



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-17-00388-CR

TEVIN WILSON, Appellant

v.

THE STATE OF TEXAS

On Appeal from the 372nd District Court
Tarrant County, Texas
Trial Court No. 1517479R

Before Kerr, Pittman, and Womack, JJ.
Memorandum Opinion by Justice Kerr

MEMORANDUM OPINION

A jury convicted Tevin Wilson of (1) capital murder, (2) arson, and (3) tampering with evidence, and the trial court sentenced Wilson to the automatic life imprisonment without parole for the capital-murder offense¹ and ten years imprisonment for both the arson and the tampering-with-evidence convictions. *See* Tex. Penal Code Ann. §§ 12.31(a), 12.33, 12.34, 19.03, 28.02, 37.09. In three issues, Wilson argues that the State failed to prove that he was a party to each of the three offenses. We affirm.

The Indictment

In the indictment, the State alleged that on or about January 28, 2015:

- Count One: Wilson intentionally caused Kendal Craddock's death by shooting him with a firearm, while Wilson was in the course of robbing or attempting to rob Craddock. *See id.* § 19.03(a)(2).
- Count Two: Wilson intentionally started a fire or caused an explosion by igniting a flammable or combustible material or liquid with an open flame or other ignition source with the intent to damage or destroy a vehicle knowing that the vehicle was within Fort Worth's city limits. *See id.* § 28.02(a).
- Count Three: Knowing that an offense had been committed, Wilson altered, destroyed, or concealed a record, document, or thing with the intent to impair its verity, legibility, or availability as evidence in any later investigation of or official proceeding related to the offense by setting fire to a vehicle. *See id.* § 37.09.

¹The State waived seeking the death penalty.

Overview

Wilson was present when someone shot and killed Craddock, present when someone stole Craddock's property, and present when someone burned Craddock's car to destroy it as evidence. But Wilson denied being the person who shot Craddock, denied taking any of Craddock's property, and denied being the person who doused Craddock's car with lighter fluid and set it on fire. So if Wilson was guilty, he asserts that it was as a party—something he argues that the State failed to prove.

The Law of Parties

Before recounting the evidence, we discuss the law of parties, which is the prism through which we will review the evidence.

The law of parties provides that a person is criminally responsible as a party to an offense if the offense is “committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both.” Tex. Penal Code Ann. § 7.01(a); *see Rivera v. State*, 507 S.W.3d 844, 856 (Tex. App.—Houston [1st Dist.] 2016, pet. ref'd). A person is criminally responsible for an offense committed by the conduct of another if “acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.” Tex. Penal Code Ann. § 7.02(a)(2); *see Rivera*, 507 S.W.3d at 856. Under the law of parties, the State can enlarge a defendant's criminal responsibility to include acts in which he may not have been the principal actor. *Bleil v. State*, 496 S.W.3d 194, 202 (Tex. App.—Fort Worth 2016, pet. ref'd).

Section 7.02(b) of the penal code sets out another basis under which a person can be held criminally responsible for another's acts:

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy.²

Tex. Penal Code Ann. § 7.02(b); see *Cucuta v. State*, No. 08-15-00028-CR, 2018 WL 1026450, at *3–4 (Tex. App.—El Paso Feb. 23, 2018, no pet.) (not designated for publication).

The law-of-parties doctrine can be applied to a defendant's case even though the indictment contains no such allegation. See *Murkledove v. State*, 437 S.W.3d 17, 21–22 (Tex. App.—Fort Worth 2014, pet. dism'd, untimely filed). Moreover, the court of criminal appeals has expressly held that when instructing the jury on the law of parties, the trial court may properly include a definition of the term “conspiracy.”³ See *Ladd v. State*, 3 S.W.3d 547, 565 (Tex. Crim. App. 1999); see also *Cucuta*, 2018 WL 1026450, at *4; *Gilmore v. State*, 397 S.W.3d 226, 245–46 (Tex. App.—Fort Worth 2012, pet. ref'd) (holding that the trial court did not err in including a

²The court's charge contained this language. See Tex. Penal Code Ann. § 7.02(b).

