

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs June 27, 2023

FILED

08/25/2023

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. SEAN LONGMIRE

**Appeal from the Criminal Court for Knox County
No. 115335 Steven W. Sword, Judge**

No. E2022-01436-CCA-R3-CD

A Knox County jury convicted the Defendant, Sean Longmire, of one count of first degree murder and three counts of attempted first degree murder. On appeal, the Defendant asserts that the evidence is insufficient to support his convictions. After a thorough review, we affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which ROBERT L. HOLLOWAY, JR., and ROBERT H. MONTGOMERY, JR., JJ., joined.

Kit Rodgers, Knoxville, Tennessee, for the appellant, Sean Longmire.

Jonathan Skrmetti, Attorney General and Reporter; Lacy E. Wilber, Senior Assistant Attorney General; Charmé P. Allen, District Attorney General; and Joanie S. Stewart and Nathaniel R. Ogle, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

I. Facts

This case arises from a series of drug transactions that resulted in a shooting. In summary, Joseph Bellew owed money to the Defendant. In an effort to repay that money, Mr. Bellew and Bobby Hansard sought to buy drugs from one of the victims, Keyvion Ware, with the plan to sell the drugs for profit, which Mr. Bellew could use to repay the Defendant. After Mr. Ware agreed to sell the drugs to Mr. Hansard, Mr. Ware instead he stole the money he obtained from Mr. Hansard and Mr. Bellew as payment for the drugs. Unbeknownst to one another, and after the robbery, both Mr. Ware and Mr. Bellew sought out Donte West: Mr. Ware sought to purchase drugs from him and Mr. Bellew sought advice from him about how to handle the money Mr. Ware had stolen and that Mr. Bellew

ultimately owed to the Defendant. Mr. West received the stolen money from Mr. Ware and his three friends, under the pretense of purchasing drugs on their behalf, but he instead returned the money to the Defendant. The Defendant, Mr. Bellew, Mr. Hansard, and Elijah Dozard then drove to the location where Mr. Ware and his three friends were waiting for Mr. West's return with the drugs. The Defendant, Mr. Bellew, Mr. Hansard, and Mr. Dozard opened fire on Mr. Ware and the three friends: Bryson McGrotha, Audrey Matthews, and Dalton Miller. Bryson McGrotha was killed.

Based upon these events, a Knox County grand jury indicted Defendant and each of his co-defendants, Mr. Bellew, Mr. Dozard, and Mr. Hansard, for the first degree premeditated murder of Bryson McGrotha and three counts of the attempted first degree premeditated murder of Dalton Miller, Audrey Matthews, and Keyvion Ware. The Defendant was tried separately from his co-defendants.

At trial, the parties presented the following relevant facts: On October 31, 2018, Knox County Sheriff's Office ("KCSO") Patrol Officer Thomas Sawyer responded to a report of gunfire in South Knoxville. When he arrived, he found two victims, one deceased, Bryson McGrotha and the other wounded, Dalton Miller. The State introduced Officer Sawyer's body camera recording of his arrival at the shooting scene.

Audrey Matthews, a victim of the shooting, testified that she had a history of drug use but no longer used drugs at the time of trial. On October 31, 2018, Keyvion Ware called and asked Ms. Matthews for a ride. Ms. Matthews drove a Chevrolet HHR ("HHR") at the time and agreed. She drove Mr. Ware, Mr. Miller, and Mr. McGrotha to Donte West's residence to buy drugs. Mr. Ware sat in the front passenger seat, Mr. McGrotha sat behind Mr. Ware, and Mr. Miller sat in the seat behind the driver. Mr. McGrotha slid over to the middle back seat, and Mr. West got in the HHR seated directly behind the driver. Ms. Matthews then drove "to the trailers" where Mr. West had arranged to buy drugs (meth and heroin) for the group. Mr. Ware and Mr. Miller gave Mr. West money to pay for the drugs. Mr. West exited the vehicle, and then Ms. Matthews drove to a nearby Weigel's. After using the bathroom at Weigel's, Ms. Matthews returned to Mr. West's residence where she parked in the driveway. She described the subsequent events, as follows:

[A]s I turned my car off, here comes a maroon car. It backs up into the side driveway, pulls out, turns like it's going to go. There was three - - as I look and turn, there's three guns pointing my way. And then the boys got out and started shooting.

