

Cite as 2023 Ark. App. 216
ARKANSAS COURT OF APPEALS

DIVISION I
No. CR-22-741

MARK D. CURTIS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 12, 2023

APPEAL FROM THE ASHLEY
COUNTY CIRCUIT COURT
[NO. 02CR-21-98]

HONORABLE CREWS PURYEAR,
JUDGE

AFFIRMED

KENNETH S. HIXSON, Judge

Appellant Mark D. Curtis appeals after he was convicted by an Ashley County Circuit Court jury of first-degree battery. He was sentenced to serve a total of ninety-six months' imprisonment in the Arkansas Department of Correction. On appeal, appellant argues that his conviction should be reversed and dismissed because the circuit court erred in denying his motions for directed verdict. We affirm.

I. *Relevant Facts*

Pertinent to this appeal, appellant was charged by amended information with first-degree battery in violation of Arkansas Code Annotated section 5-13-201(a)(8) (Supp. 2021), a Class B felony. A jury trial was held on April 27, 2022.

At trial, Wilmot Police Chief Felita Miller testified that, while on duty on March 19, 2021, she was approached by Christopher Williams, who told her to go to Keller Avenue about a half mile away “because there was about to be trouble.” When she arrived at the scene, the victim, Zachary Orange, flagged her down from his driveway. She noticed that Orange was limping and had sustained a gunshot wound to his foot, which was bleeding profusely.

The victim, Zachary Orange, testified that appellant shot him while he was standing on the porch of his home on March 19, 2021. In the courtroom during trial, Orange identified appellant as the person who had shot him. Orange admitted that he and appellant had a verbal argument earlier that same day over a domestic issue. At the conclusion of the argument, appellant had threatened that he would return. Orange testified that appellant returned approximately twenty minutes after the argument. He explained that Christopher Williams dropped appellant off near Orange’s home and that appellant fired at least nine or ten rounds from the street, one of which struck Orange in his ankle. Orange testified that another bullet damaged his vehicle. Chief Miller arrived about five minutes after the shooting, and Orange was transported from the scene by ambulance and received medical treatment for his injury.

Christopher Williams testified that he saw appellant walking on a street in Wilmot, Arkansas, and picked him up. He explained that during the drive, appellant was angry and said that Orange “put his hands on [him].” Williams saw that appellant had a gun in his hand. Williams also testified that appellant told him that he was going to kill Orange.

Therefore, because he did not want to be implicated, Williams refused to let appellant out at Orange's home and instead dropped him at the house next door to Orange's home. Williams testified that afterward, he drove off and found Chief Miller. Williams admitted that he did not see the shooting. Williams also identified appellant during the trial.

Deputy Josh Pollock testified about processing the scene after the shooting at Orange's home. He collected six shell casings, all found within ten feet of the edge of the street. He also collected samples of what he suspected to be blood and other evidence at the scene and took photographs. This included photographs of Orange's bloody shoe found at the scene and a bullet hole in the side of a vehicle parked at the home. Deputy Pollock testified that no firearm was recovered. However, he forwarded the shell casings and the blood samples to the Arkansas State Crime Laboratory for testing.

Shelby Pugh, a forensic serologist employed by the Arkansas State Crime Laboratory, confirmed that a swab taken from the scene was positive for blood. Therefore, she submitted the sample to the DNA section for testing. Taylor Sharp testified that DNA testing of a blood sample taken from the scene revealed that it was Orange's blood. Testimony by Jennifer Floyd, a firearms expert employed by the Arkansas State Crime Laboratory, also established that all six shell casings recovered from the scene were fired from the same gun.

After the State rested its case, appellant moved for a directed verdict. As to his charge of first-degree battery, appellant argued that

[t]he State has failed to meet their burden of beyond speculation and conjecture that my client, Mr. Curtis, had the purpose to cause physical injury. They have also failed

to prove that he caused physical injury to Mr. Zachary Orange and also that it was by means of a firearm.

The circuit court denied the motion.

Appellant's girlfriend, LaToya Smith, testified that she witnessed the earlier verbal altercation between appellant and Orange on March 19, 2021, at Orange's home. Smith explained that Orange is her child's father and that appellant and Orange were arguing about the payment of her child's haircut. Smith further testified that she broke up the argument and that she and appellant left together to return to their home. After returning to their home, appellant left fifteen to twenty minutes later. She stated that she did not see him leave with Williams and that she did not see him leave with a gun. However, she admitted that she did not know what happened after appellant left their home because she left with her family on a trip to New Orleans.

