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IN THE
COURT OF APPEALS OF INDIANA

KEVIN R. FRANKLIN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A03-1012-CR-651
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable John F. Surbeck, Jr., Judge
Cause No. 02D04-0902-MR-5

August 17, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Kevin Franklin appeals his convictions for murder, Class C felony carrying a handgun without a license, and Class D felony criminal recklessness. We affirm.

Issue

Franklin raises one issue, which we restate as whether the evidence is sufficient to sustain his convictions.

Facts

In March 2008, Mack Porter thought that seventeen-year-old Randall Paris's brother, Reid Paris, shot Contrell Brown earlier in the month.[1] On the afternoon of March 31, 2008, Franklin, Porter, Antionette Amburgey, and Detrick Brown visited Contrell's mother in Fort Wayne. Porter, Amburgey, and Detrick later left in Amburgey's red Pontiac Grand Am. While driving to the mall, one of them got a call, and they were told that Reid was walking on Rudisill Street. Amburgey started driving in that direction, and they saw Franklin pull up in a blue car. Near the intersection of McKinnie Street and Lillie Street, Franklin and Porter waited behind a fence until Randall walked past. They mistakenly thought that Randall was Reid. Franklin and Porter then shot Randall multiple times, and he died.

Johnell Watkins was at the intersection of McKinnie Street and Lillie Street during the incident. Watkins saw Franklin shoot Randall, and after the first shot, Watkins walked away and went home. Stephen Philipp was visiting Fort Wayne with his father

[1] Porter later learned that Reid was not involved with Contrell's death.

and brother. They were driving near the intersection of McKinnie Street and Lillie Street when he saw a man running toward them on the sidewalk and carrying a gun. The "gun chamber was back," which indicated to Philipp that the "bullets were exhausted" and the gun was out of ammunition. Tr. pp. 240-41. Philipp later identified the man carrying the gun as Franklin.

The State charged Franklin with murder, Class C felony carrying a handgun without a license, and Class D felony criminal recklessness. Porter pled guilty to murder and was sentenced to forty-five years in the Department of Correction. As a condition of his sentence, Porter was required to testify against Franklin, and he did so. During the jury trial, Tyrie Holley testified by video deposition that, while he was in a class with Franklin, Franklin told Holley that he, Porter, and another person had shot someone. The jury found Franklin guilty as charged, and the trial court sentenced him to an aggregate sentence of sixty-five years in the Department of Correction. Franklin now appeals.

Analysis

Franklin argues that the evidence is insufficient to sustain his convictions. When reviewing the sufficiency of the evidence needed to support a criminal conviction, we neither reweigh evidence nor judge witness credibility. Bailey v. State, 907 N.E.2d 1003, 1005 (Ind. 2009). "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.

According to Franklin, the evidence is insufficient to show that he was present at the scene of the shooting. Franklin contends that the testimony from the State's witnesses was "inconsistent, contradictory and self serving." Appellant's Br. p. 12. Franklin's argument is merely a request that we reweigh the evidence and judge the credibility of the witnesses, which we cannot do. Bailey, 907 N.E.2d at 1005. It was the jury's duty to weigh any discrepancies, inconsistencies, and credibility issues in reaching its decision. The State presented evidence from several eyewitnesses that identified Franklin as one of the shooters, and the evidence is sufficient to sustain his convictions.

Conclusion

The evidence is sufficient to sustain Franklin's convictions. We affirm.

Affirmed.

ROBB, C.J., and BRADFORD, J., concur.