2019 IL App (1st) 161698-U

No. 1-16-1698

Order filed June 28, 2019

First Division

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IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 CR 13246
	)	
DEANDRE MARTIN,	)	Honorable
	)	Joseph M. Claps,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE PIERCE delivered the judgment of the court.
Justices Griffin and Walker concurred in the judgment.

ORDER

¶ 1 *Held*: Where the State failed to prove beyond a reasonable doubt that defendant concealed a homicidal death, his conviction is reversed.

¶ 2 Following a bench trial, defendant Deandre Martin was convicted of concealment of a homicidal death (720 ILCS 5/9-3.4 (West 2010)) and sentenced to four years and six months in prison, with pretrial in-custody credit of 1078 days. On appeal, defendant challenges the sufficiency of the evidence, contending that the State failed to prove he was present at the time of

concealment. Defendant further contends that the State failed to prove that the victim's death preceded the concealment. For the reasons that follow, we reverse.

¶ 3 I. BACKGROUND

¶ 4 Defendant's conviction arose from the events of August 12, 2010, when Phillip Baldwin's body was found in the trunk of a parked car that was blocking the garage of a three-flat building located at 11115 South Edbrooke Street, where defendant lived. Following his arrest about three years after the murder, defendant was charged by indictment with two counts of first degree murder and one count of concealment of a homicidal death.[1] The State proceeded to trial on all counts.

¶ 5 At trial, Leroy Wheatley testified that in August 2010, he owned the three flat building in question, which was in the process of being foreclosed. He had been renting the second-floor and third-floor apartments to a woman who lived there with her children, one of whom was defendant. By August 2010, the woman had moved out, but defendant still lived in the building. According to Wheatley, defendant "had keys to where they live," but no keys were needed to the "other part," which was left open.

¶ 6 Wheatley testified that around 8 a.m. on August 12, 2010, he and his son went to the building to get some things out of the garage. Wheatley could not get into the garage because there was a car he did not recognize blocking the garage door. He went into the building, where he found defendant and one or two other people on the second floor. When he asked defendant about the car, defendant said he did not know whose car it was. Wheatley saw two women in one of the apartments, sweeping or cleaning.

[1]A codefendant, Tomie Nickles, was tried separately. He is not party to this appeal.

¶ 7 Wheatley called the police to have the car removed. An officer who responded to the scene told Wheatley that if he wanted the car towed he would have to pay for it. Another officer ticketed the car and told Wheatley that if the car accumulated enough tickets, "they'll come and get it."

¶ 8 Darryl Stokes, who lived at an address that shared an alley with the building in question, testified that some time during the morning of August 12, 2010, he noticed a car in the alley, which was unusual. That evening, he saw that the car had a ticket on it. About 8:45 p.m., Stokes entered the car, which was unlocked, searched through the center console, and popped the trunk release in the glove compartment. When he went to the trunk, he saw a naked body in it. Stokes closed the trunk and called the police. Shortly thereafter, firefighters and police arrived at the scene.

¶ 9 Chicago police detective Luke Connolly testified that he was one of the officers who responded to the scene. Connolly was directed to the alley, where he observed a body in the trunk of a ticketed car. The car was a black Pontiac Grand Prix. Forensic investigators on the scene dusted the outside of the trunk area of the car and discovered three fingerprints that could be used for comparison: one to the right of the of the trunk lock, the second on the right corner panel near the brake light, and the third on the left side of the spoiler.

¶ 10 During the course of Connolly's impressively thorough investigation, he learned that the person in the trunk was Phillip Baldwin. Connolly spoke with Baldwin's parents, who provided Baldwin's phone number. With that number, Connolly was able to obtain phone records showing some of the people Baldwin called or had received calls from shortly before his death. Based on the phone records, Connolly reached out to a number of people, and eventually, his investigation

led to defendant and codefendant Tomie Nickles. The last known address linked to defendant's phone number was the address of the building where Baldwin's body was found.

¶ 11 Connolly contacted the owner of the building, Wheatley, who gave him keys to the building. After receiving Wheatley's consent to search and obtaining a search warrant, Connolly went to the building with forensic investigators. On the third floor, they located a red stain on the carpet and a fired bullet "inside" the stain. An evidence technician photographed and inventoried the stain and bullet. The police also recovered six cell phones.

¶ 12 Eventually, Connolly received information from the laboratory confirming that the red stain was blood and that the bullet matched other fired bullets that were recovered from Baldwin's body by the medical examiner. Connolly then issued investigative alerts for defendant and Nickles.

