

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs July 11, 2023

FILED

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Clerk of the
Appellate Courts

STATE OF TENNESSEE v. JERRY RAY MULLINS

Appeal from the Circuit Court for Chester County
No. 20-CR-43 Donald H. Allen, Judge

No. W2022-01363-CCA-R3-CD

The Chester County Grand Jury indicted Defendant, Jerry Ray Mullins, for the first-degree murder of the victim, Samantha Melendez. Following a jury trial, he was convicted of the lesser-included offense of second degree murder. The trial court imposed a twenty-two-year sentence to be served in the Department of Correction. On appeal, Defendant argues that the evidence is insufficient to sustain his conviction because he acted in self-defense when he shot the victim twice in the head. Following our review of the entire record and the parties' briefs, we affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

JILL BARTEE AYERS, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN, P.J., AND ROBERT W. WEDEMEYER, J., joined.

Daniel J. Taylor, Jackson, Tennessee, for the appellant, Jerry Ray Mullins.

Jonathan Skrmetti, Attorney General and Reporter; Jonathan H. Wardle, Senior Assistant Attorney General; Jody Pickens, District Attorney General; and Joshua B. Dougan, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural Background

State's Proof

At approximately 3:06 p.m. on October 14, 2019, Defendant called 911 and reported that the victim, his fiancée, had stabbed him with a knife and razor blade. He initially said that she stabbed him two times but later in the call said that it was four or five times. He then changed it to seven or eight times. Defendant also said that the victim pulled a knife on him and that he shot “the bitch” in self-defense. He described the weapon as a “regular knife” and a “box blade.” Defendant told the dispatcher that he was “pouring blood” from his right side. He also asserted that the victim was under a “federal indictment” for attempting to kill her daughter and that she was drunk but was not allowed to have alcohol due to a DUI conviction. The recording of the 911 call was played for the jury at trial.

Deputy Kyle Cupples of the Chester County Sheriff’s Office (“CCSO”) was dispatched to the scene and encountered Defendant outside the residence. Defendant was lying on the ground beside the house with his head propped up on a tire. He had a cell phone in his left hand, his shirt was open, and Deputy Cupples noticed several “cut marks” to his stomach area. When Deputy Cupples instructed Defendant to drop the phone, Defendant said that he had shot the victim and that she was in the hallway inside the house. Deputy Cupples noticed that Defendant’s speech was “a little slurred,” and he could smell “a little bit of an alcoholic beverage coming off [Defendant’s] person.” Deputy Jordan Phelps, who had also arrived on the scene, noted that Defendant “appeared to be very intoxicated” and had to be assisted. Deputy Cupples detained Defendant and placed him in the back of his patrol car for safety reasons and to secure the area. Defendant said that the gun, a Smith and Wesson Walther P22 pistol, was in his vehicle where it was later recovered by Investigator Jason Walker. Defendant also said that both he and the victim had been drinking that day.

Deputy Cupples, along with Deputy Phelps, entered the back door of the residence and located the victim at the end of the hallway, and “she was down on her knees, and she was crouched over with her head almost touching the floor, kind of similar as in the fetal position.” She was also making “gurgling noises.” Deputy Cupples saw a gray box blade cutter in the victim’s right hand, and he removed it from her hand and slid it down the hallway with his foot. The victim appeared to have a gunshot wound to her forehead that was bulging and bleeding heavily. Sergeant Cody Cloud of the CCSO arrived, and he and the other deputies began administering medical aid to the victim until EMS personnel arrived. The victim died at the scene.

John Burke, an advanced EMT with West Tennessee Healthcare Medical Center EMS, was asked to evaluate Defendant who was in the back of the patrol car complaining of chest pain. Defendant also said that he had been cut several times. Mr. Burke looked at Defendant’s wounds and described them as “very superficial” and not actively bleeding. He saw some dried blood on Defendant. Because Defendant was complaining of chest pains, it was recommended that he be transported to the hospital.

Investigator Justin Denbow of the CCSO was dispatched to the scene and photographed Defendant's injuries in the ambulance before he was taken from the scene. It was Investigator Denbow's opinion that the injuries "appeared to be superficial, very shallow cuts, wasn't very deep at all, almost more a of scratch-like." He said that Defendant told him that the victim cut him, and he shot her. Investigator Denbow also taped bags on each of Defendant's hands to preserve evidence for gunshot residue ("GSR") tests to be performed later. Defendant told him that there was nothing on his right hand "because he is lefthanded and that's the hand he used." Deputy Phelps accompanied Defendant to the Jackson-Madison County General Hospital in the ambulance and collected Defendant's clothing and other items after they arrived.