³The court's charge defined “conspiracy.” See Tex. Penal Code Ann. § 15.02(a)(1), (2).

definition of conspiracy in the jury charge while instructing the jury on the law of parties).

Further, the State must show that “in addition to the illegal conduct by the primary actor, the accused harbored the specific intent to promote or assist the commission of the offense.” *Barnes v. State*, 62 S.W.3d 288, 296 (Tex. App.—Austin 2001, pet. ref’d). The defendant must know that he was assisting in committing the offense. *Rivera*, 507 S.W.3d at 856. The agreement, if any, must occur before or contemporaneously with the criminal event. *Barnes*, 62 S.W.3d at 296. And the evidence must show that when the offense was committed, the parties were acting together, each advancing some part of the common design. *See id.* at 297.

More than mere presence is necessary to show that the defendant participated in a criminal offense. *Id.* Mere presence or even knowledge of an offense does not make a defendant a party to an offense. *Id.* In determining whether a defendant participated in committing an offense as a party, the factfinder may examine the events occurring before, during, and after the commission of the offense and may rely on the defendant’s actions that show an understanding and a common design to commit the offense. *Id.*

Evidence

A. Craddock, the victim, was in the illegal-narcotics business.

Twenty-six-year-old Craddock ran a successful “trap house”⁴ in Fort Worth. Avoiding strangers, Craddock chose his drug-buying customers from among people he knew. To assist with his enterprise, Craddock enlisted the aid of his cousin Phillip⁵ and, according to Craddock’s girlfriend Brandi Jefferson, his two friends Wilson and Willie Harris.⁶

According to Jefferson, Wilson and Harris were not particularly good dealers. Although Craddock had tried to help both Wilson and Harris by giving them drugs to sell, Craddock had indicated to Jefferson that he was not inclined to do so any longer. Jefferson had also seen Craddock interact with Wilson and Harris and described Craddock as “bossy.”

Other evidence tended to confirm Jefferson’s assessment. Craddock would use the term “little bitch” when addressing Wilson, and Wilson indicated that Craddock had used that term when addressing Phillip too. According to Detective Matt Barron,

⁴A “trap house” is the same as a “dope house,” meaning simply a residence out of which drugs are sold.

⁵Phillip and Tevin Wilson share the same last name but are not related. To avoid confusion, we refer to Phillip by his first name.

⁶During one interview, Wilson stated that he had wanted to start working at the trap house. During another interview, he denied working for Craddock and maintained that he just “hung out” at the trap house.

a “little bitch” in this subculture was someone subservient—that is, someone who could be ordered around. Jefferson provided additional context: “Amongst men in our community, they don’t call each other bitches.” She added, “It means different things. I can call my sister a little bitch[,] and she won’t get offended. But if a male call[s] another male [‘]little bitch,[’] [the other male is] going to get offended.” During one of his police interviews, when the subject was raised of Craddock’s ordering Phillip around and calling him his “little bitch,” Wilson said that a person had to understand Craddock’s perspective—Craddock made so much money that he could be dictatorial and overbearing. Wilson explained that Craddock would say things like, “That’s my little bitch, he gonna get whatever [I] want for me; whatever I want him to go get for me.”

And if Craddock got robbed, Jefferson said that Craddock would retaliate, especially if he knew the robber. Dovetailing with Jefferson’s assertion, Detective Barron stated that after reviewing Craddock’s criminal history, there was no question that he carried firearms, could be violent, and was “absolutely capable” of retaliating.

Retaliating was not unique to Craddock though: when asked if drug dealers could stay in business if they let people get away with robbing them, Detective Barron responded, “Obviously not.” He explained, “If you rob somebody you know is in that business, I would say there’s a good chance you’re going to get retaliated on. And the bottom line is, you’re probably going to end up, down the road, having to answer to that person, maybe at the end of [his] gun.”