Ms. Matthews explained that, at the time of the shooting, Mr. Ware was seated in the front passenger seat, Mr. Miller was seated in the back of the car and Mr. McGrotha

was standing outside the HHR by the passenger window. Three men exited the maroon car and began shooting. She could not recall anything about the shooters except that one of them wore a Carhartt jacket. Ms. Matthews tried to exit her car but was unable to do so because of damage to the door. Mr. Ware threw himself on top of Ms. Matthews and told her to stay down.

After the gunfire ceased and the maroon car had driven away, Ms. Matthews found Mr. McGrotha lying on the ground in a puddle of blood. Ms. Matthews was uninjured; however, her car sustained considerable damage due to the shooting. She recalled that Mr. Miller suffered a gunshot wound to his leg.

On cross-examination, Ms. Matthews agreed that she could not identify the Defendant as one of the men in the maroon car.

Keyvion Ware testified about the events leading up to the October 31, 2018 shooting. He recalled that he and Mr. McGrotha began their day at Mr. Miller's apartment in the Cambridge Apartment complex. Mr. Ware recalled that Co-defendant Hansard, whom he knew through school, called him that morning to inquire about buying a couple ounces of methamphetamine. Co-defendant Hansard told Mr. Ware that he had \$1200 to purchase the drugs. Mr. Ware stated that he had access to methamphetamine but that he did not have any intention of selling the drugs to Co-defendant Hansard because he suspected that Co-defendant Hansard "might be the police or something." So instead, he decided to rob Co-defendant Hansard.

Co-defendant Hansard arrived at the Cambridge Apartments at around noon. Mr. Ware and Mr. Miller met him outside and found that Co-defendant Hansard had Dallas Bellew with him. Mr. Ware told Co-defendant Hansard that he could get the "dope" for him, and Co-defendant Hansard said, "Bruh, I got a gun." Co-defendant Hansard gave Mr. Ware the \$1200 to purchase the drugs. Mr. Ware began knocking on the door of a random apartment, then he took off running, getting separated from Mr. Miller. He ran back to Mr. Miller's apartment where he and Mr. McGrotha divided up the money and began posting photographs of themselves with the cash on SnapChat.

Co-defendant Hansard began calling Mr. Ware inquiring about the money. Mr. Ware told him, "you ain't getting nothing until I can see my homeboy," referring to Mr. Miller who had still not returned. Co-defendant Hansard agreed and, shortly thereafter, Mr. Miller returned to the apartment. Co-defendant Hansard called again, asking to meet for a return of his money, to which Mr. Ware responded, "it's over with. You ain't getting nothing." and ended the phone call.

Mr. Ware testified that he contacted Ms. Matthews for a ride. Mr. McGrotha, separately, had arranged with Mr. West to buy some drugs. Ms. Matthews drove Mr. McGrotha, Mr. Ware and Mr. Miller to Mr. West's residence. Once there, Mr. McGrotha, Mr. Miller, and Mr. Ware exited the HHR and told Mr. West that they wanted to buy methamphetamine and heroin. Mr. Ware said that each of them gave Mr. West approximately \$200 for a total of \$600 to purchase the drugs. Mr. West instructed them to drive down to the gas station and then come back to meet him.

Mr. Ware went inside the gas station, bought two lottery tickets, a drink, a pack of cigarettes, a cigar, and paid for some gas. After pumping gas into the HHR, Ms. Matthews, Mr. Miller, Mr. McGrotha and Mr. Ware returned to Mr. West's residence and parked in the driveway. Mr. McGrotha exited the HHR and stood by the window talking with Mr. Ware while they waited for Mr. West to return. Suddenly, gunfire began, and glass shattered, hitting Mr. Ware's face. He tried to exit through the driver's side door, but, when he could not, he lay over Ms. Matthews. When the gunfire stopped, he helped Mr. Miller, who had been shot in the leg, out of the back seat. Mr. Ware found Mr. McGrotha, who had also been shot, on the ground outside the passenger side door of the HHR. Mr. Ware believed that Mr. McGrotha was dead.

Mr. Ware denied seeing the Cadillac arrive or any of the shooters. He said that he was surprised by the gunfire and then hid, so he was unable to see the shooters. He testified that no one in Ms. Matthew's car was armed.

About a week after the shooting, Mr. Ware was out with some friends when he noticed a man who kept looking at him. He approached the man and asked why he kept looking at Mr. Ware. The man told Mr. Ware that his name was "Sean" and that it was his money that Mr. Ware had stolen from Co-defendant Hansard. They had no further conversation, and Mr. Ware had not seen the man since that interaction. When asked, Mr. Ware did not see the man who identified himself as "Sean" in the courtroom.

