

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

STATE OF DELAWARE :
 :
 v. : I.D. No. 1005008059
 :
 ISAAH W. MCCOY, :
 Defendant. :

Upon Defendant's Motion
for Judgment of Acquittal

OPINION

R. David Favata, Esq., Deborah J. Weaver, Esq., Department of Justice, attorneys
for the State of Delaware.

Isaiah W. McCoy, *pro se*.

Lloyd A. Schmid, Jr., Esq., Suzanne MacPherson-Johnson, Esq., Public Defender's
Office, as standby counsel for the Defendant.

WITHAM, R.J.

ISSUE

_____ Whether Defendant's motion for a judgment of acquittal as to all charges, pursuant to Superior Court Criminal Rule 29, should be granted?

Procedural History and Introduction

At the close of the State's case on June 18, 2012, Defendant moved for a judgment of acquittal as to all charges under Superior Court Criminal Rule 29(a). After hearing argument from both sides on the motion, the Court reserved decision on the matter until the close of all evidence.

First, the Court would like to speak to a preliminary legal matter for which the Court believes that there has been significant misunderstanding in this case and that is pertaining to accomplice liability. Delaware law states:

A person is guilty of an offense committed by another person when: (1) Acting with the state of mind that is sufficient for commission of the offense, the person causes an innocent or irresponsible person to engage in conduct constituting the offense; or (2) Intending to promote or facilitate the commission of the offense the person: a. Solicits, requests, commands, importunes or otherwise attempts to cause the other person to commit it; or b. Aids, counsels or agrees or attempts to aid the other person in planning or committing it; or c. Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so; or (3) The person's conduct is expressly declared by this Criminal Code or another statute to establish the person's complicity.¹

In other words, Defendant did not need to actually commit certain crimes himself. As a hypothetical example, he could have had a completely innocent person

¹11 *Del. C.* § 271.

commit a crime for him, and Defendant would be guilty of the crime so long as he had the state of mind sufficient for the crime. Further, if he intended to promote or facilitate a crime, and he helped plan, or aided, or otherwise attempted to cause another person to commit that crime, he himself is guilty of the crime committed by the other person.

“Co-conspirator and accomplice liability are different forms of criminal conduct. A conspiracy requires an agreement between co-conspirators, but the object of the conspiracy need not be accomplished. For accomplice liability, generally no prior agreement is required, but the underlying crime must have occurred.”²

Standard of Review

On a motion for judgment of acquittal, the Court must decide whether “after reviewing the evidence and all reasonable inferences to be drawn therefrom in the light most favorable to the State, ‘any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’”³ The Court recognizes that the Defendant contests significant evidence as presented by the State.

DISCUSSION

Defendant is charged with the following:

1) violation of 11 *Del. C.* § 636—murder first degree, intentionally causing the death of another person;

²*Manlove v. State*, 901 A.2d 1284, 1288 (Del. 2006) (footnotes omitted).

³*Guinn v. State*, 894 A.2d 406, at *1 (Del. Feb. 28, 2006) (TABLE) (quoting *Dixon v. State*, 567 A.2d 854, 857 (Del. 1989)); see *State v. Biter*, 119 A.2d 894 (Del. 1955).

2) violation of 11 *Del. C.* § 636—murder first degree, recklessly causing the death of another person while engaged in the commission of, or the attempt to commit robbery first degree;

3) violation of 11 *Del. C.* § 1447A—possession of a firearm during the commission of a felony, associated with murder first degree;

4) violation of 11 *Del. C.* § 832—robbery first degree;

5) violation of 11 *Del. C.* § 1447A—possession of a firearm during the commission of a felony, associated with robbery first degree;

6) violation of 11 *Del. C.* § 512—conspiracy second degree;

7) violation of 11 *Del. C.* § 841A—theft of a motor vehicle.

Defendant's argument is summarized as follows. First, Defendant argued that the State did not prove intent for the first charge of murder first degree. Second, Defendant argued that there is no evidence, other than testimony from Deshaun White and Rakeisha Williams, that puts him at the scene of the crime. Third, Defendant stated that there is no evidence, direct or circumstantial, that proves that there was any type of robbery. Fourth, Defendant cited *Manlove v. State* and stated that the State provided no evidence of an agreement between himself and Deshaun White to support conspiracy second degree. Fifth, Defendant argued that Deshaun White and Rakeisha Williams had a general lack of credibility.

Before addressing each of Defendant's charges, the Court first makes another general statement of law: it is the sole province of the jury to determine witness credibility, to resolve conflicts in testimony, and to draw any inferences from the facts

presented.⁴

For murder first degree, intentionally causing the death of another person, this Court finds that the State's evidence is sufficient under the standard enumerated above. The State must prove that (1) Defendant intended to kill James Munford and (2) that Defendant's actions caused James Munford's death. The State put forth evidence through Dashaun White and Rakeisha Williams that Defendant pulled out a gun during a drug deal and shot James Munford. Accounts varied as to how many shots were fired, but all accounts other than Defendant's indicate more than one shot was fired. Intent to kill may be inferred from the number of shots fired. The Court heard testimony from Dr. McDonough that one shot to the chest killed James Munford.

