

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 64445-9-I
)	
Respondent,)	DIVISION ONE
)	
v.)	
)	
Justin JAMES West,)	UNPUBLISHED
)	
Appellant.)	FILED: <u>September 20, 2010</u>
)	
)	

Cox, J. – Evidence is sufficient to support a conviction if, when viewed in the light most favorable to the State, any rational trier of fact could have found beyond a reasonable doubt the essential elements of the crime.¹ Here, because there was substantial evidence beyond a reasonable doubt that Justin West was the individual who committed the first degree assault, we affirm.

On May 1, 2009, Amanda Ramirez hosted a party. Beverly Sinson, Jose Lepez, and Joshua Castro attended. Sinson planned to meet her ex-boyfriend, West, afterward. When she tried to leave, Lepez stopped her. A man, identified by Sinson as West, got out of his car and walked toward them. She told the man to go back to his car. Shortly thereafter, a crowd of people from inside the house came outside, including Ramirez and Castro. The man returned from his car and approached the crowd. He pulled out a gun, shot it several times in the air,

¹ State v. Joy, 121 Wn.2d 333, 338, 851 P.2d 654 (1993).

and then shot at the house and street. A bullet hit Castro in his right shoulder, and the man left in his car. Police immediately responded, around 11:50 p.m.

The State charged West by amended information with first degree assault and first degree unlawful possession of a firearm. At trial, Sinson and Ramirez testified that West was the shooter. Castro and Lepez testified about the events before and during the shooting but could not identify West because they had not previously met him. West presented testimony from Brittany Brown, Robert Moniz, and Vuthy Mall that he was not the shooter because he was at Brown's house all night. To rebut these witnesses, the State presented testimony from West's brother, Dewayne Thompson, that West picked him up from a friend's house that night, took him to their mother's house, and stayed about 30 minutes. A jury convicted West as charged.

West appeals.

SUFFICIENCY OF THE EVIDENCE

West argues that the State did not prove beyond a reasonable doubt that he was the individual who assaulted Castro because the State's own witness, Thompson, testified that West was at his mother's house at the time of the shooting. We disagree.

The State bears the burden of establishing beyond a reasonable doubt the identity of the accused as the person who committed the offense.² Evidence is sufficient to support a conviction if, when viewed in the light most favorable to

² State v. Hill, 83 Wn.2d 558, 560, 520 P.2d 618 (1974).

the State, any rational trier of fact could have found beyond a reasonable doubt all the essential elements of the crime.³ “When the sufficiency of the evidence is challenged in a criminal case, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant.”⁴ “In determining whether the requisite quantum of proof exists, the reviewing court need not be convinced of the defendant’s guilt beyond a reasonable doubt, but only that substantial evidence supports the State’s case.”⁵ We defer to the trier of fact to assess the credibility of the witnesses.⁶

The sole issue on appeal is whether there was substantial evidence to identify West as the shooter. The State presented testimony from Ramirez and Sinson that West was the shooter, and both identified him based on their prior personal acquaintance with him. The State presented phone records from May 1, 2009, that at 11:41 p.m., West called Sinson for two minutes. Sinson testified that he called to tell her to come outside so that he could pick her up. This call is only nine minutes before police responded to the shooting. Additionally, Ramirez and Sinson identified West as the shooter to police on the night of the shooting.

To rebut evidence that West was elsewhere during the shooting, the

³ Joy, 121 Wn.2d at 338.

⁴ State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

⁵ State v. Jones, 93 Wn. App. 166, 176, 968 P.2d 888 (1998).

⁶ State v. Boot, 89 Wn. App. 780, 791, 950 P.2d 964 (1998).

State presented the testimony of Thompson. He testified that West was at their mother's house during the shooting. First, Thompson testified that West picked him up from his friend's house at 11:30 p.m., took him to their mother's house, and stayed there for 30 minutes. Later he testified that West picked him up earlier, at 10:45 p.m., but that they stayed at his friend's house for a while before leaving.

West argues that the State's presentation of conflicting testimony about his whereabouts during the shooting raised a reasonable doubt as to his identification as the shooter. Specifically, he claims that Thompson's testimony conflicts with that of Ramirez and Sinson. This claim is unpersuasive.

The issue on appeal is whether there was substantial evidence for a rational jury to find beyond a reasonable doubt that the State proved the identity of the shooter. Even though there was conflicting testimony from the State's witnesses, the trier of fact is solely responsible for weighing the credibility of the witnesses and deciding to accept or reject the identification testimony presented.⁷ Viewed in a light most favorable to the State, a rational trier of fact could have found that West was the shooter based upon the testimony of Sinson and Ramirez and the proximity of West's call to Sinson and the police response.

We affirm the judgment and sentence.

Cox, J.

⁷ Id.

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WE CONCUR:

Schiveller, J *Edenfor, J*