IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2018-KA-00534-COA

KELVIN TAYLOR A/K/A KEVIN TAYLOR A/K/A KT **APPELLANT**

v.

STATE OF MISSISSIPPI **APPELLEE**

DATE OF JUDGMENT:	02/16/2018
TRIAL JUDGE:	HON. CHARLES E. WEBSTER
COURT FROM WHICH APPEALED:	COAHOMA COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	OFFICE OF STATE PUBLIC DEFENDER BY: MOLLIE MARIE McMILLIN KELVIN TAYLOR (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: ABBIE EASON KOONCE
DISTRICT ATTORNEY:	BRENDA FAY MITCHELL
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	AFFIRMED - 05/12/2020
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

BEFORE BARNES, C.J., GREENLEE AND LAWRENCE, JJ.

BARNES, C.J., FOR THE COURT:

¶1. A jury sitting before the Coahoma County Circuit Court found Kelvin Taylor guilty of two counts of first-degree murder and one count of possession of a firearm by a felon. On appeal, Taylor's appointed appellate counsel argues that there was insufficient evidence to find him guilty of any of the three charges and that the circuit court erred when it gave an instruction that would allow the jury to find Taylor guilty as an accessory before the fact. In a pro se supplemental brief, Taylor claims that the circuit court erred when it allowed the

prosecution to introduce a portion of a statement that he gave. Additionally, Taylor argues that the prosecution knowingly submitted perjured testimony during the suppression hearing, some comments have been intentionally omitted from that transcript, and his trial counsel was ineffective because the designation of the record does not include a recorded statement that was not introduced into evidence or marked for identification. Finding no error, we affirm Taylor's convictions and sentences.

FACTS AND PROCEDURAL HISTORY[1]

¶2. On September 7, 2011, authorities were called to a duplex in Clarksdale, Mississippi. Officer Royneshia Turner found the bodies of Willie Bass and Flora Watkins. Bass had been shot twice in the head. Watkins had also been shot multiple times. There were no signs of a forced entry, the home was not ransacked, and no fingerprints were recovered. The case became cold.

¶3. More than a year later, Lieutenant Marena Jones and Captain Mario Magsby of the Coahoma County Sheriff's Department went to the Bolivar County jail to interview Taylor about the murder of Charlina Miller.[2] Taylor told Lieutenant Jones that he wanted to talk to Coahoma County Sheriff Charles Jones. Lieutenant Jones and Sheriff Jones returned later that evening. Lieutenant Jones left the room so Taylor could talk to Sheriff Jones alone.

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[1] Taylor filed numerous pro se motions during the pendency of his case. For brevity's sake, this opinion will focus on proceedings that are relevant to the issues on appeal.

[2] Taylor was in custody awaiting trial for the murder of Quenton McKay. *See Maggett v. State*, 230 So. 3d 722, 726 (¶1) (Miss. Ct. App. 2016).

That discussion did not produce any information related to Bass or Watkins. But several days later, Taylor again spoke to Sheriff Jones and Lieutenant Jones.[3] During part of that recorded discussion, Taylor indirectly implicated himself in the murders of Bass and Watkins.

¶4. Taylor's second interview led to the May 27, 2015 indictment charging him with two counts of first-degree murder and one count of possession of a firearm by a felon. Taylor was also charged as a violent habitual offender. He pled not guilty to all three charges.

¶5. Taylor and his appointed attorney both moved to suppress Taylor's statements. On July 11, 2016, the circuit court conducted a suppression hearing that will be discussed in greater detail below. Ultimately, the circuit court denied the motions to suppress.

¶6. Taylor's first trial began one week after the suppression hearing. It ended in a mistrial because the jurors "announced that they were unable to arrive at a unanimous decision as to any count of such indictment and there was no reasonable probability that such a unanimous verdict could be reached." The transcript of Taylor's first trial is not included in the appellate record.

