

**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).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

---

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 10 CR 17466
	)	
TOYAN JACKSON,	)	Honorable
	)	James L. Rhodes,
Defendant-Appellant.	)	Judge Presiding.

---

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.  
Justices Hall and Rochford concurred in the judgment.

**O R D E R**

¶ 1 *Held:* Defendant's conviction for aggravated discharge of a firearm is affirmed where the evidence, viewed in the light most favorable to the prosecution, was sufficient to prove him guilty beyond a reasonable doubt as a principal.

¶ 2 Following a bench trial, defendant Toyan Jackson was convicted of aggravated discharge of a firearm and, based on his prior convictions, sentenced to a Class X term of nine years in prison. On appeal, defendant challenges the sufficiency of the evidence. In particular, defendant argues that a statement made by the trial court when announcing its decision demonstrates that it

found defendant guilty on a theory of accountability, even though no evidence was presented to support such a finding, and that therefore, his conviction must be reversed.

¶ 3 For the reasons that follow, we affirm.

¶ 4 Defendant's conviction arose from the events of August 25, 2010. On that day, a group of people were gathered in or around a house in Dolton, Illinois. The group included defendant; codefendant Adam Landry (who was charged along with defendant but tried separately and is not a party to this appeal); Ketra Robinson, the mother of codefendant's infant son; the infant, Amarion; and several other adults and children. Following a verbal altercation involving a number of the adults, Ketra's cousin, Londell Marsh, was shot in the arm. Defendant and codefendant were charged with attempted first degree murder, aggravated battery with a firearm, aggravated discharge of a firearm, aggravated battery, and aggravated assault.

¶ 5 At trial, Londell Marsh testified that around 8 p.m. on the night in question, he was inside the house when he heard people arguing outside. He looked out the window and saw codefendant, who was with defendant, arguing with Ketra and Ketra's mother, Linda Marsh. Londell went outside and watched codefendant, Ketra, and Linda "tussling for the baby." Ketra and Linda ended up with the baby, and defendant and codefendant ran down the street. A few minutes later, Londell, who was on the porch, saw defendant and codefendant drive up in codefendant's car. Defendant, who was in the passenger seat, leaned out the window and fired a handgun two or three times, hitting Londell in the arm. The car then "skid off." Londell testified that he thought defendant was aiming at him.

¶ 6 Linda Marsh testified that she was present when codefendant and Ketra started arguing and "tussling" over their baby. When the argument escalated to "cursing and swearing and

everything," Linda grabbed Amarion. About that time, defendant and two other men walked up to the house. Codefendant said something to defendant and they ran off. Linda testified that about 10 minutes later, she saw defendant and codefendant in codefendant's car. The car skidded, slowed, skidded again, and then stopped in front of the house. Defendant, who was in the passenger seat, leaned out the window and fired a handgun two or three times. After the shooting, the car "drove off very fast." Linda stated that defendant was aiming at her, her fiancé, Ketra, Amarion, and Londell.

¶ 7 Ketra Robinson testified that a little before 8 p.m. on the night in question, she was outside the house when codefendant and another man approached on foot. Ketra and codefendant argued. Codefendant grabbed their baby and started walking off with him, but Linda took the baby from codefendant. Ketra and codefendant continued to argue. After a few minutes, defendant and another man arrived at the scene, and then all four men ran off. About 10 minutes later, Ketra, who was sitting on the porch holding the baby on her lap, saw codefendant's car come around the corner and stop in front of the house. Codefendant was driving and defendant was in the passenger seat. Defendant leaned out the window a little bit, stuck a gun out the window, and fired two shots toward the house before the car sped off.

¶ 8 Defendant testified on his own behalf. He stated that on the evening in question, he was at his brother's house when he "heard the altercation with [codefendant] Adam Landry," specifically, sounds of screaming and yelling coming from a few houses away. Defendant walked to the location of the argument and "stood there" for two or three minutes. He then ran back to his brother's house with codefendant, chased by Ketra's brother. A few minutes later, defendant and codefendant got into codefendant's car. Defendant testified that he was driving and

codefendant was in the passenger's seat. Defendant stopped at a stop sign at the corner near the house in question. He stated, "I made that right turn, I wasn't aware of no gun at the time, but when I turned, that's when the shots started firing." Defendant clarified that codefendant was the person who fired a gun out the car window. He acknowledged that he drove off after the shooting, did not stop to help anyone who may have been hit, and did not contact the police. Defendant further stated that he did not see a gun when he got in the car and agreed that he did not "have any idea [codefendant] was going to do that."