Craddock was also known to “stunt,” that is, show off. Wilson described him as “a very flashy person,” adding that “at the club, he’[d] pull up VIP” and—if we have interpreted Wilson’s vernacular correctly—paid for others’ cover charges and drinks because he was making so much money that the expense was inconsequential. On “club nights,” Wilson explained that they all went out together.

In addition to Phillip, Wilson, and Harris, Craddock employed a cleaning woman, Nichole Trevillion—whom Wilson referred to as both “the dope fiend”⁷ and “Nikki”—to come by his trap house to clean it about every two weeks or as she put it, “whenever he would call.” In addition to being Craddock’s cleaning woman, Trevillion was also one of his regular customers, estimating that in January 2015, she used \$40 to \$50 of crack cocaine a day.

B. In contrast to Craddock, Wilson struggles financially.

By January 2015, 23-year-old Wilson had been without a car for at least a month or two, so one of his girlfriends, Taylor Newhouse, would occasionally give him rides. Another girlfriend, Amber Gehring, asserted that Wilson had had a car in the summer of 2014 when she had first met him but that circumstances later forced him to get rid of it. Detective Barron asserted that Wilson described himself as “kind of” semi-homeless. Wilson had told Detective Barron that he was considering moving into Craddock’s trap house because he soon would have nowhere else to go.

⁷A “dope fiend” is another term for a drug addict.

C. Craddock has an odorous couch, so he calls his cleaning woman, Trevillion.

1. Trevillion arrives, Wilson is there, and she cleans.

Around 4:30 on the afternoon of January 27, Craddock called Trevillion to come over and clean: “[H]e really . . . just asked me to . . . clean the couch and told me he was tired of it smelling because it smelled like ass and feet. Somebody had been sleeping on the couch[,] and I guess it really had a distinct odor to it.” Living only three or four blocks from Craddock’s trap house, Trevillion arrived within 15 minutes and saw Wilson in the driveway. While Trevillion cleaned, Craddock and Wilson talked, and everything seemed fine.

2. Trevillion discovers that Craddock has a superstitious side, finishes her cleaning, and leaves.

At some point, Trevillion became aware that Craddock needed a phone charger, so she went to her purse to lend Craddock hers. But when handing Craddock her charger, Trevillion did something that—at least to Craddock—invited bad luck, as she recounted: “And at that time I had my broom in my hand and when I went to walk away, I touched his feet with the broom[,] and he made a big deal out of spitting on that broom because it was supposedly bad luck.”

After cleaning, Trevillion went home around 6:30 p.m.

D. Trevillion returns to Craddock's trap house around midnight to retrieve her phone charger and brings Craddock some extra business.

Around midnight, Trevillion and two people whom Trevillion referred to only as “Brown Eyes and her friend” went to Craddock’s trap house. Trevillion wanted to pick up her phone charger, and Brown Eyes and her friend wanted to purchase some crack.

Customers would enter Craddock’s trap house through a side door that led directly into the kitchen, and Trevillion did just that while Brown Eyes and her friend waited outside. Within the kitchen, Craddock conducted business at an L-shaped counter.

From the kitchen, Trevillion could see Wilson in the living room on the loveseat. She said that when she walked in, Wilson turned her way and glared at her. She saw another person on the couch but only from the knees down; based on this person’s tennis shoes, she thought the other person was male.

Trevillion’s attempt to retrieve her charger came to naught. Craddock told her that she would have to come back in the morning because Phillip had it. From that comment, Trevillion inferred that Phillip was not the other person in the living room. Further supporting that conclusion, she also remembered not seeing Phillip’s car—a red BMW or Mercedes—there that night.

Describing Craddock as talkative, Trevillion said that he made a point to say that he would be open until 1:00 a.m. Angry and complaining, Craddock tossed two

bills and said—in a voice loud enough for the people in the living room to hear— “I got to pay these bills. Who else is going to pay these bills?”