¶7. Taylor's second trial began on February 14, 2018. The prosecution called six witnesses during its case-in-chief. Officer Royneshia Turner of the Clarksdale Police

[3] During a suppression hearing, Lieutenant Jones said that Taylor discussed "his involvement with the - - Charlina Miller's murder, Flora Watkins'[s] and Willie Bass'[s] murder[s], Luther Mayfield['s] home invasion[,] as well as other crimes that we were aware of that occurred in Clarksdale."

Department testified that she was dispatched to the crime scene on September 7, 2011, and Watkins and Bass were dead when she arrived. Captain Norman Starks explained that he and another crime scene investigator with the Clarksdale Police Department searched the scene and found one projectile inside a pillow and another inside a furniture cushion near Watkins's body. He also explained that there were no signs of forced entry, they recovered no fingerprints or shell casings, and the person who killed Bass and Watkins "shot them and left." On cross-examination, he said that he was unaware of any physical evidence that connected Taylor to the murders.

¶8. Dr. Mark LeVaughn testified as an expert witness in forensic pathology. He performed autopsies of Bass and Watkins. He testified that both of them died from multiple gunshot wounds. Watkins had been shot twice in the head, once in the "lateral right side of the back," and once in her left thigh. Dr. LeVaughn recovered part of a bullet that he found inside Watkins's skull. Bass had also been shot twice in the head. Dr. LeVaughn did not recover any projectiles from Bass's body.

¶9. Next, the prosecution called Mark Boackle, who testified as an expert in the field of firearm and tool-markings examination. He compared the projectile that Captain Starks found at the scene with the bullet fragment that Dr. LeVaughn found in Watkins's skull. He said that both submissions had been fired from the same .38-caliber pistol that he could not otherwise identify. The circuit court recessed for the day after Boackle testified.

¶10. The next morning, the prosecution called Lieutenant Jones. She described her

interactions with Taylor and testified that he gave a statement during the second interview. A recorded portion of Taylor's second interview was played for the jury. During that portion, Sheriff Jones speculated that Bass had been killed because he had been selling drugs and that someone else in the area did not want the competition. Taylor responded, "Nah, that wasn't it." When Sheriff Jones asked Taylor to elaborate, Taylor said that Bass "was endangering people's lives" because he was a snitch. Taylor later clarified that he had been "involved in something" and he had "mentioned certain things to [Bass] and only [Bass]." He added that he "knew if [Bass] was a snitch that [Bass] would then tell the police. And when the police came to [Taylor,] that's exactly what they came with."[4]

¶11. Sheriff Jones then asked Taylor why Watkins had been killed. Taylor answered, "[S]he was a witness to the crime." When Sheriff Jones speculated that Watkins had seen Taylor's face, Taylor denied that he was responsible for the victims' deaths. However, he reiterated that Watkins died because she "was a witness to the crime." On cross-examination, Lieutenant Jones conceded that Taylor did not confess that he killed Bass or Watkins. After Lieutenant Jones testified, Sheriff Jones briefly testified about his interactions with Taylor. The State rested its case-in-chief after Sheriff Jones's testimony.

¶12. After unsuccessfully moving for a directed verdict on each charge, Taylor chose to testify. He said he was not guilty of any of the charges against him. He denied that he signed

[4] When asked what Taylor had told Bass to determine whether Bass was a snitch, Taylor said, "I don't want to talk about that."

a *Miranda*[5] waiver, and he said that he was not given a *Miranda* warning before the November 15, 2012 interview. He also said authorities did not record the portion of his interview when he said that Chris Anderson had paid an unspecified police officer to provide information about who was snitching in the neighborhood, and the officer told Anderson that Bass had set up Jimmy Huggins. According to Taylor, he told authorities that Anderson had fronted some crack to Huggins, so Anderson was offering to pay someone to kill Bass.

¶13. On cross-examination, Taylor said he had grown up with Bass, and he knew where Bass and Watkins lived. He said he did not tell Bass's mother that Bass's life was in danger because "[t]he streets don't work like that." When confronted with the fact that according to him he had told authorities about Anderson, Taylor said he "was in a situation where [he] needed to help with the police." The defense rested after Taylor testified.