¶ 13 On June 19, 2011, Connolly learned that defendant had been taken into custody. The next day, after learning that Nickles had also been taken into custody, Connolly and another detective interviewed defendant and Nickles at the police station. Defendant and Nickles were released pending continuing investigation. Thereafter, Connolly and another detective interviewed Joshua Williams. Williams told the detectives that he had lived with defendant and another man on the third floor of the building for two or three weeks at an unspecified time prior to the murder.

¶ 14 On September 28, 2011, Connolly received information from the laboratory regarding the fingerprints on Baldwin's car and the red stain. The blood stain recovered from the carpet was matched by DNA analysis to Baldwin, and the latent prints matched defendant and Nickles. Based on this information, Connolly issued investigative alerts for defendant and Nickles. In December 2011, Connolly obtained a search warrant for a "hard card" of defendant's prints.

Once the prints were collected, defendant was again released pending further investigation. In May 2012, Connolly reached out to FBI Special Agent Joseph Raschke in order to obtain assistance with cell phone tower records pertaining to the investigation.

¶ 15 On June 10, 2013, Connolly obtained an arrest warrant for defendant, and four days later, defendant was arrested. Connolly met with defendant at the police station, gave him *Miranda* warnings, and interviewed him. The interview was video recorded. Portions of the recordings were admitted into evidence. During the interview, defendant admitted that he had heard about the body found in a car behind his residence, that he saw the blood on the rug, and that Baldwin "probably got murdered in my house." But he repeatedly insisted he did not know what happened to Baldwin. Defendant denied ever talking to Baldwin on the phone, stated that the building was a "crack house," and said "crackheads" and "anybody else that ain't got nowhere to stay" stayed at the building. When told his fingerprint was found on the trunk, defendant first responded, "Couldn't be," and then, when pressed regarding how his fingerprint got there, said, "I really don't know that shit's so long ago. But I know it ain't got shit to do with no murder, I ain't murder nobody. *** I ain't assist nobody with no murder. I don't do that shit."

¶ 16 FBI Special Agent Joseph Raschke, a specialist in cellular analysis and cellular telephone companies, testified that he had been asked to assist the Chicago Police Department with the investigation of Baldwin's murder. Specifically, he was provided with records for Baldwin's, defendant's, and Nickles's phone numbers from approximately 12:00 a.m. to 9:38 a.m. on August 12, 2010, as well as cell tower records from the phone companies associated with those numbers during that time frame. Raschke then conducted historical cell site analysis with those records. He explained that such analysis included identifying when there is activity on the

phones, identifying which cell towers were being used for that activity, where those towers were located, and, if available, which side of the cell tower was being utilized by the phone. From this analysis, Raschke would be able to determine an approximate area where a phone was at a given point in time.

¶ 17 Raschke determined that the last outgoing call made from Baldwin's phone was dialed at 3:47 a.m. on August 12, 2010. The call was to Nickles's phone number and was forwarded to defendant's number. After that time, Baldwin's phone only received incoming calls that were routed into voice mail. Raschke also determined that Baldwin's, Nickles's, and defendant's phones were all utilizing towers consistent with them being located in the general vicinity of the building sometime after 3:47 a.m.

¶ 18 Chicago police officer Kelly Comiskey, an evidence technician, testified that he took photographs of the second-floor and third-floor apartments. In the third-floor living room, there was a large red stain in the carpet, which he suspected was blood. Comiskey cut out the stained section of the carpet and inventoried it. He also recovered and inventoried a bullet that he found a few inches away from the stain. On the wall in the stairwell between the third and second floors, he observed another red stain, and at the threshold of the second-floor apartment, he recovered a metal bullet fragment.

¶ 19 The parties stipulated that a medical examiner determined Baldwin's cause of death was multiple gunshot wounds and the manner of death was homicide. They further stipulated that if called as a witness, a forensic scientist specializing in firearms, toolmarks, and firearms identification would have testified that the bullets recovered from Baldwin's body and the bullet recovered from the third-floor apartment were fired from the same firearm. The parties also

stipulated that an expert in latent fingerprint analysis and comparison would have testified that the fingerprint recovered near the lock on the car's trunk matched defendant, and the fingerprint recovered from the car's right quarter panel near the brake light matched Nickles.

¶ 20 The victim's mother, Angela Baldwin, testified that she last saw her son alive around August 11, 2010. He drove a black 1990 Pontiac Grand Prix that was registered in her name. In court, she identified a photograph of the car.

