

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2015 IL App (4th) 130438-U

NO. 4-13-0438

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

February 17, 2015

Carla Bender

4th District Appellate

Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Sangamon County
KENNETH BELL,)	No. 10CF777
Defendant-Appellant.)	
)	Honorable
)	Peter C. Cavanagh,
)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.

Justices Turner and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding that the State presented sufficient evidence to sustain the defendant's convictions for first degree murder and residential burglary.

¶ 2 In November 2010, the State charged defendant, Kenneth Bell, with four counts of first degree murder (720 ILCS 5/9-1(a)(1), (a)(2), (a)(3) (West 2010)) and one count of residential burglary (720 ILCS 5/19-3(a) (West 2010)). Specifically, the State alleged that on September 9, 2010, defendant entered the home of Pauline Cormier with the intent to commit a theft therein and, once inside, defendant stabbed Cormier to death. In February 2013, a jury found defendant guilty of first degree murder and residential burglary. In May 2013, the trial court sentenced defendant to 60 years in prison for first degree murder and 10 years in prison for residential burglary.

¶ 3 Defendant appeals, arguing only that the evidence was insufficient to sustain his

conviction for residential burglary because the State failed to prove that he intended to commit a theft when he entered Cormier's residence. We disagree and affirm.

¶ 4

I. BACKGROUND

¶ 5

A. The State's Charges

¶ 6

In counts I, II, and III, the State alleged that defendant stabbed Cormier, thereby causing her death, under three different mental states: (1) intent to kill (count I) (720 ILCS 5/9-1(a)(1) (West 2010)); (2) knowing that the stabbing would cause death (count II) (720 ILCS 5/9-1(a)(1) (West 2010)); and (3) knowing that the stabbing created a strong probability of death or great bodily harm (count III) (720 ILCS 5/9-1(a)(2) (West 2010)). In count IV, the State alleged that defendant killed Cormier while committing a residential burglary (720 ILCS 5/9-1(a)(3) (West 2010)). Finally, in count V, the State alleged that defendant committed residential burglary (720 ILCS 5/19-3(a) (West 2010)) in that defendant, knowingly and without authority, entered Cormier's dwelling place with the intent to commit a theft therein.

¶ 7

B. Trial

¶ 8

The following pertinent evidence was presented at defendant's February 2013 jury trial, at which defendant proceeded *pro se*. We note that the facts are largely undisputed and defendant does not challenge the sufficiency of the evidence to prove him guilty of first degree murder. Accordingly, we focus our review on the evidence relevant to defendant's intent at the time he entered Cormier's home.

¶ 9

The evidence established that Cormier, a recent widow who lived alone, was last seen alive on September 8, 2010. On the afternoon of September 10, 2010, Officer Dave Barringer of the Springfield police department went to Cormier's residence to conduct a welfare check. Barringer found Cormier dead in her living room, having been stabbed approximately

100 times. Cormier had defensive wounds on her hands, indicating that she tried to protect herself during the stabbing. Drawers and cabinets had been opened throughout Cormier's house. The back sliding door was slightly ajar and no signs of forced entry were present. The stick that Cormier usually used to keep the sliding door from being opened had been removed from the inside. On a piece of paper in a satchel next to Cormier's body, detectives found a bloody fingerprint belonging to defendant. The floor was covered in bloody shoe prints that came from a Nike Air Force One shoe.

¶ 10 Defendant and Cormier were neighbors and friends. A mutual acquaintance and neighbor, John McBride, testified that on two or three occasions in early September, defendant appeared at McBride's residence in the middle of the night asking for money. After giving defendant money several times, McBride told defendant to stop this practice. Approximately one week prior to September 8, 2010, Cormier told McBride that defendant had been to her house in the middle of the night asking for money. Cormier told McBride that she gave defendant \$20 and told him "never to come back again, especially at that hour."

¶ 11 Defendant spent September 6, 2010, through the morning of September 9, 2010, on a crack cocaine binge with Carla Higgins, Starlette Higgins, Henry Hinton, and Joe Alexander (all of whom testified at trial). Continuously throughout that time period, the group would buy and use crack cocaine until they ran out, then steal and shoplift so they could buy more crack cocaine. The group traveled to shoplifting destinations—such as Sam's Club and convenience stores—in defendant's green car, which defendant would also "rent out" during that time period in exchange for money or crack cocaine. Surveillance videos from several different retail stores showed defendant and other members of the group shoplifting items, which they later sold or traded for crack cocaine. Defendant can be seen wearing blue shoes in the videos.