¶14. The prosecution then re-called Lieutenant Jones. She said Taylor never mentioned Anderson or Huggins during the November 15, 2012 interview. During cross-examination, she testified regarding her interpretation of Taylor's statement. More precisely, she took Taylor to mean "that he provided Willie Bass information and only to Willie Bass, and when it was brought back to his attention, he had - - he made contact with . . . Bass, as well as Flora Watkins[,] who was a witness and she had to be taken care of." The State finally rested after Lieutenant Jones's rebuttal testimony.

¶15. The jury deliberated for a little over two hours before finding Taylor guilty of all three

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[5] *Miranda v. Arizona*, 384 U.S. 436 (1966).

counts. The State chose not to pursue sentencing as a habitual offender. The circuit court sentenced Taylor to life imprisonment for murdering Bass, life imprisonment for murdering Watkins, and ten years in the custody of the Mississippi Department of Corrections for possession of a firearm by a felon. The circuit court set each sentence to run consecutively to each other and to any prior sentences. After filing unsuccessful post-trial motions, Taylor appeals.

ANALYSIS

I. Taylor's November 15, 2012 Statement

¶16. Taylor argues that the circuit court erred when it did not suppress the portion of his statement that was played for the jury. "An appellate court's standard of review of a trial court's admission or exclusion of evidence is abuse of discretion." *Carothers v. State*, 152 So. 3d 277, 281 (¶14) (Miss. 2014). When determining if a confession was knowingly, intelligently, and voluntarily given, "[t]he trial court sits as the finder of fact." *Davis v. State*, 133 So. 3d 359, 360 (¶6) (Miss. Ct. App. 2012). "We can reverse that determination only upon finding manifest error, that the trial court applied an incorrect legal standard, or that the determination is contrary to the overwhelming weight of [the] evidence." *Id.*

¶17. According to Taylor, his statement should have been suppressed because he invoked his right to counsel during a custodial interrogation on February 6, 2012.[6] But Taylor did not

[6] Taylor also claims that the circuit court should have suppressed his statement because he did not waive his *Miranda* rights. At the suppression hearing, Lieutenant Jones said that she gave an oral *Miranda* warning that had not been captured on the audio

present that information during the suppression hearing.[7] Clearly, the circuit court could not have discussed evidence that Taylor did not present. It was not until Taylor's second trial that Taylor finally proffered the testimony of Gerald Wesley Jr., the chief deputy for the Bolivar County Sheriff's Department, who explained that Taylor invoked his right to counsel during a February 6, 2012 interview attempt. By then, the prosecution had already elicited testimony regarding Taylor's November 15, 2012 statement.

¶18. Assuming for the sake of discussion that Taylor had presented timely proof that he invoked his right to counsel, it is well settled that "when counsel is requested, interrogation must cease, and officials may not reinitiate interrogation without counsel present, whether or not the accused has consulted with his attorney." *Minnick v. Mississippi*, 498 U.S. 146, 153 (1990). This is true regardless of "[w]hether a contemplated reinterrogation concerns the same or a different offense, or whether the same or different law enforcement authorities are involved in the second investigation . . . ." *Arizona v. Roberson*, 486 U.S. 675, 687 (1988).

¶19. Taylor argues that the circuit court did not apply the correct legal standard because it did not discuss whether he initiated communication with authorities. As discussed above,

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recording. By the time Taylor's second trial began, Lieutenant Jones had found Taylor's written *Miranda* waiver, which was dated November 9, 2012. Taylor's trial counsel did not cross-examine Lieutenant Jones regarding her discovery of Taylor's written waiver.

[7] This led to the following footnote in the circuit court's July 19, 2016 order denying the two motions to suppress: "This court is uncertain what [Taylor] means by claiming to have 'invoked his right to counsel.' The court is unaware of any formal document invoking such right. [Taylor] offers nothing suggesting how he 'invoked his right to counsel.'"

