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IN THE
COURT OF APPEALS OF INDIANA

MICHAEL YANG,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-1006-CR-351
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Robert Altice, Judge
Cause No. 49G02-0905-MR-46200

May 13, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Michael Yang appeals his conviction of Murder,[1] a felony, and Invasion of Privacy,[2] a class A misdemeanor, as well as the sentences imposed thereon. Yang presents the following restated issues for review:

1. Was the evidence sufficient to support the convictions?

2. Was Yang's sentence inappropriate in view of his character and the nature of the offenses?

We affirm.

The facts most favorable to the convictions are that Yang and the victim, Amenda Yang, were married in 1984. The couple had six children, including five sons and one daughter. As of May 6, 2009, the date of the events upon which Yang's convictions were based, the children ranged in age from twenty-two (David) to eleven (Brenda). At the time, four of the children still lived at home, including eighteen-year-old Arthur, seventeen-year-old Charles, sixteen-year-old Brandy, and Brenda. In April 2009, the Yangs separated and Amenda obtained a restraining order against Yang. Approximately ten days before Amenda's murder, Charles heard noises coming from the attached garage and saw the door slowly open. He alerted Arthur, who went to investigate. When Arthur demanded to know who was there, he discovered that it was his father, Yang, who claimed to be looking for a map. Yang went into Amenda's room for about five minutes and then left.

On May 6, 2009, Amenda saw her children off to school. She was dressed in pajamas

[1] Ind. Code Ann. § 35-42-1-1 (West, Westlaw through 2011 Pub. Laws approved & effective through 2/24/2011).
[2] Ind. Code Ann. § 35-46-1-15.1 (West, Westlaw through 2011 Pub. Laws approved & effective through 2/24/2011).

when they left. When Brenda returned home that afternoon and got off of the school bus, her mother was not there to meet her as usual. Brenda walked home and when she arrived, she found the front door ajar. Brenda went inside and discovered that the house was in disarray. When Brenda went into her mother's bedroom, she found her mother, still wearing the pajamas she had worn that morning, laying on the floor, with blood spattered all over the room. Amenda, who was dead, had been severely beaten. An autopsy revealed that she had suffered eleven wounds to her head, including an extensive fracture at the base of her skull. Also, her body bore the wounds of at least twenty blows. Ligature furrow marks on her neck indicated she had been strangled. Officials ruled that the cause of death was multiple blunt-force injuries.

When Brenda first discovered her mother's body, she noted that there was a wallet in her mother's hand. She quickly checked the wallet, but finding nothing, Brenda threw it onto the floor. Evidence technicians later recovered the wallet and noted that it was a Puritan brand wallet and discovered a driver's license issued to a Rosalio Corado Lopez inside it. In addition, the technicians found near the body a note stating:

> Arany.
> Coralo Lopel did this to me. They control me and the money because I cancel the court and want to go back to my husband s take the children.
> Amenda

State's Exhibit 45, *Exhibit Binder II* at 89(A) (transcribed as written). Attorney Lawrence Arany represented Amenda in the pending divorce proceeding.

Lopez testified at trial that he had lost his license more than five months before the murder in the parking lot of an apartment complex a few blocks from the Yang residence. He

had obtained a new license within two weeks after he lost the old one. Lopez testified that he did not know Amenda, and alibi evidence was produced at trial showing conclusively that Lopez was elsewhere at the time of the crime. Moreover, a pathologist testified that Amenda would not have been able to write the note after sustaining the injuries that led to her death.

Detective Mark Osborn of the City of Lawrence Police Department investigated at the scene. While he was there, Yang arrived with one of the children. Detective Osborn spoke briefly with Yang at the scene and then interviewed him at the police station. Detective Osborn later obtained a search warrant to search Yang's work area at his place of employment, Alexander Screw. While at work, Yang typically wore a Cintas uniform that included pants, a shirt, a jacket, and boots. When the detective searched Yang's jacket, he found "[a] plastic sleeve, like you would slide credit cards in …, belong[ing] to a wallet. It was still nicely pressed, had the label to the brand of Puritan tucked in the first sleeve[.]" *Transcript* at 735. Further investigation revealed that the photo sleeve and bar code matched the brand and style of wallet found in Amenda's hand. Detective Osborn verified that a local Walmart sold that particular style of Puritan wallet. Using the UPC code, Walmart theft-prevention personnel were able to confirm five transactions in the preceding thirty days in which a customer purchased that type of wallet. Walmart retained video surveillance tapes of three of those transactions. One of those videos, taken on April 22, 2009, depicted Yang purchasing the wallet while he was wearing his Alexander Screw uniform. Yang was identified by Charles, who had viewed the tape at Detective Osborn's request.