Joseph Bellew, a co-defendant, testified that in October 2018, he smoked methamphetamine daily and that his friends did as well. Co-defendant Bellew knew Warren Cox, Co-defendant Hansard, and Mr. West. Through Mr. West, Co-defendant Bellew met the Defendant. His primary relationship with the Defendant consisted of buying drugs from the Defendant. Co-defendant Bellew stated that he bought quite a bit of methamphetamine from the Defendant for both personal use and resale. He said that the Defendant would sometimes "front" Co-defendant Bellew methamphetamine. He explained that this meant that the Defendant would give him methamphetamine and then allow a couple of days for Co-defendant Bellew to pay the Defendant for the drugs.

Co-defendant Bellew testified that in October 2018, the Defendant had fronted him some methamphetamine and, as a consequence, he owed the Defendant \$700 as of October 31, 2018. Co-defendant Bellew was concerned about the money he owed and called the Defendant to try to obtain more methamphetamine to sell. When the Defendant did not answer his phone, Co-defendant Hansard suggested they contact Mr. Ware to buy the drugs. Mr. Cox, Co-defendant Hansard, and Co-defendant Bellew each had approximately \$500. They planned to each contribute enough to spend approximately \$1000 on methamphetamine.

Co-defendant Hansard contacted Mr. Ware and arranged to buy methamphetamine. Co-defendant Hansard, Warren Cox, and Co-defendant Bellew left Sevier County at 7:30 or 8:00 a.m., driving in Co-defendant Bellew's maroon Cadillac to the Cambridge Apartments in Knoxville, Tennessee. Once there, they met Mr. Ware and Dalton Miller outside a building. The group exchanged small talk before Co-defendant Hansard gave the money for the drugs to Mr. Ware. Mr. Ware walked away, knocked on the door of one of the apartments, and then abruptly took off running. Mr. Miller remained behind with Co-defendant Hansard and Co-defendant Bellew. Mr. Miller acted confused about why Mr. Ware had run off. He explained that Mr. Ware had posted bond for Mr. Miller the night before. He asked the men if he could go with them since he had no place to stay given his recent incarceration.

Co-defendant Bellew and Co-defendant Hansard looked around the apartment complex for about ten minutes and then gave up. As they got back into the car, Mr. Miller tried to get in the back seat, again, asking to go with the men. Co-defendant Bellew told him no but agreed to take him to a nearby store.

After returning Mr. Miller to the apartment complex, Mr. Ware sent a text message to Co-defendant Hansard instructing them to meet Mr. Ware at the Pilot gas station located off Western Avenue. Mr. Ware claimed that he had fled because Co-defendant Hansard had chased him. Co-defendant Bellew, Co-defendant Hansard, and Warren Cox drove to the Pilot gas station and waited for Mr. Ware, but he never appeared.

Co-defendant Bellew testified that he drove to Mr. West's home in South Knoxville, arriving at around 10:00 a.m. Co-defendant Bellew told Mr. West that Mr. Ware had "robbed" him and that a portion of the money stolen was what he owed to the Defendant for drugs. Mr. West encouraged Co-defendant Bellew to tell the Defendant about the theft. Following Mr. West's advice, Co-defendant Bellew arranged to go to the Defendant's nearby home to tell him about the money.

Co-defendant Bellew testified that he and Warren Cox drove to the Defendant's residence while Co-defendant Hansard remained with Mr. West. Inside the Defendant's

residence were the Defendant, the Defendant's girlfriend, and Elijah Dozard. Co-defendant Bellew told the Defendant that Mr. Ware had "robbed" him, but that Mr. West would be there shortly with the stolen money. Co-defendant Bellew explained that, while he was still at Mr. West's residence, Mr. Ware, and Mr. McGrotha had called Mr. West wanting to buy drugs. The men surmised that the money they planned to use to buy drugs from Mr. West was the money Mr. Ware had stolen from Co-defendant Bellew and Co-defendant Hansard. Co-defendant Bellew confirmed that there were guns in the Defendant's residence. Co-defendant Hansard arrived at the Defendant's residence shortly before Mr. West.