Taylor did not present proof that he had invoked his right to counsel during the suppression hearing, so there was no reason for the circuit court to discuss whether Taylor initiated the two November 2012 interviews. Even if that issue had been properly presented to the circuit court, there was evidence that when Lieutenant Jones first contacted Taylor on November 9, 2012, Taylor told her that he wanted to talk to Sheriff Jones, whom he had known for twenty to twenty-five years. "[W]hen an accused has expressed a desire to deal with the police only through counsel, further interrogation is absolutely barred . . . *unless the accused himself initiates further communication*." *Balfour v. State*, 598 So. 2d 731, 744 (Miss. 1992) (emphasis added) (citing *Edwards v. Arizona*, 451 U.S. 477, 484 (1981)). When Taylor said he wanted to talk to Sheriff Jones, he initiated the November 2012 interviews that followed. "A trial court's decision will be affirmed on appeal where the right result is reached, even though we may disagree with the reason for that result." *Carothers*, 152 So. 3d at 282 (¶14). Because the circuit court reached the correct result when it allowed the prosecution to introduce a portion of Taylor's November 15, 2012 interview, we do not disturb that decision.

¶20. Taylor also argues that the circuit court did not adequately find that his *Miranda* rights had been explained to him. Although the circuit court's order does not include an express finding that Taylor's rights had been explained, during the suppression hearing, Lieutenant Jones said that she advised Taylor of his rights and that he waived them. Later, the prosecution disclosed Taylor's written *Miranda* waiver, which included Taylor's initials next

to each right that he agreed to waive. The prosecution satisfied its burden of proving that Taylor's statement was voluntary, and Taylor presented nothing in rebuttal. *See Marshall v. State*, 812 So. 2d 1068, 1072 (¶9) (Miss. Ct. App. 2001). After due consideration of all claims that Taylor raises under this heading, we find that the circuit court did not err when it allowed the prosecution to present the brief excerpt of Taylor's November 15, 2012 statement.

II. Alleged Prosecutorial Misconduct

¶21. In a somewhat related issue, Taylor argues that his convictions must be reversed and rendered because the prosecution suborned perjury during the suppression hearing. Taylor's claim is related to Lieutenant Jones's testimony during the suppression hearing. Lieutenant Jones testified that on November 9, 2012, she gave an oral *Miranda* warning that was captured on an audio recording. When the circuit court told her to get the recording, she complied. However, when Lieutenant Jones returned to the courtroom, she said there was a brief delay on the recording device, so it did not capture her *Miranda* warning. According to Taylor, the prosecution knew that Lieutenant Jones lied about the recording delay.

¶22. There is no indication that Lieutenant Jones lied about the recording delay, so there is no support for a conclusion that the prosecution suborned perjury. It is reasonable to interpret Lieutenant Jones's suppression-hearing testimony as though she was surprised by the fact that the *Miranda* warning was not captured on the recording. Furthermore, the prosecution presented a written *Miranda* warning that Taylor signed. Taylor claims that he

did not sign the *Miranda* waiver, but it was within the circuit court's discretion to resolve that claim against him.

¶23. Next, Taylor claims that the prosecution destroyed the portion of the November 9, 2012 audio recording that captured an employee of the Bolivar County jail as she escorted Taylor into the interview room. According to Taylor, the employee said, "[O]kay now, here is Kelvin Taylor, when you all finish with him, just holl[er] and I or somebody will come get him and take him back." Taylor says that Sheriff Jones then said, "Okay, come on in Kelvin and sit down." Taylor argues that this omission "conclusively show[s] that [Lieutenant] Jones did not give any *Miranda* warning . . . ."

¶24. Contrary to Taylor's assertion, even if the recording did not capture the moment that he was escorted into the interview room, that does not show that he was not given a *Miranda* warning on November 9, 2012. It is certainly possible that the recording had not begun at that moment. Moreover, Taylor's claim is contradicted by the *Miranda* waiver that bears his signature.