After Trevillion left, bad luck followed, which Craddock’s spitting on Trevillion’s broom had failed to ward off.

E. The police awaken Craddock’s mother at 3:00 a.m.

Around 3:00 a.m. on January 28, the police came to Teresa Craddock’s house and asked if she owned a gray Dodge Charger. She responded that she did but that her son, Craddock, drove it. The police then told Ms. Craddock that they had found the car burning. Although Ms. Craddock then called her son, he did not answer, so she, her other son Seddrick, and her brother left to try to find the burning car. They were unsuccessful, but on their way back, they decided to stop at Craddock’s house with the hope that he might be there.

When they arrived, they saw that Jefferson and Anthony, another of Craddock’s cousins, were already at the trap house. The windows and front door had burglar bars on them, and the side door was locked, so no one could get inside. Eventually they found a window that they could open by reaching through the burglar bars. Seddrick looked inside and then called the police.

A police video captured what Seddrick had seen. A responding officer’s body camera shows him arriving at the scene and being directed to an opened window behind burglar bars; although the window is open, blinds still obstruct the view. By

reaching past the burglar bars, pushing the blinds aside, and using a flashlight, the officer could see Craddock lying nearby on the kitchen floor in a pool of blood.

F. Detective Matt Barron speaks with Trevillion, searches for Wilson, and finds him.

Detective Matt Barron testified that three people—Jefferson, Phillip, and Craddock’s brother-in-law—encouraged him to see Trevillion. So Detective Barron and his partner, Detective T.S. O’Brien, interviewed her around 2:20 p.m. on January 29. After interviewing Trevillion, whom Detective Barron described as “a very personable, likeable person” but an admitted crack-cocaine user, Detective Barron next contacted Lacy Berry, “the mother of one of Tevin Wilson’s children,” that same afternoon and obtained Wilson’s phone number. By the next day, Detectives Barron and O’Brien had met with Wilson at his apartment, and Wilson had voluntarily agreed to an interview.

G. During the January 30 interview, Wilson reveals an alibi, but the alibi witness—Newhouse—eventually comes clean.

At the January 30 interview, Wilson claimed that he had an alibi because Newhouse had picked him up around 1:00 a.m., that Craddock was still alive when Wilson left, and that Newhouse took him back to his apartment, where he and Newhouse had sex in her car before parting ways. According to Detective Barron, Wilson also stated that Phillip would rarely be absent while business was going on; Detective Barron observed that, hypothetically speaking, Phillip’s absence would have presented an excellent opportunity to rob the trap house.

The detectives next wanted to talk to Wilson's alibi, Newhouse. After initially stalling, Newhouse agreed to an interview on February 2. At first, she tried to go along as Wilson's alibi, but midway through the interview she changed her story.

H. Newhouse becomes a key prosecution witness.

Detective Barron did not need to tell the jury what Newhouse had told him—Newhouse herself took the witness stand.

Newhouse testified that on the day before Craddock died (which would have been January 27), Wilson asked her to drop him off in “the hood, the jungle” before lunch, so around 11:00 a.m. she took him to Harris's house, which was just around the corner from Craddock's trap house. After picking up her daughter from school around 3:30 p.m., she took some food over to Wilson, who was still at Harris's, and later as she was getting ready to leave, she gave Wilson a ride over to Craddock's. She did not see or hear from Wilson again until after midnight, when he texted her and again asked for a ride, but she did not respond.

The next morning, Newhouse got up around 11:00 a.m. and learned through social media that Craddock was dead, so she called Wilson, who told her that someone—but not Wilson—had shot Craddock in the head. But Wilson also said that a “dope fiend” had seen him at Craddock's house and that he—as the last person seen with Craddock—was being blamed. Wilson commented that people in the area were targeting him and, apparently in response to that, made a denial video that he posted on social media.