¶ 21 Alexandria Patrick testified that on August 11, 2010, she, her boyfriend, and defendant were in the building's third-floor apartment.

¶ 22 Brittany Douglas, who was Baldwin's second cousin, testified that she dated defendant in 2010 but they had broken up a week or two before the murder. When she would visit defendant, it was on the third floor of the building. On cross-examination, she agreed that it was not uncommon for other people to be around the apartment.

¶ 23 Defendant made a motion for a directed finding, which the trial court denied. In the course of doing so, the trial court noted that although defendant's fingerprint was found on the trunk of the car, it could have been left there at any time, as there was no evidence establishing the time period when it was imprinted.

¶ 24 Defendant called as a witness Joshua Williams, who testified that during the summer of 2010, he and other "little guys from the neighborhood" sometimes resided at the building in question. Eventually, Williams stopped staying in the building because of the "crackheads" who were coming in and out. On cross-examination, Williams acknowledged that he saw defendant in the building "from time to time."

¶ 25 The trial court acquitted defendant on the first degree murder charges, but found him guilty of concealment of a homicidal death. Defendant filed a motion for a new trial, which the court denied. The trial court subsequently sentenced defendant to four years and six months in prison, allowed defendant 1078 days of in-custody credit and denied the motion to reconsider sentence. Defendant appealed.

¶ 26 II. ANALYSIS

¶ 27 On appeal, defendant challenges the sufficiency of the evidence, contending that the State failed to prove he was present at the time of concealment and that his conviction rests on unreasonable inferences and speculation. Defendant argues that his fingerprint on the car's trunk could have been left at any number of places and times. While acknowledging that he lived in the third-floor apartment, he notes that he also used the second floor and that numerous other people visited or slept in the building. Defendant further argues that the State's timeframe for the shooting was speculative, and asserts that its cell-tower evidence did not place him in the third-floor unit at the time of the shooting. Defendant concludes that where no witnesses testified to seeing who shot the victim, who moved the victim, or "even who was there," the State failed to prove that he concealed a homicidal death.

¶ 28 When reviewing the sufficiency of the evidence, the relevant inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979). The credibility of the witnesses, the weight to be given their testimony and the resolution of any conflicts in the evidence are within the province of the trier of fact, and a reviewing court will not substitute its judgment for that of the trier of fact on

these matters. *People v. Brooks*, 187 Ill. 2d 91, 131 (1999). Reversal is justified only where the evidence is "so unsatisfactory, improbable or implausible" that it raises a reasonable doubt as to the defendant's guilt. *People v. Slim*, 127 Ill. 2d 302, 307 (1989).

¶ 29 A person commits concealment of a homicidal death when he or she (1) conceals the death of any other person (2) with knowledge that the person died by homicidal means. 720 ILCS 5/9-3.4 (West 2010). A conviction for concealment of a homicidal death may be based on circumstantial evidence, *i.e.*, proof of facts or circumstances that give rise to reasonable inferences of other facts that tend to establish guilt or innocence of the defendant. *People v. Saxon*, 374 Ill. App. 3d 409, 417 (2007). The trier of fact does not have to be satisfied beyond a reasonable doubt as to each link in the chain of circumstantial evidence; rather, it is sufficient if all the evidence taken as a whole satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt. *Id.*

¶ 30 We find that the evidence presented at trial was insufficient to prove defendant guilty of concealment of a homicidal death. Only three circumstances inferentially tie defendant to the concealment of Baldwin's murder. First, the forensic evidence showed Baldwin was shot in the third-floor apartment where defendant lived and where he was seen at some point on the day before Baldwin's body was discovered around 8:45 p.m the next day. Second, the cell-tower evidence indicated that Baldwin was in contact with defendant and Nickles early in the morning on the day in question, in the general area of the building: the last outgoing call made from Baldwin's phone was dialed at 3:47 a.m.; the call was placed to Nickles's phone and forwarded to defendant's; and defendant's phone utilized cell towers in the vicinity of the building after that

point in time. Third, defendant's fingerprint was recovered near the lock on the trunk of the car in which Baldwin's body was found.

¶ 31 These circumstances do not establish defendant's guilt of concealment of a homicidal death beyond a reasonable doubt.