¶25. Finally, Taylor claims that the suppression-hearing transcript is incomplete. According to Taylor, during the suppression hearing, Lieutenant Jones said that Taylor had signed a *Miranda* waiver, and the circuit judge said that he could not find it in the court file. Additionally, Taylor claims that the transcript omits the circuit judge's question as to whether the discovery material included a waiver-of-rights form, and the prosecutor's response that he did not have a form in his file.

¶26. Taylor's claims are plainly contradicted by the record and the procedural history of the case. During the suppression hearing, Lieutenant Jones explained that she first contacted Taylor on November 9, 2012. Taylor wanted to talk to Sheriff Jones, so Lieutenant Jones arranged that meeting. Lieutenant Jones said she orally advised Taylor of his *Miranda* rights, and Taylor waived them before she left the room.

¶27. Later, defense counsel asked Lieutenant Jones whether Taylor had waived his *Miranda* rights on November 9, 2012. After Lieutenant Jones responded affirmatively, defense counsel asked whether Lieutenant Jones had documented Taylor's waiver. Lieutenant Jones said, "It should be on the recording." She later reiterated that she did not have a "standard form" indicating that Taylor had waived his *Miranda* rights.

¶28. Thus, the hearing transcript clearly shows that Lieutenant Jones never mentioned a written waiver. Instead, she said that Taylor had verbally waived his rights. It is true that on February 12, 2018, the prosecution finally disclosed Taylor's written *Miranda* waiver. But during the July 11, 2016 suppression hearing, Lieutenant Jones never mentioned the written waiver. It appears that she had forgotten about it at that time. In any event, there would have been no reason for the circuit court to ask about a written waiver under the circumstances. Likewise, there would have been no reason for the circuit court to ask the prosecutor whether the discovery material included a written waiver. The transcript clearly reflects that the prosecution had not disclosed the existence of the written waiver at that time. As a result, there is no support for Taylor's claim that the portions of the transcript have been

intentionally omitted.

¶29. Finally, Taylor claims his trial counsel was ineffective because he did not designate the November 9, 2012 audio recording as a necessary part of the appellate record.

> Generally, ineffective-assistance-of-counsel claims are more appropriately brought during post-conviction proceedings. This Court will address such claims on direct appeal when . . . the record affirmatively shows ineffectiveness of constitutional dimensions, or . . . the parties stipulate that the record is adequate and the Court determines that the findings of fact by a trial judge able to consider the demeanor of witnesses, etc., are not needed. [The Mississippi Supreme] Court has also resolved ineffective-assistance-of-counsel claims on direct appeal when the record affirmatively shows that the claims are without merit.

Ross v. State, 288 So. 3d 317, 324 (¶29) (Miss. 2020) (citations and internal quotation marks omitted). Here, the record affirmatively shows that Taylor's trial counsel was not ineffective for not including the November 9, 2012 audio recording in the designation of the record.

¶30. To prove ineffective assistance of counsel, Taylor must show that (1) "his counsel's performance was deficient," and (2) this deficiency "prejudiced his defense." *Strickland v. Washington*, 466 U.S. 668, 687 (1984). The circuit judge listened to the November 9, 2012 audio recording during the suppression hearing, but it was never introduced as an exhibit or marked for identification during any stage of the proceedings that are detailed in the appellate record. It was not introduced as an exhibit during Taylor's second trial.[8] Taylor's trial counsel cannot provide ineffective assistance by not designating something that is not part

[8] It is unclear whether the November 9, 2012 audio recording was introduced as an exhibit during Taylor's first trial because the transcript of that trial is not included in the appellate record.

of the record. *See* M.R.A.P. 10(a) ("[T]he record shall consist of designated papers and exhibits filed in the trial court . . . ."). This issue is meritless.

