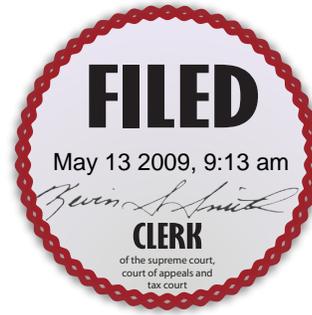


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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CLAUDE HOSKINS, )  
 )  
Appellant-Defendant, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 49A02-0811-CR-1051

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Grant W. Hawkins, Judge  
Cause No. 49G05-9807-CF-113273

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**May 13, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

Following a bench trial, Claude Hoskins was convicted of Voluntary Manslaughter,<sup>1</sup> a class A felony. Hoskins challenges the sufficiency of the evidence as the sole issue on appeal.

We affirm.

The facts most favorable to the conviction reveal that during the early morning hours of July 10, 1998, Hoskins argued with his wife, Betty Sue Weir. Weir told Hoskins she had met another man at work. Hoskins obtained his gun, put the barrel against the left side of Weir's head, and shot her as she lay in bed. The bullet passed through Weir's skull and exited the right side of her head, causing a large amount of blood to flow out onto her pillow. Hoskins left the house and went to his sister and brother-in-law's home, which was approximately a half block away. Hoskins told his brother-in-law that Weir had been shot. At approximately 3:24 a.m., Hoskins's brother-in-law called 911 and reported the shooting.

Officers responded to Hoskins's home and discovered Weir lying in bed with a contact gunshot wound to her head, still breathing and making gurgling sounds. Weir had a partially burned cigarette in her right hand and a cigarette lighter in her left hand with a comforter pulled up to her armpits and her hands and arms on top of the comforter. Hoskins's .357 caliber Smith and Wesson handgun was on the nightstand. The officers observed no signs of a struggle.

Officers located Hoskins at his sister's home and took him into custody. The officers observed a large amount of blood on Hoskins's hands, arms, and torso. In the presence of the

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<sup>1</sup> Ind. Code Ann. § 35-42-1-3 (West, Premise through 2008 2nd Regular Sess.).

officers, Hoskins's sister asked him what happened. Hoskins stated that he and Weir were arguing, he grabbed his gun, and the gun went off when Weir grabbed it. While being transported to the Marion County Jail, Hoskins told the officers he did not know why he grabbed his gun.

At approximately 5:42 a.m., two detectives conducted a videotaped interrogation. The detectives advised Hoskins of his rights and had him sign a waiver of rights form. During the interrogation, Hoskins admitted to arguing with Weir and shooting her that morning. The autopsy established that the entrance wound on the left side of Weir's skull was a contact wound where the gun barrel was pressed against her head as Hoskins fired the gun.

On July 13, 1998, the State charged Hoskins with murder, a felony. A three-day jury trial commenced on August 16, 1999, at the conclusion of which the jury found Hoskins guilty as charged. On September 17, 1999, the trial court entered a judgment of conviction and sentenced Hoskins to fifty-five years imprisonment. On direct appeal, our Supreme Court rejected Hoskins's claims of trial court error and jury misconduct and therefore affirmed Hoskins's conviction. *See Hoskins v. State*, 737 N.E.2d 383 (Ind. 2000).

On August 13, 2003, Hoskins filed a petition for post-conviction relief, which was subsequently amended. Following a hearing on Hoskins's PCR petition, the post-conviction court granted Hoskins's request for a new trial on January 25, 2008, concluding that faulty, unchallenged jury instructions regarding murder and the sudden heat element of voluntary manslaughter deprived him of due process. At a status hearing on February 22, 2008, the State advised that it intended to retry Hoskins. The trial court ordered the case reopened.

On September 24, 2008, Hoskins waived his right to a jury trial, and a bench trial was subsequently held on September 29. At the conclusion of the evidence, the trial court found Hoskins guilty of the lesser-included offense of voluntary manslaughter, a class A felony, and entered a judgment thereon. Thereafter, the trial court sentenced Hoskins to thirty-years imprisonment with nine years suspended. Hoskins now appeals.

Hoskins argues that the evidence is insufficient to sustain his conviction for voluntary manslaughter. When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder's exclusive province to weigh the evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the conviction, and “must affirm ‘if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.’” *Id.* at 126 (*quoting Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

To convict Hoskins of class A felony voluntary manslaughter, the State was required to prove that Hoskins knowingly or intentionally killed Weir by means of a deadly weapon while acting under sudden heat. I.C. § 35-42-1-3(a). A person engages in conduct “intentionally” if it is his conscious objective to do the act and “knowingly” engages in conduct when he is aware of a high probability that he is doing so. Ind. Code Ann. § 35-41-2-2(a), (b) (West, Premise through 2008 2nd Regular Sess.). A knowing killing may be inferred from a defendant's use of a deadly weapon in a manner likely to cause death. *Oliver*

*v. State*, 755 N.E.2d 582 (Ind. 2001). Intent is a mental function and, absent an admission, must be determined through a consideration of the defendant's conduct and the natural and probable consequences of such conduct. *Moore v. State*, 723 N.E.2d 442 (Ind. Ct. App. 2000). Intent may also be established by the circumstances surrounding the event. *LaBelle v. State*, 550 N.E.2d 752 (Ind. 1990).

Hoskins argues that the trial court unreasonably inferred from the evidence that he knowingly killed his wife. Hoskins maintains that the trial court found the evidence indicating a knowing killing was "ambiguous, at best." *Appellant's Brief* at 9. Specifically, Hoskins points the trial court's discussion of the trigger-pull analysis as unpersuasive because it lacked a frame of reference and suggests that this was the only evidence of a knowing killing. Hoskins also argues that his acknowledgment of incriminating statements made by the detectives during his interrogation, i.e., his affirmative response to their summary of events, was equivocal and could not "exclusively support[] a voluntary manslaughter conviction." *Appellant's Brief* at 10. Essentially, Hoskins's arguments are veiled requests for us to credit his version of events. We reject Hoskins's invitation to reweigh the evidence and judge the credibility of witnesses.

In any event, the evidence is sufficient to support Hoskins's conviction. The evidence demonstrated, and Hoskins does not dispute, that he and Weir had argued, that he retrieved his handgun to prove the seriousness of his argument, and that he shot Weir. The autopsy showed that Weir died from a contact gunshot wound to the head caused by the muzzle of the gun pressing against Weir's head before the weapon was discharged. From this evidence, the

trial court could have reasonably inferred from Hoskins's use of the handgun and the circumstances surrounding the shooting that Hoskins acted knowingly and that he intended to kill his wife. Further, we note the trial court expressly found that Hoskins's claim that the shooting was an accident was a lie and that his version of events "d[idn't] fit any of the facts." *Transcript* at 188.

Judgment affirmed.

NAJAM, J., and VAIDIK, J., concur.