¶ 32 Taking the evidence in the light most favorable to the prosecution, while defendant lived in the third-floor apartment where Baldwin was shot, and, according to Patrick, he was present in that apartment at some unknown time the day before Baldwin's body was found, there was no evidence that defendant was present at the time Baldwin was shot or at the time Baldwin was moved to the car. Moreover, there was evidence that defendant also used the second-floor apartment, and that many other people used the apartment building in general. Defendant told the police that the building was a "crack house" where "crackheads and "anybody else that ain't got nowhere to stay" would sleep; Wheatley testified that when he went into the second-floor apartment on the day the body was found, there was at least one person other than defendant present, as well as two women who were sweeping or cleaning; Patrick testified that she, defendant, and her boyfriend were in the third-floor apartment on August 11, 2010; Brittany Douglas stated that it was not uncommon for other people to be around the third-floor apartment; and Joshua Williams testified that he and other people from the neighborhood resided in the building in the summer of 2010, but that he eventually stopped going there because of the "crackheads" who were coming in and out. Given the large number of people using the building during the timeframe of Baldwin's murder, in combination with the lack of evidence of defendant's presence during the murder or its concealment, we cannot say that defendant's residency in the third-floor apartment supports his conviction.

¶ 33 Similarly, the cell-tower evidence did not show that defendant was present at Baldwin's murder or during its concealment. All the cell-tower evidence indicated was that Baldwin was in contact with defendant and Nickles early in the morning on the day in question, in the general area of the building. We agree with defendant that to infer from this evidence that he was in the third-floor apartment at the time of the shooting where there was no evidence indicating when the shooting occurred or that he participated in concealing Baldwin's death would be unreasonable.

¶ 34 Finally, the strongest evidence in support of an inference of concealment—defendant's fingerprint on the trunk of the car—cannot sustain his conviction. Our supreme court has repeatedly held that a conviction may be sustained solely on fingerprint evidence only where the defendant's fingerprints have been found in the immediate vicinity of the crime under such circumstances so as to establish beyond a reasonable doubt that the fingerprints were impressed at the time the crime was committed. *E.g.*, *People v. McDonald*, 168 Ill. 2d 420, 445 (1995), *abrogated in part on other grounds by People v. Clemons*, 2012 IL 107821, ¶ 40; *People v. Campbell*, 146 Ill. 2d 363, 386 (1992); *Rhodes*, 85 Ill. 2d at 249. In some cases, evidence of the particular location of the fingerprint satisfies the time/placement criterion. *McDonald*, 168 Ill. 2d at 446; *Campbell*, 146 Ill. 2d at 387. In addition, "attendant circumstances" can support an inference that a print was made at the time of the commission of the offense. *McDonald*, 168 Ill. 2d at 446; *Campbell*, 146 Ill. 2d at 387.

¶ 35 Here, the record reveals no circumstances establishing beyond a reasonable doubt that defendant left his fingerprint on the trunk of the car at the time Baldwin's body was placed in it. Indeed, the trial court specifically noted when denying the motion for directed finding that the

fingerprint could have been left at any number of places and times. Moreover, the location of the fingerprint was not such that it automatically satisfies the time/placement criterion, as the outside of a car's trunk is easily accessible and far from an unusual location for people to place their hands. With regard to "attendant circumstances," we disagree with the State's assertion that sufficient external circumstances existed to support an inference that defendant left his fingerprint at the time of the concealment. As discussed above, neither defendant's residency in the third-floor apartment nor Baldwin's last telephone contact with defendant and Nickles about seventeen hours before the body was found made in the general area of the building support an inference that defendant concealed Baldwin's homicidal death. The only other potentially incriminating circumstance cited by the State is Wheatley's testimony that when he asked defendant about the car blocking the garage, defendant said he did not know whose car it was. However, any number of inferences could be drawn from defendant's statement to Wheatley, and taken alone or with all the other evidence we cannot find that it demonstrates defendant was present at the time Baldwin's body was placed in the car's trunk.

¶ 36 We find that the evidence was not sufficient for the trial court to infer from the circumstantial evidence presented that defendant concealed Baldwin's death with the knowledge that Baldwin died by homicidal means. Because the evidence of concealment of homicidal death is "so unsatisfactory, improbable or implausible" that it raises a reasonable doubt as to defendant's guilt (*Slim*, 127 Ill. 2d at 307), we reverse defendant's conviction.

¶ 37 In light of our disposition, we need not address defendant's alternate contention, *i.e.*, that the State failed to prove Baldwin's death preceded the concealment. See *People v. Salinas*, 365

Ill. App. 3d 204, 207, 208 (2006) (in order to prove knowledge that a homicidal death has occurred, the State must prove the victim was dead when the act of concealment occurred).

¶ 38 III. CONCLUSION

¶ 39 For the reasons stated, we reverse the judgment of the circuit court.

¶ 40 Reversed.