III. Instruction C-16

¶31. On its own motion and over defense counsel's objection, the circuit court gave the following accessory-before-the-fact instruction:

> The Court instructs the jury that the guilt of a defendant in a criminal case may be established without proof that the defendant did every act constituting the offense alleged. Every person who shall be an accessory to any felony, before the fact, is deemed and considered a principal to such felony.
>
> If the defendant performs acts with the intent to bring about the commission of a felony and such felony is committed by another, then the law holds the defendant responsible for the acts or conduct of such other person or persons just as though the defendant had personally committed the aces or engaged in such conduct. However, before the defendant may be held criminally responsible for the acts of another, it is necessary that the defendant deliberately associate himself in some way with the crime and participate in some manner with the intent to bring about the crime.
>
> In the present case there has been evidence which if believed by you, suggest[s] that the defendant took certain action to determine if Willie Bass was a "snitch." If you find beyond a reasonable doubt that such actions on the part of the defendant led to the death of Willie Bass and that the defendant intended such result and joined with another or others to bring about such result, then the defendant would be an accessory before the fact, deemed to be a principal in the commission of such crime and criminally responsible as such. However, knowledge that a crime is to be committed without more, is not sufficient to establish criminal responsibility of the defendant.
>
> In other words, you may not find any defendant guilty unless you find beyond a reasonable doubt that every element of the offense as defined in these instructions was committed by some person or persons, and that the defendant voluntarily participated in its commission with the intent to violate the law.

According to Taylor's appellate counsel, instruction C-16 was improper because the prosecution did not present any evidence that someone killed Bass and Watkins at Taylor's direction and because the instruction was an improper comment on the evidence.

¶32. As the State notes, Taylor did not previously object to instruction C-16 on either of those bases. When Taylor's trial counsel objected to instruction C-16, he argued that it was improper to give an accessory-before-the-fact instruction when Taylor had been indicted as a principal. In other words, Taylor's trial counsel argued that instruction C-16 was an improper constructive amendment of the indictment. Taylor cannot object on a different basis on appeal. "Asserting grounds for an objection on appeal that differ from the ground given for the objection at the trial level does not properly preserve the objection for appellate review." *Bursey v. State*, 149 So. 3d 532, 535 (¶5) (Miss. Ct. App. 2014) (quoting *Woodham v. State*, 779 So. 2d 158, 161 (¶12) (Miss. 2001)).

¶33. In his pro se supplemental brief, Taylor reiterates his trial counsel's argument that instruction C-16 was essentially a constructive amendment of the indictment. "Jury instructions are generally within the discretion of the trial court and the settled standard of review is abuse of discretion." *Nelson v. State*, 284 So. 3d 711, 716 (¶18) (Miss. 2019). The instructions "are to be read together as a whole, with no one instruction to be read alone or taken out of context. When read together, if the jury instructions fairly state the law of the case and create no injustice, then no reversible error will be found." *Id*. And while "a defendant is entitled to have jury instructions given [that] present his theory of the case; . . .

this entitlement is limited in that the court may refuse an instruction [that] incorrectly states the law, is covered fairly elsewhere in the instructions, or is without foundation in the evidence." *Id*. (internal quotation marks omitted).

¶34. Our supreme court has explained:

> A constructive amendment of an indictment occurs when the jury is permitted to convict the defendant upon a factual basis that effectively modifies an essential element of the offense charged. A constructive amendment of an indictment is reversible per se. Reversal is automatic because the defendant may have been convicted on a ground not charged in the indictment.

Graham v. State, 185 So. 3d 992, 1001 (¶25) (Miss. 2016) (citations omitted). But "[n]ot all variances between the indictment and instructions constitute a constructive amendment." *Id*. The operative question is "whether the variance is such as to substantially alter the elements of proof necessary for a conviction." *Id*.

¶35. A trial court may give an accomplice-culpability instruction without constructively amending an indictment. *Jones v. State*, 238 So. 3d 1235, 1239-40 (¶11) (Miss. Ct. App. 2016) (citing *Johnson v. State*, 956 So. 2d 358, 362-66 (¶¶7-18) (Miss. Ct. App. 2007)). This is because "under the statutory language of Mississippi Code Annotated section 97-1-3 (Rev. 2006), an accessory to any felony, before the fact, shall be deemed and considered a principal, and shall be indicted and punished as such." *Jones*, 238 So. 3d at 1240 (¶12) (internal quotation mark omitted). There is a qualifier in that the evidence must support the instruction. *Id*. at (¶11). But as mentioned above, Taylor's trial counsel did not object that the evidence did not support instruction C-16, so the circuit court was not prompted to

elaborate regarding the evidentiary basis for the instruction.