Records reveal that Yang clocked in at Alexander Screw at 5:43 a.m. on the day in question, clocked out for lunch at 11:25 a.m., clocked in again at 11:53 a.m., and then

clocked out for the day at 2:30 p.m. Yang was Ron Brown's assistant at Alexander Screw. While they were working together that morning shortly before 8:30 a.m., Yang excused himself, saying he needed to go to the bathroom. Brown saw Yang exit the building and did not see him again until approximately forty-five minutes later. Suzanne Deckard, another Alexander Screw employee, observed Yang re-enter the building at approximately 9:00 a.m. When Brown saw Yang again, Yang was not wearing a uniform shirt, as he had been before he left. One could walk the distance between Alexander Screw and Amenda's house in approximately ten minutes. Charles reported, however, that he traversed that distance in approximately three minutes when he ran to notify his father of what had happened immediately after Amenda's body was discovered.

The Alexander Screw security camera that monitored the parking lot and path leading to Amenda's home was not working at the time. Yang, Brown, and Jeremiah Alexander, the grandson of Alexander Screw's owner, had installed the camera. When that camera ceased to function in late April or early May of 2009, Yang was sent to repair it. He reported that everything on the roof (where the camera was located) looked fine and that the problem must result from faulty wiring inside the building. Alexander, the only other person qualified to work on the camera, was unable to climb atop the building and perform his own assessment because he was injured. When he returned to work in early June, however, Alexander inspected the camera and discovered that, while the power and audio cable were properly connected, the video cable had been disconnected "and twisted back and rapped [sic] around the cord and tucked in, like it had just been unplugged and wrapped up." *Id*. at 620.

Laboratory analysis was performed on a pair of work uniform pants with Yang's name

on them that were retrieved from a dirty clothes hamper at Alexander Screw on May 7, the day after the incident. The results showed the presence of Amenda's DNA in stains located in the areas of the left cuff, the right cuff, and the waist. Also, Amenda's DNA was also found on the watch Yang was wearing on the day after Amenda's murder.

On May 11, 2009, the State filed a two-count information charging Yang with murder and invasion of privacy. Yang was convicted on both counts following a jury trial. The trial court subsequently sentenced Yang to sixty years for the murder conviction and a concurrent, one-year term for the invasion of privacy conviction.

1.

Yang contends the evidence was not sufficient to support his conviction for murder. Our standard of review for challenges to the sufficiency of evidence is well settled.

> When reviewing the sufficiency of the evidence needed to support a criminal conviction, we neither reweigh evidence nor judge witness credibility. *Henley v. State*, 881 N.E.2d 639, 652 (Ind. 2008). "We consider only the evidence supporting the judgment and any reasonable inferences that can be drawn from such evidence." *Id*. We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt. *Id*.

Bailey v. State, 907 N.E.2d 1003, 1005 (Ind. 2009). Yang's challenge in this regard is premised largely on the circumstantial nature of the evidence of guilt. Our Supreme Court has stated, "[a] conviction for Murder may be based purely on circumstantial evidence." *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995). When reviewing a murder conviction based upon circumstantial evidence, "we will not disturb a verdict if the jury could reasonably infer that the defendant is guilty beyond a reasonable doubt from the circumstantial evidence presented." *Id*. Moreover, we are mindful that the circumstantial evidence "need not

overcome every reasonable hypothesis of innocence. It is enough if an inference reasonably tending to support the verdict can be drawn from the circumstantial evidence." *Id.*; *see also Kriner v. State*, 699 N.E.2d 659, 664 (Ind. 1998) ("[c]ircumstantial evidence by its nature is a web of facts in which no single strand may be dispositive").

The evidence recited in detail above reflects that Yang and the victim were divorcing and he was unhappy about it. Yang worked near enough to the scene of murder to traverse the distance on foot in somewhere between three and ten minutes. On the morning of the murder, his supervisor saw Yang exit his place of employment and Yang was not seen again for approximately forty-five minutes, which was sufficient time to have traveled to Amenda's house, murder her, and return to work. Yang's path to Amenda's house would normally have been subject to surveillance by a security camera that Yang helped install on the roof of his employer's facility, but several days before the murder that camera ceased to function. Yang went onto the roof, inspected the camera, came back down, and informed his supervisor that there were no problems in or around the camera itself. But, an inspection by someone else several weeks after the murder revealed that the video cable to that camera had been unhooked at the camera and when the cable was reconnected, the camera operated normally.