Co-defendant Bellew explained that there was an arrangement for Mr. West to return the \$600 to the Defendant's residence and keep \$100 of the money as compensation for obtaining the stolen money from Mr. Ware. After receipt of the \$500, the Defendant said, "let's drive over there," referencing Mr. West's residence where Ms. Matthews, Mr. Ware, Mr. McGrotha, and Mr. Miller were waiting for Mr. West to return with the drugs. Co-defendant Hansard, Co-defendant Bellew, the Defendant, and Co-defendant Dozard got in the Cadillac and drove to Mr. West's residence to confront Mr. Ware. Co-defendant Bellew described the seating in the car as follows: Co-defendant Bellew drove, Co-defendant Hansard sat in the front passenger seat, Co-defendant Dozard sat behind the driver's seat and the Defendant sat in the rear passenger-side seat, behind Co-defendant Hansard. Mr. Cox stayed at the Defendant's residence at Co-defendant Hansard's instruction.

Co-defendant Bellew stated that he saw the Defendant with a gun during and after the shooting. He did not recall whether Co-defendant Dozard had a gun, but Co-defendant Bellew confirmed that Co-defendant Hansard had a gun and that he had a "22".

Co-defendant Bellew drove to Mr. West's residence and parked in the driveway. Co-defendant Bellew saw Mr. Ware seated in the front passenger seat and Mr. McGrotha leaning over the car door talking with Mr. Ware. Neither man had a weapon nor did they do "anything threatening." Co-defendant Bellew recalled that he opened his car door, put one foot out, and then heard gunfire, causing him to shut the door and duck. Co-defendant Bellew initially did not know who was shooting, but when he was able to look up, he saw Co-defendant Hansard "in front" shooting a gun. He then turned and saw the Defendant outside the back passenger door firing a gun. Co-defendant Dozard remained seated behind the driver's seat, never exiting the Cadillac. Co-defendant Bellew testified that he was scared and did not realize the men planned on firing guns. He put the Cadillac in drive to leave, and the Defendant and Co-defendant Hansard got back in the car before Co-defendant Bellew pulled out of the driveway.

Co-defendant Bellew reiterated that he did not know the shooting was going to occur; however, he acknowledged that the men drove to Mr. West's residence for a confrontation and that he was aware Co-defendant Hansard was armed. As they drove away, the Defendant instructed Co-defendant Bellew to take him to Stonewall Apartments where the Defendant's sister lived. At Stonewall Apartments, the Defendant and Co-defendant Dozard exited the Cadillac and entered an apartment.

After dropping the Defendant and Co-defendant Dozard off, Co-defendant Bellew drove to Kimberlin Heights where his friend, Tyler Clark, lived. He said that he wanted to get away from Co-defendant Hansard and the maroon Cadillac. Co-defendant Bellew arranged for Mr. Cox to meet him at Mr. Clark's residence to drive the Cadillac away. Co-defendant Bellew called and arranged for his wife to pick him up from Mr. Clark's residence. Mr. Cox and Co-defendant Hansard left in the Cadillac, and Co-defendant Bellew drove home with his wife. After his arrest in this matter, Co-defendant Bellew learned that the Cadillac had been painted at some point after Mr. Cox took the car from him.

Once Co-defendant Bellew arrived home, Mr. West, angry about his residence being shot up, began sending text messages threatening to shoot up Co-defendant Bellew's home. Co-defendant Bellew had two children and was fearful for their safety.

On November 3, 2018, the police questioned Co-defendant Bellew about his involvement and then later arrested and charged him for his role in the shooting. Co-defendant Bellew confirmed that the Defendant paid the \$100 to Mr. West to set up the confrontation.

On cross-examination, Co-defendant Bellew clarified that the Defendant did not pay Mr. West \$100 to set up the "confrontation" but gave him the money when he returned the money to the Defendant. He stated that Co-defendant Hansard had a gun when they first met with Mr. Ware and that Co-defendant Hansard was angry when Mr. Ware disappeared with the money. He recalled that Co-defendant Hansard kept threatening to shoot Mr. Ware, but Co-defendant Bellew dismissed the threat as angry ranting.

Co-defendant Bellew agreed that Mr. West remained at the Defendant's residence when he drove Co-defendant Hansard, the Defendant, and Co-defendant Dozard to Mr. West's residence to confront Mr. Ware. Co-defendant Bellew did not think Mr. West believed there was going to be gunfire because the defendants were going to his mother's residence where Mr. West also lived. Co-defendant Bellew reiterated that he was surprised when the gunfire began. He stated that no one had mentioned the use of guns while they were at the Defendant's residence before going to Mr. West's residence.