¶36. The circuit court could have reasonably held that instruction C-16 was supported by portions of Taylor's November 15, 2012 statement and his trial testimony; particularly since "the jury may reject any or all parts of a witness'[s] testimony." *Johnson*, 956 So. 2d at 364 (¶14). During the brief portion of the November 15, 2012 interview that was played for the jury, Taylor told Sheriff Jones that Bass had been killed because he was a snitch. Lieutenant Jones asked Taylor whether Bass's being an informant "was . . . just the word or did they know?" After a pause, Taylor explained that he had given Bass unique information as a test to determine whether Bass would relay it to authorities. Taylor added, "And when the police came to me, that's exactly what they came with." In short, Taylor said that *he knew* Bass went to authorities with the information that he planted. His statement was in direct response to Lieutenant Jones's question about what "they [(arguably the ones responsible for Bass's death)] knew."

¶37. Well before the jury instruction conference, the circuit judge was contemplating whether the jury could eventually find Taylor guilty of the two murders based on its interpretation of Taylor's statement. While explaining his decision to deny Taylor's motion for a directed verdict after the prosecution rested its case-in-chief, the circuit judge said:

> I could see an inference where [Taylor's statement] could be construed as someone who was an accessory to the murder. . . . If you believe the statement that was played, then, certainly, I can see how a reasonable juror might view him as being a participant from planting information to make a determination whether or not Mr. Bass was, in fact, a snitch, as he is called . . . on the recording. And having confirmed that, . . . a reasonable inference could be . . .

> that [Taylor's] information plays a integral part into why Mr. Bass might [have] been killed, and . . . further related over to why Ms. Watkins [might have] been killed. Given those inferences, which I think a reasonable juror might draw -- I'm not saying they're going to; I don't know but they might. And I . . . believe it would be [a] reasonable inference to draw if they choose to do so.

A short time later, the circuit judge announced that he was considering whether he should give an accomplice-culpability instruction, "as the jury may find [that Taylor] . . . aided and abetted by assisting or . . . providing this information[,] and that's the reason why Mr. Bass might [have been] killed."

¶38. Taylor subsequently chose to testify. He said he told Sheriff Jones and Lieutenant Jones that Anderson "was trying to pay to have Willie Bass killed" because Bass "set up" someone who received "fronted" cocaine from Anderson. According to Taylor, Anderson discovered Bass's involvement through a police officer whom Anderson paid to "supply . . . information of . . . who was snitching in the neighborhood."

¶39. The circuit judge had previously opined that an accomplice-culpability instruction would be necessary based on the reasonable inferences from Taylor's statement. That may explain the absence of an objection that there was an inadequate evidentiary basis for instruction C-16. In any event, if that issue would have arisen during the jury-instruction conference, the circuit judge would have likely returned to his earlier reasoning that the jury could reasonably infer[9] that Bass was murdered because he was an informant, and Taylor had

[9] The circuit court instructed the jurors that they were "permitted to draw such reasonable inferences from the evidence as seem justified in the light of [their] own

proved that fact. Taylor's own statement provided an adequate evidentiary basis for instruction C-16, and it would not have been unreasonable to find Taylor guilty of the two murders as an accessory before the fact.[10] Accordingly, we are not persuaded by Taylor's assertions under this heading.

IV. Sufficiency of the Evidence

¶40. Taylor argues that there was insufficient evidence to find him guilty of any of the three charges.

> When reviewing challenges to the sufficiency of the evidence, we view all evidence in the light most favorable to the State. We must affirm if any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Under this standard, the State receives the benefit of all favorable inferences that may be reasonably drawn from the evidence.

