹⁰ **Miranda v. Arizona**, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

provided support for his self-defense argument. The defendant argues that the witnesses provided inconsistent testimony. He specifically contends that Vicks' testimony was inconsistent with the physical evidence, noting that while Vicks testified that the back window was shattered during the shooting, the photographs show that the windows were rolled up and intact. The defendant argues that the lack of shattered windows proves that the victim exited his vehicle before being shot. Contending that the victim was armed at the time, the defendant argues that the victim may have exited his vehicle to shoot the defendant. The defendant contends that Francois provided multiple accounts of the incident and self-serving testimony, specifically arguing that Francois' claim that the defendant approached the victims' vehicle and opened fire into the car was not correct since the car windows were rolled up and intact.

A conviction based on insufficient evidence cannot stand as it violates Due Process. See U.S. Const. amend. XIV; La. Const. art. I, § 2. The constitutional standard for testing the sufficiency of the evidence, as enunciated in **Jackson v. Virginia**, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), requires that a conviction be based on proof sufficient for any rational trier of fact, viewing the evidence in the light most favorable to the prosecution, to find the essential elements of the crime beyond a reasonable doubt. La. Code Crim. P. art. 821. In conducting this review, we also must be expressly mindful of Louisiana's circumstantial evidence test, i.e., "assuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence." La. R.S. 15:438; **State v. Ordodi**, 2006-0207 (La. 11/29/06), 946 So.2d 654, 660; **State v. Wright**, 98-0601 (La. App. 1st Cir. 2/19/99), 730 So.2d 485, 486, writs denied, 99-0802 (La. 10/29/99), 748 So.2d 1157 & 2000-0895 (La. 11/17/00), 773 So.2d 732. When a case involves circumstantial evidence and the jury reasonably rejects the hypothesis of innocence

presented by the defendant's own testimony, that hypothesis falls, and the defendant is guilty unless there is another hypothesis that raises a reasonable doubt. **State v. Captville**, 448 So.2d 676, 680 (La. 1984); **State v. Taylor**, 97-2261 (La. App. 1st Cir. 9/25/98), 721 So.2d 929, 932.

The crime of second degree murder, in pertinent part, “is the killing of a human being: (1)[w]hen the offender has a specific intent to kill or to inflict great bodily harm[.]” La. R.S. 14:30.1(A)(1). Specific criminal intent is that “state of mind which exists when the circumstances indicate that the offender actively desired the prescribed criminal consequences to follow his act or failure to act.” La. R.S. 14:10(1). Though intent is a question of fact, it need not be proven as a fact. It may be inferred from the circumstances of the transaction. Thus, specific intent may be proven by direct evidence, such as statements by a defendant, or by inference from circumstantial evidence, such as a defendant's actions or facts depicting the circumstances. Specific intent is an ultimate legal conclusion to be resolved by the fact finder. **State v. Buchanan**, 95-0625 (La. App. 1st Cir. 5/10/96), 673 So.2d 663, 665, writ denied, 96-1411 (La. 12/6/96), 684 So.2d 923. Specific intent to kill may be inferred from a defendant's act of pointing a gun and firing at a person. **State v. Delco**, 2006-0504 (La. App. 1st Cir. 9/15/06), 943 So.2d 1143, 1146, writ denied, 2006-2636 (La. 8/15/07), 961 So.2d 1160.

Battery is, in pertinent part, defined as the intentional use of force or violence upon the person of another. La. R.S. 14:33. The offense of aggravated battery consists of the intentional use of force or violence, with a dangerous weapon, upon the person of another. **State v. Howard**, 94-0023 (La. 6/3/94), 638 So.2d 216, 217 (per curiam); see also La. R.S. 14:33 & La. R.S. 14:34(A). A dangerous weapon is any gas, liquid or other substance or instrumentality, which, in the manner used, is calculated or likely to produce death or great bodily harm. La. R.S. 14:2(A)(3). Aggravated battery requires neither the infliction of serious

bodily harm nor the intent to inflict serious injury. Instead, the requisite intent element is general criminal intent. See Howard, 638 So.2d at 217. General criminal intent is present whenever there is specific intent, and also when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act. La. R.S. 14:10(2). In general intent crimes, the criminal intent necessary to sustain a conviction is shown by the very doing of the acts that have been declared criminal. **State v. Payne**, 540 So.2d 520, 523-24 (La. App. 1st Cir.), writ denied, 546 So.2d 169 (La. 1989).

