

Appellant-defendant Ronrico D. Poindexter appeals his conviction for Murder,¹ a felony, arguing that the State presented insufficient evidence to rebut his claim of self-defense. Finding sufficient evidence to sustain the conviction, we affirm.

FACTS

On March 18, 2008, Karachi Williams and Antonio “Julio” Walker broke into Poindexter’s apartment and stole various electronic items, including Poindexter’s gaming system and a plasma television.² The following morning, Poindexter returned home and realized that someone had broken into his residence. He suspected that Williams and Walker had committed the crime but did not report the incident to the police.

After assessing the damage, Poindexter “went straight for his gun,” “put a magazine in it and put a bullet into the chamber,” and placed the gun in the front pocket of his sweatshirt. Tr. p. 67-68. Poindexter and an acquaintance, Colby McKinney, went to look for Williams and Walker. They eventually located Walker, and when Poindexter asked him where he had been the night before, Walker responded that he had been with his son. Thereafter, Poindexter spoke with another friend who had arrived at the scene while McKinney spoke with Walker.

After McKinney finished his conversation with Walker, Walker turned to leave. As Walker began to walk away, Poindexter was positioned behind McKinney, who did not observe Walker threaten Poindexter or make any hostile moves toward Poindexter. McKinney heard gunshots from behind him and then saw Poindexter running past him,

¹ Ind. Code § 35-42-1-1.

² Williams eventually pleaded guilty to the burglary of Poindexter’s apartment. His plea agreement required, among other things, that he testify at Poindexter’s trial.

continuing to shoot at Walker. Walker fell to the ground. After Poindexter stopped firing, he ran back to his car and fled the scene. Walker died as a result of the gunshots. McKinney did not see Walker brandish a firearm, and Walker was unarmed when police inspected his body.

Walker received eight gunshot wounds to his neck, his right shoulder, his chest, his right arm, his right wrist, and his buttocks. Thirteen shell casings were recovered from the scene, all fired by the same gun. Poindexter was apprehended the same day.

On March 24, 2008, the State charged Poindexter with murder and class A misdemeanor carrying a handgun without a license. The State dismissed the carrying a handgun charge before trial. At Poindexter's August 25, 2008, bench trial, he admitted shooting Walker but insisted that he had acted in self-defense. Specifically, Poindexter claimed that he shot Walker because Walker was agitated and looked as though he was about to pull something from his backside. Poindexter admits that he never observed Walker with a firearm. The trial court found Poindexter guilty as charged. On September 3, 2008, the trial court sentenced Poindexter to forty-five years of incarceration. Poindexter now appeals.

DISCUSSION AND DECISION

Poindexter's sole argument on appeal is that the State presented insufficient evidence to rebut his claim of self-defense. When a defendant claims self-defense, the State must negate at least one of the following elements of the claim: (1) the defendant was in a place where he had a right to be; (2) the defendant was without fault; and (3) the defendant had a reasonable fear or apprehension of bodily harm. Boyer v. State, 883

N.E.2d 158, 162 (Ind. Ct. App. 2008). The amount of force that an individual may use to protect himself must be proportionate to the urgency of the situation. Pinkston v. State, 821 N.E.2d 830, 842 (Ind. Ct. App. 2004). Thus, “[w]here a person has used more force than is reasonably necessary to repel an attack, the right of self-defense is extinguished” Geralds v. State, 647 N.E.2d 369, 373 (Ind. Ct. App. 1995). If a defendant is convicted despite his claim of self-defense, we will reverse only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt. Wilson v. State, 770 N.E.2d 799, 800-01 (Ind. 2002).

Here, Poindexter maintains that he acted in self-defense because Walker was behaving in an agitated manner and reached behind his body as though he was about to pull out a gun. But McKinney testified that he did not see Walker come toward Poindexter “in any sort of threatening manner” or brandish a firearm. Tr. p. 84. When the police inspected Walker’s body, they did not find a gun, and Poindexter admits that he never saw a gun in Walker’s possession. Poindexter emphasizes his own testimony and certain physical evidence and questions McKinney’s credibility, but this is a request that we reweigh the evidence and assess witness credibility, which we may not do. We find that this evidence is sufficient to rebut Poindexter’s claim that he had a reasonable fear or apprehension of bodily harm.

Additionally, we note that when Poindexter became aware of the burglary, the first thing he did was retrieve his gun, load it, place it in his sweatshirt pocket, and go look for Walker, whom he believed had committed the crime. Instead of choosing not to confront Walker and reporting the burglary to the police, Poindexter actively sought him out. He

then chose to fire his gun at Walker no less than thirteen times while Walker was unarmed. Two of Walker's wounds were in his buttocks, meaning that Poindexter shot him as he was trying to retreat. Under these circumstances, even if Poindexter had presented a more credible claim of self-defense, he would not have prevailed on appeal. See, e.g., Randolph v. State, 755 N.E.2d 572, 575 (Ind. 2001) (holding that firing multiple shots undercuts a claim of self-defense).

The judgment of the trial court is affirmed.

MAY, J., and BARNES, J., concur.