

Cite as 2023 Ark. App. 577
ARKANSAS COURT OF APPEALS
DIVISION II
No. CR-22-820

DAREAN DESHUN MOORE
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered December 13, 2023

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
FIRST DIVISION
[NO. 60CR-20-3727]

HONORABLE LEON JOHNSON,
JUDGE

AFFIRMED

RAYMOND R. ABRAMSON, Judge

Appellant Darean Deshun Moore was convicted by a Pulaski County jury of manslaughter with a firearm enhancement and was sentenced to ten years in the Arkansas Department of Correction. His sole argument on appeal is that the circuit court abused its discretion when it did not allow Moore to present evidence, which he proffered, that the victim, Kentarius Scott, was the owner of the gun and that Scott had purchased the gun in May 2020. We affirm.

The following testimony and evidence were adduced at Moore's trial. Moore was visiting his brother, Frederick, in Little Rock. Frederick had invited Moore to join him and his fraternity brothers to watch the Los Angeles Lakers game at Twin Peaks in Little Rock on August 29, 2020.

Among Frederick's fraternity brothers was Kentarius Scott. At some point in the evening, Scott stepped on Moore's shoe. This encounter slowly escalated throughout the evening, and when the group decided to leave Twin Peaks, Moore and Scott left the building and squared up for a fistfight. After Scott taunted Moore, he held up his fists. Moore took a step back, pulled out a gun, and fired two shots, killing Scott. Moore then fled the scene.

Unbeknownst to Moore, in Scott's pocket was a fully loaded magazine containing .380-caliber ammunition. Scott's locked car was searched, and a matching .380 pistol was found on the driver's side floorboard. There was no testimony that Scott ever had the pistol during the altercation or that he went back to his car to retrieve it. He was found dead approximately thirty yards from the car. As a result of the events of that night, the State charged Moore with murder in the first degree.

The circuit court did not allow Moore to present evidence, which he proffered, that Scott was the owner of the gun found in his car and that he had purchased the gun in May 2020. The jury ultimately found Moore guilty of manslaughter as well as the firearm enhancement. He was sentenced to ten years' imprisonment in the ADC. This timely appeal followed.

On appeal, Moore argues that the circuit court abused its discretion by excluding evidence showing Scott owned the gun found in his car. A circuit court has broad discretion in deciding evidentiary issues, and its decisions are not reversed absent an abuse of discretion. *E.g., Holland v. State*, 2015 Ark. 341, at 7, 471 S.W.3d 179, 184. "An abuse-of-discretion standard is a high threshold that does not simply require error in the circuit court's

decision, but requires that the circuit court act improvidently, thoughtlessly, or without due consideration.” *Id.* at 7, 471 S.W.3d at 184.

Evidence is relevant if it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Ark. R. Evid. 401. Under the doctrine of *res gestae*, evidence showing all the circumstances surrounding the charged act may be introduced to provide context for the crime. *Adams v. State*, 2021 Ark. 34, 617 S.W.3d 249.

Evidence of a victim’s violent character is relevant to the issue of who the aggressor was and whether the accused reasonably believed he was in danger of suffering unlawful deadly physical force. *E.g.*, *Simpkins v. State*, 48 Ark. App. 14, 17, 889 S.W.2d 37, 39–40 (1994). Evidence of specific acts of violence that were directed at an accused or were within his knowledge is admissible as being probative of what the accused reasonably believed at the time and thus relevant to his plea of self-defense. *E.g.*, *id.*

Specifically, Moore argues that the circuit court abused its discretion by excluding evidence showing that Scott was the owner of the gun found in his car. Moore claims that this evidence shows that it was more likely that Scott would have been the initial aggressor.

We hold that the circuit court did not abuse its discretion by concluding the evidence was irrelevant. For the purposes of Moore’s defense, the only relevant evidence is what was known to Moore at the time of the incident that would lead him to believe his life was threatened. *E.g.*, *Schnarr v. State*, 2017 Ark. 10, at 7; *see also Bargery v. State*, 37 Ark. App. 118, 123, 825 S.W.2d 831, 835 (1992).

No evidence was presented that Moore saw Scott with a gun or that Scott threatened to use a gun on him. Because there was no evidence Moore knew that Scott had a gun and ammunition, evidence of ownership of those items had no bearing on Moore's belief that he was threatened and, thus, needed to use deadly force. For that reason, evidence of the gun's ownership, the exclusion of which is the crux of Moore's appellate argument, is even more unpersuasive. We see no abuse of discretion in the circuit court's refusal to include the contested evidence. Accordingly, we affirm.

Affirmed.

GRUBER and THYER, JJ., agree.

Mac J. Carder, Public Defender, by: *Clint Miller*, Deputy Public Defender, for appellant.

Tim Griffin, Att'y Gen., by: *A. Evangeline Bacon*, Ass't Att'y Gen., for appellee.