When Yang was seen again at work following his on-the-clock departure, he was not wearing his uniform shirt, as he had been before. Yang's unlaundered uniforms were retrieved from a hamper at Alexander Screws on the day after the murder and one pair of his pants contained Amenda's DNA in the left and right cuffs and the waist band. Amenda's DNA was also found on the watch Yang was wearing on the day after the murder.

The murderer placed in Amenda's hand a wallet with Rosalio Lopez's driver's license

in it. Lopez had lost his license in November 2008 in an apartment complex just a couple of blocks from Amenda's home. Police were able to establish that approximately two weeks before the murder, Yang had purchased a wallet identical to the one found in Amenda's hand. A note found at the scene purported to be written by Amenda, but a medical expert testified that Amenda would not have been capable of writing the note after suffering the beating she endured, and most especially the severe blows to her skull. The note was addressed to Amenda's divorce attorney by name. It appears that not even all of Amenda's children knew the attorney by name.

We note further that there was evidence that when he returned to work on the day of the murder, Yang appeared to be sweating, which was unusual for him. He also changed out of his uniform earlier than normal and did so in the privacy of a stall, which he did not normally do. The evidence revealed that Yang told Detective Osborne that he had lunch with Brown in Alexander Screw's break room on the day of the murder. Brown denied having seen Yang in the break room during his lunch that day. Finally, we note that police also found at the scene of the murder an orange Cintas uniform service request tag. The same kind of tag was supplied in the locker room at Alexander Screw. The one found on the floor near Amenda's body was unblemished, while many items in the immediate vicinity were significantly blood-spattered.

We need not decide whether any single piece of the foregoing evidence would be sufficient to overcome a reasonable doubt as to Yang's guilt. When viewed in the aggregate, the resultant "web of facts", *Kriner v. State*, 699 N.E.2d at 664, was sufficient to permit the jury to infer beyond a reasonable doubt that the Yang was the person who entered Amenda's

house and murdered her. *See Moore v. State*, 652 N.E.2d 53.

2.

The trial court imposed a sixty-year sentence for the murder conviction and a one-year sentence for the invasion of privacy conviction, to be served concurrently. Yang contends this sentence was inappropriate in light of his character and the nature of his offenses. Article 7, section 4 of the Indiana Constitution grants our Supreme Court the power to review and revise criminal sentences. Pursuant to Ind. Appellate Rule 7, the Supreme Court authorized this court to perform the same task. *Cardwell v. State*, 895 N.E.2d 1219 (Ind. 2008). Per App. R. 7(B), we may revise a sentence "if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." *Wilkes v. State*, 917 N.E.2d 675, 693 (Ind. 2009), *cert. denied*, 131 S.Ct. 414 (2010). "[S]entencing is principally a discretionary function in which the trial court's judgment should receive considerable deference." *Cardwell v. State*, 895 N.E.2d at 1223. Yang bears the burden on appeal of persuading us that his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073 (Ind. 2006).

Viewed in a light most favorable to the convictions, the facts reveal that Yang carefully planned Amenda's murder. At some point, he came into possession of a driver's license that had been lost in the area. Two weeks before the murder, he bought a wallet in which to place the license. Approximately one week before the murder, he did not remedy an easily correctable problem with the security camera that would have monitored movement away from his employer in the direction of Amenda's house, and then lied to the employer about the camera's status. He slipped away from his place of employment, taking the wallet

and license with him. He then entered Amenda's home and savagely beat her to death, as reflected by the terrible injuries inflicted upon Amenda and the large quantity of blood spattered about her room. When this deed was accomplished, he placed the wallet and license in Amenda's hand and planted a note, all to implicate an innocent man, Lopez. Finally, he left the scene knowing that one of his children would discover their mother's body in this terrible condition. As it turned out, that child was eleven-year-old Brenda. Amenda's murder was brutal and coldly premeditated. In this respect, we disagree with Yang's claim that "there is nothing about the nature of this murder to make it worse than any other murder." *Appellant's Brief* at 7. In view of the nature of Amenda's murder and what it reveals of Yang's character, we cannot say that the sixty-year executed sentence imposed by the trial court was inappropriate.

Judgment affirmed.

BAILEY, J., and BROWN, J., concur.