At some point Newhouse also learned that Wilson had used her as an alibi and that the police wanted to talk to her. To prepare her, Wilson fed her information on what to say: “‘This is the alibi.’ ‘This is what they’re going to ask you.’ ‘This is what you need to say,’ as far as like the sex position . . . when they asked about us having sex.” Newhouse of course knew that the alibi was not true, and although Wilson did not explain why he needed an alibi, she “drew an assumption of [her] own.”

According to her trial testimony, when Newhouse spoke to the police, she initially tried to go with the alibi but later decided to tell the police the truth. Afterward, she told Wilson that her interview had not gone as he had hoped.

Newhouse testified that the next time she and Wilson met, Wilson described his role in robbing Craddock. Wilson told her that Harris had come up with the idea of robbing Craddock’s business and that drugs or money motivated the idea; Newhouse added, “[I]t was known that [Craddock], his business was decent, successful, . . . it wasn’t petty.” Wilson informed Newhouse that he was also aware that Craddock had gotten a drug pickup that day.

Newhouse related to the jury how Wilson had told her that while he was at the trap house, Harris either texted or called to let Wilson know that he was on his way; when Harris arrived, Wilson discouraged Craddock from answering the door and let Harris in himself. As Harris and Wilson sat on the couch, Harris texted Wilson to turn off his phone, which Wilson did. After Wilson turned his phone off, they robbed

Craddock at gunpoint, but then Harris shot Craddock.⁸ Newhouse asserted that Wilson never denied wanting to participate in the robbery plan but that the plan never included killing Craddock. Wilson also never told Newhouse that he had taken anything from Craddock's house.

According to Newhouse's retelling of her conversation with Wilson, Harris and Wilson then left together in Craddock's car and went to Walmart to buy a fire accelerant to burn the vehicle and get rid of the evidence. Wilson told Newhouse that after they had set Craddock's car on fire, Wilson started walking.⁹

I. Wilson is then interviewed three times on February 2.

With Wilson's alibi gone, the investigation led Detectives Barron and O'Brien back to Wilson and resulted in three more interviews, all occurring on February 2.

1. The first interview.

Detectives Barron and O'Brien met with Wilson for a second time on February 2 at around 2:30 p.m. and started the interview around 3:25 p.m. When the recorded interview starts, it appears that the detectives have already confronted Wilson about the false alibi. Detective Barron told Wilson, "The things that you told me the first time around weren't true." But both detectives indicated that they were going to overlook the false alibi. Detective O'Brien told Wilson, "I get it, okay, I get why the

⁸Wilson denied being the shooter, which Newhouse concluded left only Harris.

⁹As we discuss later, a different girlfriend actually picked Wilson and Harris up, something Wilson apparently did not tell Newhouse.

[Newhouse] thing happened. We don't even [care]." What they wanted to know was who pulled the trigger.

Given another chance, Wilson told the detectives that he had met with Harris the day before (February 1st) and that Harris said he had shot Craddock at the trap house in a "lick gone wrong."¹⁰ Wilson denied having been at the trap house when Harris shot Craddock and maintained that he was either home or on his way home because Amber Gehring had picked him up at 1:00 a.m.

2. The second interview.

For unexplained reasons, Detectives Barron and O'Brien then took Wilson to Dallas so that another person, Ric Holden,¹¹ could interview Wilson. Holden's interview produced different results.

Wilson told Holden that Harris had said that he was going to "jack"¹² Craddock that night because Craddock showed off too much; Harris asked Wilson if he wanted to join him, but Wilson claimed that he had declined. Wilson asserted that he told Harris, "It's your gun, do what you're gonna do."

Wilson also told Holden that when Harris and Wilson were both at the trap house, Harris texted Wilson to ask him if he was ready and if he was going to do it,

¹⁰Detective Barron explained that a "lick" generally referred to a robbery.

¹¹The reporter's record spells Holden's first name as "Ric," but the clerk's record identifies his first name variously as "Eric" and "Rick."