KCSO Detective Stephen Ballard responded to a call involving a shooting on Smith Lane with multiple victims. Upon arrival, Detective Ballard found Mr. McGrotha, with a gunshot wound to his head, lying on the ground by a Chevrolet HHR. First responders notified Detective Ballard that Mr. Miller had been transported to University of Tennessee hospital for a gunshot wound. He also learned that the suspect vehicle was a “reddish-colored” Cadillac. Detective Ballard walked to the rear of the residence where he spoke with Mr. Ware briefly. Next, he drove to the hospital to interview Mr. Miller. Mr. Miller had been admitted to the hospital for a gunshot wound to his leg. The State entered a death certificate for Dalton Miller showing that, at the time of trial, Mr. Miller was deceased. His death was not related to the October 31, 2018 shooting.

Detective Ballard spoke with Katrina West, the owner of the residence where the shooting occurred. She put Detective Ballard in contact with her son, Donte West, who agreed to speak with the detective. Based upon his conversation with Mr. West, Detective Ballard developed Co-defendant Bellew as a possible suspect.

No weapons were recovered at the crime scene; however, further interviews provided information that led to the recovery of a green 9mm Taurus handgun and a box of ammunition. Law enforcement recovered .40-caliber shell casings and 9mm shell casings at the crime scene, indicating to Detective Ballard that more than one shooter was involved. The detective received information indicating that Co-defendant Hansard was in possession of the 9mm handgun at the time of the shooting. Based upon the shell casings, Detective Ballard also determined that numerous rounds were fired during the shooting.

Law enforcement was unable to locate Co-defendant Hansard initially but interviewed Co-defendant Bellew, Mr. Cox, and Troy Bellew (Co-defendant Bellew’s brother) on November 3, 2018. On November 4, 2018, Sevier County Sheriff’s Office located Co-defendant Hansard, and he was interviewed at the Knox County Sheriff’s Office. At the time of the interview, Co-defendant Hansard wore a brown Carhartt jacket that was identical to the jacket described by witnesses as the jacket worn by the shooter.

KCSO Captain Steven Sanders¹ reported to the Smith Lane crime scene. Detectives processed the scene and gathered information. This information led law enforcement to meet with Donte West² in Sevier County. As more information was gathered, Co-

¹ At the time of the trial, Steven Sanders had been promoted to the rank of Captain; however, at the time of the offenses, he was serving as a lieutenant for major crimes in the detective division.

² The parties stipulated to the introduction of a Death Certificate for Donte West indicating he died on May 27, 2021. His death was not related to the events of October 31, 2018.

defendant Bellew was identified and located. Information gathered from the interview with Co-defendant Bellew led law enforcement to recover the maroon Cadillac and spray paint cans at a Sevier County address.

On November 29, 2018, law enforcement took two individuals into custody based upon information gathered from “tips”. At an apartment off Sevier Avenue, law enforcement took the Defendant and Co-defendant Dozard into custody. The officers were invited into the apartment where they located the Defendant and Co-defendant Dozard. Law enforcement also conducted a search of the apartment and found money and a 9mm Sig Sauer.

Law enforcement transported the Defendant and Co-defendant Dozard to the Knox County Sheriff’s Office where Captain Sanders interviewed the Defendant. The State played the interview with the Defendant for the jury. In the interview, the Defendant waived his rights and agreed to speak with the officers. The Defendant told the officers that Mr. West was at the Defendant’s residence and had “set up” for “them” to go talk to Mr. Ware and Mr. Miller. The Defendant explained that initially Co-defendant Bellew came to his trailer and disclosed that Mr. Ware had “robbed” him. Co-defendant Bellew informed the Defendant that the people who robbed him were at Mr. West’s residence and that Co-defendant Bellew “wanted to go fight them and get his money back.”

The Defendant described riding to Mr. West’s residence in Co-defendant Bellew’s maroon Cadillac. Co-defendant Bellew drove, Co-defendant Hansard sat in the front passenger seat, and Co-defendant Dozard and the Defendant sat in the back seat. The Defendant stated that he did not speak during the drive but that Co-defendant Bellew stated that he wanted to speak with Mr. Ware and try to get the money back. As soon as the car was parked at Mr. West’s, Co-defendant Hansard exited the vehicle and began shooting. The Defendant denied that he fired his gun but admitted that he had a silver Ruger .45 that he had placed beneath the front passenger seat. The Defendant stated that he no longer had the Ruger because his aunt had since stolen the Ruger from him and then sold it. He could not recall his aunt’s last name but explained that she was not his biological aunt. He stated that Co-defendant Dozard did not have a gun.