The felony murder charge has two requirements. First, Defendant must have been engaged in the commission of, or attempt to commit, or flight after committing or attempting to commit any felony. Second, Defendant must have recklessly caused the death of James Munford. As the Court already stated that it is reasonable to infer intent from the number of shots fired, a reckless state of mind is established as it is a lesser state of mind than intent. Regarding the commission of a felony required, the State also charged Defendant with robbery first degree. Robbery first degree requires that Defendant commit robbery second degree, which requires that in the course of committing theft, defendant must have used or threatened the immediate use of force upon James Munford with the intent to prevent or overcome resistance to the taking

⁴*Washington v. State*, 4 A.3d 375, 378 (Del. 2010).

of the property, and he must have displayed a deadly weapon or what appears to be a deadly weapon. The State, through the testimony of Rakeisha Williams, Dashaun White, and Da’janiel Smith, brought evidence to establish to the requisite legal standard previously stated that Defendant took ecstasy pills from James Munford while threatening him with a revolver. Therefore, robbery first degree is established, which therefore establishes felony murder.

Both possession of a firearm during the commission of a felony charges meet the judgment of acquittal standard above and therefore must remain. In addition to Rakeisha Williams and Dashaun White who testified that Defendant had a handgun during the robbery and murder, the Court heard testimony from Lorretta Williams and her son Tylon with regard to her .38 caliber Taurus revolver. According to evidence introduced by the State, Williams spoke on the phone with someone named “Zay” who had allegedly borrowed the weapon from her son. Phone records also reveal Tylon calling Defendant numerous times around the time of the murder for the alleged purpose of regaining the possession of the revolver.

Next, the Court reviews the conspiracy second degree charge. 11 *Del. C.* § 512 states as follows:

A person is guilty of conspiracy in the second degree when, intending to promote or facilitate the commission of a felony, the person: (1) Agrees with another person or persons that they or 1 or more of them will engage in conduct constituting the felony or an attempt or solicitation to commit the felony; or (2) Agrees to aid another person or persons in the planning or commission of the felony or an attempt or solicitation to commit the felony; and the person or another person with whom the person conspired commits an overt act in pursuance of the

conspiracy.

The felony associated with this charge is robbery first degree of the ecstasy pills recounted above. This Court once emphasized in *State v. Biter*,

A conspiracy may be shown either by direct evidence, that is, by the admissions and declarations of the parties or co-conspirators, or by circumstantial evidence; that is, by facts and circumstances from which the existence of the conspiracy may be inferred. Proof of a conspiracy will generally, from the nature of the case, be circumstantial.⁵

The State notes that the agreement between Defendant and Dashaun White does not need to be verbal. The State argues that the agreement to rob James Munford is evidenced by White obeying commands to stop outside the vehicle, to walk around to the driver's side door, to get in the car, to take the car, and to wipe the car down. White testified to his actions. Rakeisha Williams corroborated most of White's testimony. Surveillance video shows two men approach James Munford's vehicle. One of the men eventually walks around the car to the driver's side door, and after the victim escapes, the man gets in the vehicle and drives away. As noted earlier, Defendant was later seen with ecstasy pills. Therefore, evidence is sufficient to meet all aspects of conspiracy second degree.

Defendant's reliance on *Manlove v. State* appears to be misplaced. There are several cases with this name, but the only one that has any connection to Defendant's statement appears at 901 A.2d 1284 (Del. 2006). In that case, the Delaware Supreme

⁵119 A.2d at 898 (internal quotation marks omitted) (citing another source).

Court held, “Because Manlove was acquitted of conspiracy at the previous trial, any conviction based on accomplice liability at his second trial could only be based on Manlove’s unilateral actions and could not be based on a plan or an agreement.”⁶ It is unclear how this relates to Defendant’s case as *Manlove* does not match the procedural posture of this case, and there is circumstantial evidence of a conspiracy between White and Defendant with regard to the ecstasy pills.

Theft of a motor vehicle consists of two parts. First, the person must take, exercise control over or obtain a motor vehicle.⁷ Second, that person must intend to deprive the other person of the motor vehicle.⁸ Dashaun White testified that Defendant directed him to get into James Munford’s car and to drive away. Surveillance video shows two men approach the vehicle. As it cannot be seen from the angle of the video, it may be reasonably inferred that one of the two men entered the vehicle and the second man walked around the vehicle as described earlier. The video shows the second man get in the vehicle and drive away. Although Defendant may not have driven James Munford’s vehicle, he could still be guilty of theft of a motor vehicle under the statute for accomplice liability.

The Court finds that after reviewing the evidence and all reasonable inferences to be drawn therefrom in the light most favorable to the State, any rational trier of fact could find the essential elements of the crimes above beyond a reasonable doubt.

⁶*Manlove*, 901 A.2d at 1289.

⁷11 *Del. C.* § 841A.

⁸*Id.*

State v. McCoy
ID No. 1005008059
June 26, 2012

CONCLUSION

Defendant's motion for judgment of acquittal is denied.

SO ORDERED this 26th day of June, 2012.

/s/ William L. Witham, Jr.

Resident Judge

WLW/sal

oc: Prothonotary

cc: Parties

File