When the defendant in a homicide prosecution claims self-defense, the State must prove beyond a reasonable doubt that the homicide was not committed in self-defense. Louisiana Revised Statute 14:20(A)(1) provides that a homicide is justifiable when committed in self-defense by one who reasonably believes that he is in imminent danger of losing his life or receiving great bodily harm and that the killing is necessary to save himself from that danger. On appeal, the relevant inquiry is whether or not, after viewing the evidence in the light most favorable to the prosecution, a rational fact finder could have found beyond a reasonable doubt that the defendant did not act in self-defense. **State v. Williams**, 2001-0944 (La. App. 1st Cir. 12/28/01), 804 So.2d 932, 939, writ denied, 2002-0399 (La. 2/14/03), 836 So.2d 135. A person who is the aggressor or who brings on a difficulty cannot claim the right of self-defense unless he withdraws from the conflict in good faith. See La. R.S. 14:21.

On July 1, 2012, Corporal Monroe Carter, of the BRPD Crime Scene Division, processed the vehicles occupied by the victims and the suspects, after the vehicles were transported to a storage facility. In processing the victims' vehicle, he photographed the blood on the seats and bullet damage to the seats, including a

bullet hole in the headrest of the front passenger seat, and took DNA swabs from door handles and other areas of the vehicle. Based on his assessment of the trajectory, Corporal Carter noted that it appeared that the bullet was fired from the top of the vehicle by a tall person, and travelled through the passenger headrest to the back seat floorboard on the rear passenger side, where the bullet was recovered.

BRPD, Crime Scene Division, Corporal Glynn Averette collected and swabbed evidence in this case, including the pistol found in the Toyota Camry, seven live rounds, and an iPhone. He noted that the pistol appeared to have malfunctioned or jammed, as the slide was neither locked all the way to the rear, nor was it forward, and a projectile was stuck in the ejection port. Detective Harris testified that the revolver located in the trunk of the vehicle occupied by the victims had not been fired. She noted that the revolver was fully loaded, that the bullet holes in the vehicle did not match the revolver, and that the caliber of shell casings collected at the scene of the shooting and the bullet recovered from the deceased victim could not have come from that weapon.

Michael Francois admitted at trial to being the driver of the getaway vehicle, the Toyota Camry, at the time of the shooting.¹¹ Before the shooting, Francois, who had been recently released after a week of incarceration, was riding around with his brother, Willie Francois. He received a phone call from the defendant at around 1:30 a.m., asking for a ride in exchange for money for gas. After dropping off his brother, Francois picked up the defendant from an apartment complex on Jefferson Highway. The defendant sat in the front-passenger seat and the male individual who was with him sat in the back seat behind the defendant. Francois was not familiar with the other individual, but later determined that it was Samuel

¹¹ After portions of Francois' pretrial interviews were played to refresh his memory, he was allowed to correct some aspects of his testimony consistent with the above summation. He admitted that he was initially dishonest with the police out of fear.

Nicholas, noting that he had seen Nicholas in videos on the internet before the shooting.

Francois stated that the defendant instructed him to go to College Drive but did not indicate why he wanted to go to that area. Francois recognized Dyson's voice as the defendant was having a telephone conversation with her on the speakerphone. Dyson was questioning the defendant as to his whereabouts and telling him to "hurry up." Dyson indicated that she was following someone and that the person was getting ready to leave. Francois realized what was happening and tried to get away from the scene, as Nicholas instructed him to drive through the Albertson's parking lot. Dyson was still on speakerphone at the time, calling out her position behind the victims' vehicle. Nicholas pulled out a gun and passed it to the defendant stating, "Man, here. Go with your move." The defendant got out of the car, approached the victims' vehicle, and fired two shots into the car. After the shooting Francois told Henry to report the vehicle stolen.

Vicks, the surviving victim, was close friends with the deceased victim and stated that they had attended a block party together the evening before the shooting. Vicks stated that they "got into it" with some unknown guys at the party that night, when Key bumped into another individual as the police were shutting down the party and telling everyone to leave. Vicks stated that he was the disc jockey for the party and was attempting to get his payment at the time.¹² The altercation was not physical, only consisting of the exchange of heated words. They went to IHOP around midnight and then went to Walmart to use the restroom. After exiting the store, they saw Dyson. Vicks indicated that he knew Dyson from going to school with her and that they stopped and talked. Vicks

¹² Detective Harris testified that Vicks instead informed her that he was a security guard at the party, which he denied at the trial.

asked Dyson for her phone number but she refused. After this exchange, the victims reentered their vehicle, proceeding to Rabey Street with plans to go home.

Vicks was driving while Key was sitting in the front-passenger seat. Vicks noted that he initially thought someone was shooting in the area before realizing that someone fired into their vehicle. He then realized that Key was not speaking and thought that the back window was shot out, though he was not certain. He did not know how many shots were fired, stating that he took off down College Drive, trying to proceed home. He lost control of the vehicle as he travelled across the median at a fast rate, travelling on the wrong side of the road. Vicks confirmed that Key had a gun on his waist that night and Vicks' father's gun was in the trunk of their vehicle. After going across the median, he discarded the gun that was on Key's waist. At that point, he considered taking Key, who was nonresponsive, to the hospital but the vehicle had been badly damaged and began swerving. He stopped on Acadian Thruway and called 911. Vicks denied that Key ever pulled a gun out that night, further testifying that he did not know Key had a gun until his body fell over as the out-of-control vehicle went over the median. Vicks stated that he discarded the gun because he knew police officers were approaching. He further stated that they had ski masks because they contemplated robbing someone that night as Key needed money, but that they did not have any particular victim in mind and never actually attempted to rob anyone that night. Vicks did not know the defendant or Nicholas before the incident.