The Defendant told the officers that after the shooting, he told Co-defendant Bellew to drive him to his sister’s apartment. The Defendant’s sister declined to “be around” the Defendant and took him to a hotel. The Defendant agreed that he told his girlfriend about the incident, and she was angry at him for having gone with the men to Mr. West’s residence. The Defendant stated that Co-defendant Bellew had a gun at the time of the shooting but he did not know whether Co-defendant Bellew fired the gun. He described himself as shocked when the shooting occurred. He recalled that he screamed at Co-

defendant Hansard to stop and then he told Co-defendant Bellew to drive away. As the car pulled away, Co-defendant Hansard chased the car and jumped in.

The Defendant said that Co-defendant Hansard had two guns, “a black one and a green one.” When Co-defendant Hansard was outside of the vehicle shooting, the Defendant only saw the “black one.”

The Defendant then explained to the officers his relationship to Elijah Dozard. He said that he met Co-defendant Dozard through a family friend “right before all that happened.” Co-defendant Dozard had come to Tennessee from Illinois, and the Defendant and Dozard had been “chilling” and “kicking it” for two to three days “at best” before “everything happened.” The Defendant recounted the conversation at his trailer before they went to Mr. West’s residence. He said that Co-defendant Bellew asked him to go with Co-defendant Bellew to talk to Mr. Ware and try to get the remainder of the money back. The Defendant agreed to go and “have [Co-defendant Bellew’s] back” in case “anything like broke.” Upon hearing this arrangement Co-defendant Dozard did not want the Defendant to “go alone,” so he joined the men. Before the men left, the Defendant told his girlfriend that he was going to “try to get the money back” and she responded that he should not go, fearing “something” might happen.

During the interview, Captain Sanders clarified:

So [Co-defendant Dozard] knew that there was something gonna happen. He knew there was gonna be a fight, or the money or something. He knew about that and that’s why he was with you. He’s – I mean, you said that he wanted to go with you so you didn’t get jumped or beat up or . . .

And the Defendant responded “Yeah.” The Defendant consistently maintained throughout the interview that he did not fire a weapon. He identified Co-defendant Hansard as the only shooter.

KCSO Officer Traci Tassew worked in the forensics unit documenting and collecting evidence at crime scenes. At trial, she identified photographs and a video recording of the crime scene. At the crime scene, she photographed and collected numerous spent shell casings. Officer Tassew stated that she did not find any shell casings in or around the HHR.

The HHR was transported to a secure lot and processed on November 2, 2018. Law enforcement identified ten bullet holes in the exterior “plus the tire.” Officer Tassew confirmed that there was gunfire damage to the HHR’s windshield as well. An examination of the inside of the HHR revealed bullet defects and bullet fragments. The car was

processed for DNA evidence and the swabs were sent to the Tennessee Bureau of Investigation (“TBI”) for analysis.

On November 9, 2018, Officer Tassej participated in the processing of a Cadillac related to this case. Officer Tassej noted that it appeared that someone had attempted to “disguise” the Cadillac because “part of it” had been spray painted. She noted the Cadillac sustained no exterior bullet damage and, from the floorboard of the Cadillac, a live round of ammunition was recovered. Law enforcement found a shell casing “[u]nder the rear of the driver’s seat.” The Cadillac was processed for fingerprints and DNA and all swabs were sent to the TBI.

KCSO Officer Megan Clift, on November 1, 2018, collected from Detective Ballard a green and black Taurus G2C 9mm handgun, a magazine with six Luger 9mm rounds, and two Luger 9mm casings. She also collected a spray paint can. Some of the items collected were sent to the TBI for processing. From the medical examiner’s office, she also collected the deceased victim’s clothing worn at the time of the shooting. Later in November, Officer Clift collected a 9mm Sig Sauer that was subsequently sent to the TBI for testing.

TBI Agent Shelly Carmen, a forensic scientist firearms examiner, testified as an expert in firearms identification. Agent Carmen tested two different semi-automatic pistols recovered in this case, twenty-one cartridge cases, four fired bullets and some unfired cartridges recovered from the crime scene.

After test-firing from both semi-automatic pistols, Carmen determined that thirteen of the cartridge cases found at the scene were fired from the Taurus pistol. Six of the cartridge cases were not fired from either the Taurus pistol or the Sig Sauer pistol but were fired from the same weapon which was consistent with a Smith and Wesson pistol. She could not link the remaining two fired cartridge cases to either pistol or to the other group of cartridge cases that she believed were fired from a Smith & Wesson pistol. She stated that the remaining two cartridges were “inconclusive” as “[t]here was not enough information for [her] to go on.” As such, she concluded that the fired cartridge casings found at the crime scene were fired from at least two pistols.