¹²Detective Barron clarified that "jacking" was the same as "robbing."

but that he had again refused to join Harris. Wilson explained to Holden that he knew where the robbery would lead and that the outcome would not be good.

Next, Wilson related that as Craddock was looking at his phone, Harris had leaned in to look too and then shot Craddock in the head. Looking for money and keys, Harris then went through Craddock's pockets. Next, Harris took all the money that was on the countertop and may have taken the drugs too. After shooting Craddock, Harris told Wilson that he was not getting anything, and Wilson told Holden that nothing was precisely what he got. Later in this interview, Wilson said that Harris had taken everything valuable, so there was nothing left for him. When Holden asked Wilson if Harris had pressured or threatened him, Wilson shook his head and said, "No, no, no."

After the shooting, Wilson and Harris then went to Harris's house. Once there, Harris began to wonder whether they had touched anything, so Harris decided to double back to the trap house and clean it up; for his part, Wilson denied having returned to Craddock's.

Inevitably, the discussion between Holden and Wilson turned to Craddock's car. Wilson initially told Holden that he had not helped set the car on fire and denied having been present when that happened. But after some prompting, Wilson changed his story.

Wilson stated that when Harris returned from the trap house, he pulled up in Craddock's car and said, "This is the way home." Because no one else had answered Wilson's calls for a ride, Wilson agreed and hopped in.

But as Wilson told Holden, once in the car, Harris had stated that he wanted to ditch the car and that he knew where and how to do it, so he drove to the Walmart on I-30, and both men went inside. Wilson maintained that Harris selected and paid for two jugs of accelerant.

From there, they went to John T. White Road and Sandy Lane Road in Fort Worth. Harris dropped Wilson off at the corner and told him to look out, and Wilson agreed. Wilson handed one jug to Harris, who started pouring it in the back seat, and then Harris got the other jug and started pouring it too. Wilson denied that he himself had poured any of the accelerant.

After the fire started, they began walking home, and Wilson eventually got Gehring to pick them up. Wilson denied having told Gehring anything.

3. The third interview.

Detectives Barron and O'Brien then did a follow-up interview. During this interview, Wilson recounted the same story to the detectives that he had told Holden. He also disclosed that the Walmart he and Harris had gone to was the one on Cockrell Hill Road. Wilson again denied having taken anything during the robbery.

J. The Walmart video shows Wilson and Harris buying lighter fluid.

From the Walmart on Cockrell Hill Road, the detectives later procured a receipt for the purchase of lighter fluid and obtained a video from the store's Loss Prevention department. The receipt's time stamp was January 28 at 1:36:57. From watching the video, Detective Barron was able to identify both Wilson and Harris, with Wilson walking ahead of Harris. After they left the Walmart, Harris appeared to be the one who climbed into the driver's seat.

Detective Barron noted a discrepancy between what Wilson had told Holden and what the video showed. During Holden's interview of him, Wilson said that it was Harris who had purchased the lighter fluid. But the video showed that Wilson was the one who paid for the lighter fluid at the register, although the video also showed Harris giving Wilson additional money to pay for it.

K. Wilson shares a different story with another girlfriend.

During the first February 2 interview, Wilson mentioned that someone named Gehring had picked him up, and during the second interview that day, he asserted that Gehring had picked up both him and Harris. Gehring told her story to the jury too.

Gehring had met Wilson in the summer of 2014 and used to date him. Although Wilson had initially had a car, he later had to get rid of it. Their dating and Wilson's lack of transportation led to Gehring's becoming enmeshed in January 28's events.

On January 28 around 1:00 or 2:00 a.m., Wilson called her and said that he needed a ride. At the time, Gehring lived in Arlington, and Wilson wanted her to pick him up near his cousin's house on Sandy Lane Road in Fort Worth—a drive that was about 20 minutes away from where she lived. Gehring did not know the area well, so as she approached they talked on their phones, and Wilson gave her directions.