Darius Joseph indicated that he, along with about fifteen other individuals, was part of the Cain Muzik Mafia group around the time of the shooting. The members of the group often met at the apartment complex on Jefferson Highway, where Francois picked up the defendant on the night in question. During the early morning hours, after the shooting had taken place, Joseph saw the defendant,

Dyson, and Nicholas at the apartment complex.¹³ Joseph stated that the defendant told him that he vomited, and dropped the gun and a cell phone as he ran from the scene after the shooting. Joseph did not know the victims and indicated that the defendant did not provide any additional facts about the shooting though he later found out more information about the shooting from other people in the apartment. He stated that Nicholas did not talk much, and that Dyson only told him that she was there in the parking lot that night but stayed in the car.

The trier of fact is free to accept or reject, in whole or in part, the testimony of any witness. Moreover, where there is conflicting testimony about factual matters, the resolution of which depends upon a determination of the credibility of the witnesses, the matter is one of the weight of the evidence, not its sufficiency. **State v. Richardson**, 459 So.2d 31, 38 (La. App. 1st Cir. 1984). 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. **Taylor**, 721 So.2d at 932. Absent a showing that the defendant was not granted the fundamental due process of law, it is not appropriate for this court to impinge on the fact finder's discretion and reject that credibility determination. See **State v. Johnson**, 2003-1228 (La. 4/14/04), 870 So.2d 995, 1000 (finding the evidence sufficient to support the defendant's conviction of possession of a firearm by a convicted felon although another passenger in the vehicle testified that the gun belonged to her).

The guilty verdict in this case indicates the jury rejected the defendant's claim that he shot the victims in self-defense. Based on the evidence presented during the trial, a rational trier of fact could have reasonably concluded that the defendant was the aggressor and, as such, was not entitled to claim self-defense. The evidence indicated that the defendant went to the known location of the

¹³ Joseph's pretrial interview was played to refresh his memory of the conversation.

victims, approached the vehicle occupied by the victims, and opened fire. While during the defendant's confession he ultimately claimed that the deceased victim had brandished a weapon on the highway that night, any claim of self-defense was wholly inconsistent with the testimony presented by Francois, Vicks, and Champagne. Further, while the defendant vaguely indicated that the deceased victim had shot at him at some point in the past before the instant shooting, the defendant never indicated how he was in any danger when he exited his vehicle and approached the vehicle occupied by the victims, and opened fire, or that the deceased victim was brandishing his weapon or threatening the defendant in any manner *at that time*. We also note that the defendant's omissions and actions of fleeing and lying to the police after the shooting are inconsistent with a theory of self-defense. "Although an individual's flight does not in and of itself indicate guilt, it can be considered as circumstantial evidence that the individual has committed a crime; flight shows consciousness of guilt." **State v. Williams**, 610 So.2d 991, 998 (La. App. 1st Cir. 1992), writ denied, 617 So.2d 930 (La. 1993). Similarly, lying has been recognized as indicative of an awareness of wrongdoing. **Captville**, 448 So.2d at 680 n.4.

Considering the evidence presented during the trial, the jury could have reasonably concluded that the victims did not pose an imminent threat. A rational juror could have found the State established beyond a reasonable doubt that the defendant did not act in self-defense. Thus, in reviewing the evidence, we cannot say that the jury's determination was irrational under the facts and circumstances presented to them. See **Ordodi**, 946 So.2d at 662. In accepting a hypothesis of innocence that was not unreasonably rejected by the fact finder, a court of appeal impinges on a fact finder's discretion beyond the extent necessary to guarantee the fundamental protection of due process of law. See **State v. Mire**, 2014-2295 (La. 1/27/16), ___ So.3d ___, ___, 2016 WL 314814 (per curiam). An appellate court

errs by substituting its appreciation of the evidence and credibility of witnesses for that of the fact finder and thereby overturning a verdict on the basis of an exculpatory hypothesis of innocence presented to, and rationally rejected by, the jury. **State v. Calloway**, 2007-2306 (La. 1/21/09), 1 So.3d 417, 418 (per curiam). After a thorough review of the record, viewing the evidence presented in this case in the light most favorable to the State, we are convinced that a rational trier of fact could find that the State proved beyond a reasonable doubt, and to the exclusion of every reasonable hypothesis of innocence, all of the elements of second degree murder and aggravated battery. The sole assignment of error lacks merit.

CONVICTIONS AND SENTENCES AFFIRMED.