Appellant testified on his own behalf. He also testified about the earlier verbal altercation at Orange's home. However, he claimed that he drove to Eudora, Arkansas, fifteen to twenty minutes after he had returned home. He denied having a gun or getting into Williams's vehicle that day. He also denied returning to Orange's home or shooting him.

Appellant renewed his directed-verdict motion at the close of all evidence, and the circuit court denied his motion. The jury found appellant guilty of first-degree battery and recommended a sentence of eight years in the Arkansas Department of Correction, which the court imposed. This appeal followed.

II. Sufficiency

We treat a motion for a directed verdict as a challenge to the sufficiency of the evidence. *Armstrong v. State*, 2020 Ark. 309, 607 S.W.3d 491. In reviewing a sufficiency challenge, we assess the evidence in the light most favorable to the State and consider only the evidence that supports the verdict. *Id.* We will affirm a judgment of conviction if substantial evidence exists to support it. *Id.* Substantial evidence is evidence that is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other without resorting to speculation or conjecture. *Id.* Circumstantial evidence may provide a basis to support a conviction, but it must be consistent with the defendant's guilt and inconsistent with any other reasonable conclusion. *Collins v. State*, 2021 Ark. 35, 617 S.W.3d 701. Whether the evidence excludes every other hypothesis is left to the jury to decide. *Id.* Further, the credibility of witnesses is an issue for the jury, not the court; the trier of fact is free to believe all or part of any witness's testimony and may resolve questions of conflicting testimony and inconsistent evidence. *Armstrong, supra.*

This court has noted that a criminal defendant's intent or state of mind is seldom apparent. *Benton v. State*, 2020 Ark. App. 223, 599 S.W.3d 353. One's intent or purpose, being a state of mind, can seldom be positively known to others, so it ordinarily cannot be shown by direct evidence but may be inferred from the facts and circumstances. *Id.* Because intent cannot be proved by direct evidence, the fact-finder is allowed to draw on common knowledge and experience to infer it from the circumstances. *Id.* Because of the difficulty

in ascertaining a defendant's intent or state of mind, a presumption exists that a person intends the natural and probable consequences of his or her acts. *Id.*

As charged in this case, a person commits battery in the first degree if with the purpose of causing physical injury to another person, the person causes physical injury to any person by means of a firearm. Ark. Code Ann. § 5-13-201(a)(8). A person acts purposely with respect to his or her conduct or a result of his or her conduct when it is the person's conscious object to engage in conduct of that nature or to cause the result. Ark. Code Ann. § 5-2-202(1) (Repl. 2013).

On appeal, appellant admits that there is no dispute that Orange was shot while standing on his porch. However, appellant argues that the State failed to provide substantial evidence that appellant was the individual who shot Orange. Although appellant acknowledges Orange's testimony, appellant argues that Orange's testimony was not credible and that there was no corroboration of Orange's testimony that appellant was the one who shot him. Appellant further acknowledges Williams's testimony that appellant had a gun and that appellant stated that he was going to kill Orange just before Williams dropped appellant off next to Orange's home. However, appellant argues that Williams's testimony also needed corroboration and points to his self-serving testimony at trial that he denied getting into a vehicle with Williams. Appellant further argues that there was no physical evidence to corroborate that he was the one who shot Orange.

Notwithstanding appellant's arguments, we find that Orange's testimony that it was appellant who shot him constitutes substantial evidence to support the jury's verdict. We

have held that the uncorroborated testimony of one State witness can be sufficient to sustain a conviction. *Bynum v. State*, 2021 Ark. App. 222; *Watkins v. State*, 2009 Ark. App. 124, 302 S.W.3d 635 (citing *Gray v. State*, 318 Ark. 601, 888 S.W.2d 302 (1994)). Weighing the evidence, reconciling conflicts in the testimony, and assessing credibility are matters exclusively for the trier of fact—in this case, the jury. *Bynum*, *supra*. The jury may accept or reject any part of a witness’s testimony. *Id.* Inconsistent testimony does not render proof insufficient as a matter of law, and one eyewitness’s testimony is sufficient to sustain a conviction. *Id.* Accordingly, we affirm appellant’s conviction.

Affirmed.

KLAPPENBACH and WOOD, JJ., agree.

Potts Law Office, by: Gary W. Potts, for appellant.

Leslie Rutledge, Att’y Gen., by: David L. Eanes, Jr., Ass’t Att’y Gen., for appellee.