Knox County Chief Medical Examiner Darinka Mileusnic-Polchan testified as an expert witness in forensic pathology. Dr. Mileusnic-Polchan conducted the forensic autopsy on the victim. She testified that the victim died of a single, perforating gunshot wound to the head and the manner of death was homicide.

After hearing this evidence, the jury convicted the Defendant of one count of first degree premeditated murder and three counts of attempted first degree murder. The trial court sentenced the Defendant to life in prison for the first degree premeditated murder of

Bryson McGrotha and to twenty-five years for each of the remaining convictions. The trial court ordered all sentences to run concurrently with each other. It is from these judgments that the Defendant appeals.

II. Analysis

The Defendant's sole issue on appeal is a challenge to the sufficiency of the evidence. The Defendant concedes that the evidence supports his presence at the crime scene and that he fired a gun there; however, he contends that the evidence is insufficient to prove that he "premeditated and intended to kill anyone." The State responds that there was sufficient evidence to support the Defendant's convictions for first degree premeditated murder and attempted first degree premeditated murder.

When an accused challenges the sufficiency of the evidence, this court's standard of review is whether, after considering the evidence in the light most favorable to the State, "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, 319 (1979); see *Tenn. R. App. P. 13(e)*; *State v. Goodwin*, 143 S.W.3d 771, 775 (Tenn. 2004) (citing *State v. Reid*, 91 S.W.3d 247, 276 (Tenn. 2002)). This standard applies to findings of guilt based upon direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *State v. Pendergrass*, 13 S.W.3d 389, 392-93 (Tenn. Crim. App. 1999) (citing *State v. Dykes*, 803 S.W.2d 250, 253 (Tenn. Crim. App. 1990)). In the absence of direct evidence, a criminal offense may be established exclusively by circumstantial evidence. *Duchac v. State*, 505 S.W.2d 237, 241 (Tenn. 1973). "The jury decides the weight to be given to circumstantial evidence, and '[t]he inferences to be drawn from such evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence, are questions primarily for the jury.'" *State v. Rice*, 184 S.W.3d 646, 662 (Tenn. 2006) (quoting *Marable v. State*, 313 S.W.2d 451, 457 (Tenn. 1958)). "The standard of review [for sufficiency of the evidence] 'is the same whether the conviction is based upon direct or circumstantial evidence.'" *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011) (quoting *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009)).

In determining the sufficiency of the evidence, this court should not re-weigh or reevaluate the evidence. *State v. Matthews*, 805 S.W.2d 776, 779 (Tenn. Crim. App. 1990). Nor may this court substitute its inferences for those drawn by the trier of fact from the evidence. *State v. Buggs*, 995 S.W.2d 102, 105 (Tenn. 1999) (citing *Liakas v. State*, 286 S.W.2d 856, 859 (Tenn. 1956)). "Questions concerning the credibility of witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact." *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997). "A guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of the State."

State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973). The Tennessee Supreme Court stated the rationale for this rule:

This well-settled rule rests on a sound foundation. The trial judge and the jury see the witnesses face to face, hear their testimony and observe their demeanor on the stand. Thus the trial judge and jury are the primary instrumentality of justice to determine the weight and credibility to be given to the testimony of witnesses. In the trial forum alone is there human atmosphere and the totality of the evidence cannot be reproduced with a written record in this Court.

Bolin v. State, 405 S.W.2d 768, 771 (Tenn. 1966) (citing *Carroll v. State*, 370 S.W.2d 523, 527 (Tenn. 1963)). This court must afford the State of Tennessee the ““strongest legitimate view of the evidence”” contained in the record, as well as ““all reasonable and legitimate inferences”” that may be drawn from the evidence. *Goodwin*, 143 S.W.3d at 775 (quoting *State v. Smith*, 24 S.W.3d 274, 279 (Tenn. 2000)). Because a verdict of guilt against a defendant removes the presumption of innocence and raises a presumption of guilt, the convicted criminal defendant bears the burden of showing that the evidence was legally insufficient to sustain a guilty verdict. *State v. Carruthers*, 35 S.W.3d 516, 557-58 (Tenn. 2000) (citations omitted).

First degree murder is defined as a “premeditated and intentional killing of another.” T.C.A. § 39-13-202(a)(1) (2018). Premeditation refers to “an act done after the exercise of reflection and judgment.” T.C.A. § 39-13-202(d) (2018). Whether the defendant premeditated the killing is for the jury to decide, and the jury may look at the circumstances of the killing to decide that issue. *Bland*, 958 S.W.2d at 660. The Tennessee Code states that, while “the intent to kill must have been formed prior to the act itself,” that purpose need not “pre-exist in the mind of the accused for any definite period of time” for a defendant to have premeditated the killing. T.C.A. § 39-13-202(d) (2018).