She eventually saw Wilson and Harris coming over a bridge on Sandy Lane Road. After she stopped, Wilson took the driver's seat, Gehring took the passenger seat, and Harris climbed into the back. She described Wilson as nervous and Harris as scared; Wilson was trying to calm Harris down. They let Harris off at his house, and then she dropped Wilson off at his own house before returning to Arlington. During the time that they were together, Wilson did not tell her what was going on, and she did not ask.

But Wilson later told Gehring that Harris and Craddock had gotten into a fight and that Harris had shot and killed Craddock. He also related to Gehring that he was aware that the police had a Walmart video showing him and Harris buying gasoline and that he and Harris had set the car on fire. Wilson told Gehring that Harris should get in trouble for killing Craddock and that Wilson should get in trouble for starting the fire because that was tampering with evidence. Gehring recounted for the jury another occasion involving Wilson's distancing himself from Craddock's death but still fearing that he might be held responsible for burning the car. She added, "I guess he said for like tampering with evidence, that they both caught the car on fire."

L. The arson investigator concludes that the vehicle was set on fire intentionally.

The arson investigator who had arrived at the scene of the car fire just before 3:00 a.m. on January 28 also testified. From various factors, he concluded that the fire was set intentionally with a flammable or combustible material or liquid, like lighter fluid. He also asserted that the fire impaired the car's usefulness as evidence.

M. A cellular analyst reviews Wilson's and Harris's phone activity.

A special agent with the Federal Bureau of Investigation's Cellular Analysis Survey Team reviewed Wilson's and Harris's phone records from January 27 and January 28. He determined that the two were communicating during that timeframe, but he could not determine the content of their communications.

N. A deputy medical examiner rules that Craddock's manner of death was homicide.

The deputy medical examiner who performed the autopsy on Craddock testified that Craddock had a gunshot wound to the head; the bullet entered his right temple and exited the other side of his head. The medical examiner's office ruled that the cause of death was a gunshot wound to the head and that the manner of death was homicide.

Standard of Review

Federal due process requires that the State prove beyond a reasonable doubt every element of the crime charged. *Jackson v. Virginia*, 443 U.S. 307, 316, 99 S. Ct. 2781, 2787 (1979); *see* U.S. Const. amend. XIV. In our due-process evidentiary-

sufficiency review, we view all the evidence in the light most favorable to the verdict to determine whether any rational factfinder could have found the crime's essential elements beyond a reasonable doubt. *Jackson*, 443 U.S. at 319, 99 S. Ct. at 2789; *Queeman v. State*, 520 S.W.3d 616, 622 (Tex. Crim. App. 2017).

This standard gives full play to the factfinder's responsibility to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts. *See Jackson*, 443 U.S. at 319, 99 S. Ct. at 2789; *Queeman*, 520 S.W.3d at 622.

The factfinder alone judges the evidence's weight and credibility. *See* Tex. Code Crim. Proc. Ann. art. 38.04; *Queeman*, 520 S.W.3d at 622. Thus, when performing an evidentiary-sufficiency review, we may not re-evaluate the evidence's weight and credibility and substitute our judgment for the factfinder's. *Queeman*, 520 S.W.3d at 622. Instead, we determine whether the necessary inferences are reasonable based on the evidence's cumulative force when viewed in the light most favorable to the verdict. *Murray v. State*, 457 S.W.3d 446, 448 (Tex. Crim. App. 2015); *see Villa v. State*, 514 S.W.3d 227, 232 (Tex. Crim. App. 2017) ("The court conducting a sufficiency review must not engage in a 'divide and conquer' strategy but must consider the cumulative force of all the evidence."). We must presume that the factfinder resolved any conflicting inferences in favor of the verdict, and we must defer to that resolution. *Murray*, 457 S.W.3d at 448–49.

Argument

For all three offenses—capital murder, arson, and tampering with evidence—Wilson argues that the State failed to prove that he was a party. We disagree with that argument.