Thomas v. State, 277 So. 3d 532, 535 (¶11) (Miss. 2019) (citations and internal quotation marks omitted).

¶41. Taylor's attorney argues that there was no evidence that Taylor or an accomplice killed Bass or Watkins, so no reasonable jury could have found Taylor guilty of any of the three charges that he faced. According to counsel, Taylor's statement merely indicates his awareness of the murders.

¶42. The prosecution was obligated to present evidence beyond a reasonable doubt that

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experience."

[10] "For a jury to convict as an accessory before the fact there must be evidence that the defendant procure[d], counsel[ed], or command[ed] another to commit a felony for him, but [wa]s not himself present, actually or constructively, when the felony [wa]s committed." *Wilson v. State*, 592 So. 2d 993, 997 (Miss. 1991) (internal quotation mark omitted).

Taylor killed the victims without the authority of law with deliberate design to effect their deaths. *See* Miss. Code Ann. § 97-3-19(1)(a) (Rev. 2006). Giving the State the benefit of all reasonable inferences from the evidence, the jury could have found that Taylor's statement was indicative of more than his mere awareness of the murders. When Sheriff Jones speculated that Bass had been killed because he had been selling drugs, Taylor corrected him. Taylor definitively said that Bass was killed because he was a snitch who "was endangering people's lives[.]" Taylor told Sheriff Jones that he had been "involved in something" that he did not want to explain. Taylor tested Bass by giving him information that made its way to authorities, who later confronted Taylor with the same information. Having confirmed his suspicion that Bass was reporting to law enforcement officers, Taylor had a clear motive to kill Bass—to prevent Bass from passing on further information about his activities. "In a case where circumstantial evidence is relied upon, it is especially proper that motive be shown. Such evidence is relevant as rendering more probable the inference that the defendant committed the homicide." *Tolbert v. State*, 407 So. 2d 815, 821 (Miss. 1981).

¶43. The jury could have also connected the evidence that Taylor knew Bass and that there was no sign of forced entry into Bass's home. In other words, the jury could have found that Taylor killed Bass and Watkins after he was let into the home. Additionally, there was no evidence that anything was taken from the home, so the jury could have found that the perpetrator visited Bass and Watkins solely to kill them. Given Taylor's motive to kill Bass,

it was not unreasonable for the jury to connect him to the crime; especially since Taylor unequivocally said that Watkins had been killed because she was a witness to Bass's murder.

¶44. "To prove possession of a firearm by a convicted felon, the State must prove two things: (1) the person was in possession of a firearm, and (2) the person had been convicted of a felony crime." *Toliver v. State*, 271 So. 3d 513, 516 (¶9) (Miss. Ct. App. 2018); *see also* Miss. Code Ann. § 97-37-5(1) (Supp. 2007). And because they had both been shot, the jury could have found that their killer possessed a firearm. Because Taylor stipulated that he had previously been convicted of a felony, it was reasonable for the jury to find him guilty of possession of a firearm by a felon.

¶45. Although Taylor denied responsibility for the crimes, it was the jury's responsibility to weigh his credibility. *Beasley v. State*, 136 So. 3d 393, 403 (¶36) (Miss. 2014). Clearly, the jury did not believe him. It is true that the evidence against Taylor was circumstantial, but "[a] conviction may be had on circumstantial evidence alone." *Tolbert*, 407 So. 2d at 820. Such verdicts "will always be permitted to stand unless [they are] opposed by a decided preponderance of the evidence, or [are] based on no evidence . . . ." *Id*. Viewing the evidence in the light most favorable to the State, a rational jury could have found Taylor guilty of the three charges that he faced. As such, it was within the circuit court's discretion to deny Taylor's motion for judgment notwithstanding the verdict.

¶46. **AFFIRMED.**

CARLTON AND J. WILSON, P.JJ., GREENLEE, WESTBROOKS, TINDELL, McDONALD, LAWRENCE, McCARTY AND C. WILSON, JJ., CONCUR.