¶ 12 Alexander testified that late at night on September 8, 2010, the group was at his house smoking crack cocaine. Defendant left for a period of time and returned covered in blood. Defendant told Alexander that he had been jumped by some guys. Alexander suggested that he and defendant go after the attackers, but defendant told him to "forget it." Defendant then produced a cup filled with quarters, which he did not have when he left. Alexander contacted a drug dealer and used the \$20 or \$30 worth of quarters to purchase more crack cocaine, which he and defendant smoked together. Alexander further testified that he owned a foot-long, double-edged hunting knife, which disappeared around the same time defendant left his house.

¶ 13 Ruth Bell, defendant's wife, testified that on the morning of September 9, 2010, defendant arrived home and asked Ruth to take him to a rehab center. Ruth had last seen defendant on September 6, 2010, when he was mowing Cormier's yard. Ruth knew defendant had been on a crack cocaine binge and she was wary of letting him inside because he had stolen her television several days earlier. Because defendant was dirty, Ruth allowed him to take a shower before going to the rehab center.

¶ 14 During the investigation into Cormier's death, McBride told Detective Keith Williams that defendant had been going to Cormier's house late at night asking for money. On September 10, 2010, Williams went to Ruth's house and asked for the clothes that defendant had been wearing when he came home on the morning of September 9, 2010. Ruth provided the clothes, which included a pair of red and white Nike Air Jordans that Ruth had never seen before. Ruth testified that defendant owned three pairs of shoes, including a tan pair of New Balances, a green pair of Nike Air Force Ones, and a blue pair of Nike Air Force Ones. Williams could not find the blue Air Force Ones at Ruth's house.

¶ 15 Alexander testified that the red and white Air Jordans belonged to him. Those

shoes disappeared from Alexander's porch on September 8 or 9, 2010. On September 17, 2010, police searched Alexander's house. As the search was taking place, Alexander told a neighbor that the police were looking for a shoe. The neighbor told Alexander that she had seen a shoe in the gutter down the street. Alexander went to that location and recovered a blue Nike Air Force One, which he turned over to police. That shoe contained Cormier's blood and matched the bloody shoe prints found in Cormier's house. Several witnesses testified that defendant was wearing that shoe on September 8, 2010, during the crack cocaine binge. Ruth testified that defendant owned a similar shoe.

¶ 16 Defendant chose not to testify at trial.

¶ 17 The jury found defendant guilty of first degree murder and residential burglary. In May 2013, the trial court sentenced defendant, as stated.

¶ 18 This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 Defendant argues that the evidence was insufficient to sustain his conviction for residential burglary because the State failed to prove that he intended to commit a theft when he entered Cormier's residence. We disagree.

¶ 21 "When reviewing a challenge to the sufficiency of the evidence, this court considers whether, viewing the evidence 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." (Internal quotation marks omitted.) *People v. Belknap*, 2014 IL 117094, ¶ 67. "Under this standard, all reasonable inferences from the evidence must be allowed in favor of the State." *People v. Baskerville*, 2012 IL 111056, ¶ 31, 963 N.E.2d 898.

¶ 22 In this case, the State charged defendant with entering Cormier's home with the

intent to commit a theft. "The gist of the offense [of residential burglary] is the defendant's felonious intent with which he or she enters the dwelling, which the State must prove beyond a reasonable doubt." *People v. Maggette*, 195 Ill. 2d 336, 353, 747 N.E.2d 339, 349 (2001). The defendant's intent is often proved by inferences drawn from the surrounding circumstances. *Id.* at 354, 747 N.E.2d at 349. "In a burglary case, the relevant surrounding circumstances include the time, place and manner of entry into the premises, the defendant's activity within the premises, and any alternative explanations offered for his presence." *People v. Richardson*, 104 Ill. 2d 8, 13, 470 N.E.2d 1024, 1027 (1984).

¶ 23 In his brief on appeal, defendant contends that "the evidence presented at trial strongly suggested that [he] entered Cormier's home with only the intent to ask her for money, just as he had done under similar circumstances the week prior." We conclude that the jury could have reasonably found otherwise.

¶ 24 McBride testified that approximately one week before the murder, Cormier gave defendant \$20 and ordered him never to come to her house asking for money again, especially at a late hour. From that point forward, defendant presumably knew that Cormier would not willingly give him money when he came to her door. This was especially true late at night, which is the time when defendant went to Cormier's house and stabbed her. Further, defendant's behavior in the days leading up to the murder demonstrated that stealing was his primary means of fueling his crack cocaine binge. By the time he went to Cormier's house, defendant had spent the previous two days exclusively committing thefts and smoking crack cocaine. Defendant stole from retail stores and even his own wife. Defendant clearly stole from Cormier as well. Throughout Cormier's house, detectives found open cabinets and drawers. Defendant possessed a cup of quarters when he returned to Alexander's house after murdering Cormier. Even if defendant