The evidence showed that Wilson was present for Craddock's robbery, for Craddock's murder, and for the burning of Craddock's car. The jury had to decide whether Wilson repeatedly found himself in the wrong place at the wrong time or whether his presence was more than innocent coincidence—that is, whether he was actually participating in the offenses. *See Jackson*, 443 U.S. at 319, 99 S. Ct. at 2789; *Queeman*, 520 S.W.3d at 622; *Gilmore*, 397 S.W.3d at 240.

Our review shows that the jury had plentiful evidence from which it could reasonably infer that Wilson had an understanding and a common design to commit the offenses and was, therefore, a party:

- Wilson knew in advance that Harris intended to rob Craddock that night and that Harris had a gun.
- Armed with that knowledge, rather than distance himself from the offense's planned location, Wilson remained at the trap house and even let Harris in.
- Having robbed and killed Craddock, Harris did not kill Wilson, an eyewitness.
- Wilson and Harris left the trap house together.
- Together, Wilson and Harris rode in Craddock's car to Walmart and bought lighter fluid.

- And together they burned Craddock’s car with Wilson, at a minimum, acting as Harris’s lookout.
- Although Wilson gave many versions of what happened that night, none of them involved Harris’s threatening or coercing him.

See Rivera, 507 S.W.3d at 857; *Barnes*, 62 S.W.3d at 297.

Further, Wilson’s statements to Newhouse confirmed that Wilson knowingly participated in the robbery that led to Craddock’s death and participated in burning Craddock’s car.¹³ As the factfinder, the jury could have believed the version that Wilson told Newhouse and disbelieved the various other versions he had told. *See Chambers v. State*, 805 S.W.2d 459, 461 (Tex. Crim. App. 1991) (“As factfinder, the jury is entitled to judge the credibility of witnesses, and can choose to believe all, some, or none of the testimony presented by the parties.”); *Ireland v. State*, No. 02-17-00214-CR, 2018 WL 2344660, at *3 (Tex. App.—Fort Worth May 24, 2018, pet. ref’d) (mem. op., not designated for publication) (“[T]he factfinder may believe all, part, or none of a witness’s testimony.”).

Although Wilson indicated that killing Craddock was not part of the plan and that he himself never took any of Craddock’s property, the jury was not required to believe even uncontradicted evidence. *See Colyer v. State*, 428 S.W.3d 117, 122 (Tex. Crim. App. 2014). Other evidence suggested that leaving Craddock alive after the

¹³Gehring’s testimony also confirmed the latter conduct.

robbery meant that Craddock would, with near certainty, retaliate. Even Wilson acknowledged to Holden that robbing Craddock would not end well. *See* Tex. Penal Code Ann. §§ 7.02(b), 15.02(a)(1), (2). And regardless of whether Wilson profited from the robbery, Harris did. *See id.* § 7.02(a)(2).

Lastly, Wilson gave a great deal of false information, and jurors may infer guilt from attempts to mislead. *See Guevara v. State*, 152 S.W.3d 45, 50 (Tex. Crim. App. 2004) (“Attempts to conceal incriminating evidence, inconsistent statements, and implausible explanations to the police are probative of wrongful conduct and are also circumstances of guilt.”); *King v. State*, 29 S.W.3d 556, 565 (Tex. Crim. App. 2000) (“[A]ppellant’s false statements to the media [indicated a] consciousness of guilt and an attempt to cover up the crime . . .”).

Viewing the evidence in the light most favorable to the verdict, we hold that a rational factfinder could have found beyond a reasonable doubt that Wilson was a party to all three crimes. *Jackson*, 443 U.S. at 319, 99 S. Ct. at 2789; *Queeman*, 520 S.W.3d at 622. We overrule Wilson’s three issues.

Conclusion

Having overruled Wilson’s three issues, we affirm the trial court’s judgment on all three counts.

/s/ Elizabeth Kerr
Elizabeth Kerr
Justice

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Tex. R. App. P. 47.2(b)

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