¶ 9 Following closing arguments, the trial court found defendant guilty of three counts of aggravated discharge of a firearm. In doing so, the court made the following statement:

"In the end, it really doesn't matter, why [defendant and codefendant] ran, whether somebody was chasing them or what, because they had gotten away. If somebody was chasing them, they had gotten away. They had gotten back to the house.

So, now, they are in a car, and three different people come into court and say, we know him. We saw him stick his hand out the window and shoot the gun. So, he's guilty of shooting the gun outside of the car.

The issue then becomes what's he's [*sic*] guilty of. I find there is no evidence to indicate that he would attempt to murder these people, one of whom is his son, who is sitting on the lap of his mother. So, I would find it very difficult to believe that he was attempting to go murder those people.

So, it looks like some people pulled up and shoots this gun out of the window and try to terrify people who they were having an argument with. And one of the bullets hits Londell Marsh in the arm."

¶ 10 The trial court subsequently denied defendant's motion for a new trial and sentenced defendant to nine years in prison on one count of aggravated discharge of a firearm.

¶ 11 On appeal, defendant challenges the sufficiency of the evidence. Defendant argues that the trial court's statements (1) that there was no evidence to indicate the shooter was attempting to murder "these people, one of whom is his son," and (2) that the shooter fired out the car window in an attempt "to terrify people who they were having an argument with," constitute an "explicit finding" that codefendant – as opposed to defendant – was the shooter, since it was codefendant whose son was on the porch and who had been arguing with Ketra and Linda. Given this "explicit finding" that someone else was the actual shooter, defendant asserts that the trial court must have found him guilty under a theory of accountability. He maintains that because the State presented no evidence to support a finding of guilt by accountability, his conviction must be reversed.

¶ 12 The State argues a different interpretation of the trial court's comments. In the State's view, the trial court correctly found that defendant was the shooter, but then mistakenly also found that he was the father of the child on the porch. The State asserts that this mistake worked in defendant's favor, as the trial court may not have found that defendant lacked the intent to murder had it not mistakenly thought defendant's child was on the porch.

¶ 13 In a bench trial, the trial court is presumed to know the law and apply it properly. See *People v. Cameron*, 2012 IL App (3d) 110020, ¶ 28, citing *People v. Howery*, 178 Ill. 2d 1, 32 (1997). That presumption may only be rebutted when the record contains strong affirmative evidence to the contrary. *Id.* Although a trial court is certainly free to explain its decision, it is under no obligation to do so. See *People v. Curtis*, 296 Ill. App. 3d 991, 1000 (1998). Moreover, even when the trial court has explained its decision, the question presented to a reviewing court remains whether the evidence presented was adequate to support the trial court's *judgment*. *Id.* We are not called upon to examine the adequacy of the trial court's *explanation*.

¶ 14 Here, the trial court explained its judgment, and we find that the language it used was filled with ambiguity, exacerbated by the trial court's use of pronouns. The trial court's findings suggest that it was, at the very least, confused about defendant's relationship to the child on the porch. However, the motivation behind defendant's decision to commit a criminal offense and the elements of that offense are quite distinct. *People v. Black*, 2012 IL App (1st) 101817, ¶ 30. Moreover, any mistake the trial court made about defendant's motivation actually benefitted defendant, to the extent that the mistake was used to defeat evidence of the intent required for attempted murder. Most important, we have carefully reviewed the language used by the trial court in explaining its judgment, and we cannot conclude that the language so clearly demonstrates confusion about the identity of the shooter so as to undermine our confidence in the trial court's decision. The trial court unequivocally found defendant guilty of aggravated discharge of a firearm. Accordingly, the question before us is not whether the trial court's explanation of that finding was accurate, but rather, whether there was sufficient evidence of defendant's conduct as the principal to support the trial court's judgment.

¶ 15 After a thorough review of the record, we conclude that the evidence was sufficient to convict defendant as a principal. 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). Under this standard, a reviewing court must allow all reasonable inferences from the record in favor of the prosecution. *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). 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 court of review 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).

¶ 16 Here, three different witnesses testified that they saw defendant lean out the car window, point a gun at them, and fire two or three times. Defendant, in contrast, testified that although he drove the car, it was codefendant who did the shooting. The trial court chose to believe the State's witnesses over defendant. This was its prerogative as the trier of fact and we defer to the trial court's credibility determinations. See *Brooks*, 187 Ill. 2d at 131 (reviewing court will not substitute its judgment for the trial court's on matters of credibility). We cannot say that the evidence was "so unsatisfactory, improbable or implausible" that it raises a reasonable doubt as to defendant's guilt. *Slim*, 127 Ill. 2d at 307. Accordingly, defendant's challenge to the sufficiency of the evidence fails.

1-12-1067U

¶ 17 For the reasons explained above, we affirm the judgment of the circuit court of Cook County.

¶ 18 Affirmed.