The following factors have been accepted as actions that demonstrate the existence of premeditation: the use of a deadly weapon upon an unarmed victim, the particular cruelty of the killing, declarations by the defendant of an intent to kill, evidence of procurement of a weapon, preparations before the killing for concealment of the crime, and calmness immediately after the killing. *Bland*, 958 S.W.2d at 660. In addition, a jury may consider destruction or sequestration of evidence of the murder and “the planning activities by the appellant prior to the killing, the appellant’s prior relationship with the victim, and the nature of the killing.” *State v. Nichols*, 24 S.W.3d 297, 302 (Tenn. 2000); *State v. Halake*, 102 S.W.3d 661, 668 (Tenn. Crim. App. 2001) (citing *State v. Gentry*, 881 S.W.2d 1, 4-5 (Tenn. Crim. App. 1993)). Also, “[e]stablishment of a motive for the killing is a factor

from which the jury may infer premeditation.” *State v. Leach*, 148 S.W.3d 42, 54 (Tenn. 2004).

A conviction for attempted first degree premeditated murder requires proof that the defendant intended to kill the victim “after the exercise of reflection and judgment” and either intentionally engaged in the conduct constituting the offense, believed the conduct would cause the intended result without further conduct, or the conduct constitutes a substantial step toward the commission of the offense. T.C.A. § 39-13-202(d); see T.C.A. § 39-12-202(a)(1) and § 39-12-101.

The evidence, in the light most favorable to the State, showed that the Defendant was a drug dealer who “fronted” Co-defendant Bellew methamphetamine in October 2018. Co-defendant Bellew used some of the drugs for personal use and some for resale. In an attempt to make payment to the Defendant for the “fronted” drugs, Co-defendant Bellew planned to purchase more drugs in order to sell them and pay back the money he owed the Defendant. Co-defendant Bellew tried to contact the Defendant to obtain more drugs. When he could not reach the Defendant, Co-defendant Hansard arranged to buy methamphetamine from Mr. Ware instead. Mr. Ware had no intention of selling Co-defendant Bellew and Co-defendant Hansard the drugs but planned to steal from them instead. After Mr. Ware took the money and he fled with it, Co-defendant Bellew contacted Mr. West seeking help. Mr. West instructed Co-defendant Bellew to tell the Defendant what had occurred.

During the time that Co-defendant Bellew was at Mr. West’s residence, Mr. McGrotha contacted Mr. West to arrange to buy drugs. Co-defendant Bellew left Mr. West’s residence and went to the Defendant’s residence. He explained to the Defendant that he had been robbed by Mr. Ware but assured the Defendant that Mr. West would be there shortly with the stolen money. Mr. West took money from Mr. Ware, Mr. McGrotha, and Mr. Miller under the pretense of obtaining drugs for them. He then delivered the cash to the Defendant. After receiving \$500 of the money owed, the Defendant, who was armed, decided to confront Mr. Ware, who was at Mr. West’s residence waiting for Mr. West to return with drugs. Co-defendant Bellew drove Co-defendant Hansard, the Defendant, and Co-defendant Dozard to Mr. West’s residence, where Co-defendant Hansard and the Defendant opened fire on Mr. Ware, Mr. McGrotha, Mr. Miller, and Ms. Matthews, killing Mr. McGrotha and injuring Mr. Miller.

Concerning the Defendant’s challenge to the of elements premeditation and intention, the evidence showed that the Defendant procured a weapon, used the deadly weapon upon unarmed victims, and disposed of his deadly weapon following the shooting. The evidence also established a motive for the shooting. A rational trier of fact could have found beyond a reasonable doubt that the Defendant acted with premeditation and

intentionally when he armed himself to confront the victims who had stolen money from him and then fired numerous times at the unarmed victims, later disposing of the weapon.

Accordingly, we conclude that there is sufficient proof that the Defendant killed Mr. McGrotha, and attempted to kill Mr. Ware, Mr. Miller, and Ms. Matthews with premeditation and intentionally when he admitted that he took a gun with him to confront the victims who had stolen his money, got rid of the gun after the shooting, and the victims were unarmed. The Defendant is not entitled to relief.

II. Conclusion

In accordance with the aforementioned reasoning and authorities, we affirm the trial court's judgments.

ROBERT W. WEDEMEYER, JUDGE