Investigator Denbow also collected evidence and photographed the scene. In addition to the box cutter in the hallway with the blade open, he found an orange and black pocketknife in some soapy water in the kitchen sink. Investigator Denbow found one spent .22-caliber shell casing on the bathroom floor "just off the hallway" and another at the back of the hallway near a pair of boots. He also located bullet fragments on the kitchen floor under some shelving in the corner of the kitchen.

An autopsy was performed on the victim. Dr. Katrina Van Pelt determined that the victim had two gunshot wounds to her head and some blunt force injuries, including contusions, on her body. According to Dr. Van Pelt, one gunshot was a contact wound with the muzzle of the gun contacting the victim's right eyebrow. She said that the shot entered the right side of the victim's eyebrow and exited above the middle of the eyebrow "kind of on the forehead" and that it was "probably going more front to back." It was Dr. Van Pelt's opinion that this gunshot wound would not have resulted in death if the victim had received immediate care. However, it would have caused significant bleeding and that someone with this type of injury is usually in pain, stunned or dazed and confused and "just kind of drop[s] down." Dr. Van Pelt determined that the second gunshot struck the left side of the victim's head near the "temple region." It was fired at close range and left stippling marks. The bullet lodged in the victim's brain and was recovered by Dr. Van Pelt. She determined that this shot would have immediately incapacitated the victim and rendered her brain dead. Dr. Van Pelt described the wound as "very quickly lethal." However, the victim may have continued breathing for a small amount of time. Dr. Van Pelt found bruises on the victim's left and right arms, left thigh, left and right shins, right forearm and hand. Additionally, one of her toenails was missing, and there was blood around that area. The victim's blood alcohol concentration was 0.236 percent.

Investigator Seth Preslar of the CCSO testified that he performed a GSR test on Defendant's hands at the sheriff's office on the night of October 14, 2019. Defendant told Investigator Preslar that he and the victim were involved in a verbal argument, and he left

the residence to go fishing. However, he returned to turn off the lights or “anything else that he may have left on,” and the victim came out of a bedroom on the back-left corner of the hallway and began to “swipe” at him with a box cutter. Defendant told Investigator Preslar that he began pushing the victim away from him while she continued to “swipe” at him with the box cutter. Investigator Preslar testified:

[Defendant] advised that [the victim] slipped and began crawling towards him while continually swiping at him with the razor blade. He advised that he was forced up between a door opening at that bathroom and the hallway, and he advised that she continually swiped at him. I’m saying “swiped” because he was using that term. Swiped at him with the razor blade.

[Defendant] advised that due to this, he was unable to get away from her, and he drew his firearm with his left hand and shot [the victim] one time.

Defendant told Investigator Preslar that the victim fell to the ground and continued toward him, that he shot her a second time and that he fired both shots with his left hand. Investigator Preslar noticed that Defendant was wearing two rings on his left finger and asked if Defendant had recently married. Defendant said that he and the victim had just gotten engaged. Investigator Preslar was unable to verify Defendant’s claim made during the 911 call that the victim was under federal indictment.

Defendant requested that Investigator Preslar drive him home later that night. When they arrived at the house, Investigator Preslar asked to go inside, and he also asked if Defendant would reenact the events leading up to the shooting. Defendant reenacted the events that he had recited to Investigator Preslar earlier. He claimed that he was backed up against the doorframe and had nowhere else to go when he shot the victim. Defendant indicated that he was facing the end of the hallway, and she was facing the living room at the time the shooting occurred. Investigator Preslar observed a “projectile hole” in the living room wall that went through the kitchen wall. He walked into the kitchen and saw a hole coming out of the same wall and “fragments of that wall were on the tabletop below the projectile hole.” Investigator Preslar also noticed damage to a kitchen cabinet across the room. He located a shell casing in the hallway near a pair of boots.

Investigator Preslar later obtained video surveillance from Ogden’s Liquor Store in the City of Henderson showing that Defendant went there and purchased bottles of liquor on October 14, 2019. Investigator Preslar agreed that during the 911 call, Defendant said that the victim had been drinking alcohol the day of the shooting and that she was not supposed to be drinking alcohol.

Defendant agreed to talk with investigators the following day, October 15, 2019, and allow them back inside his house. Investigator Preslar took more photographs and asked Defendant additional questions. He noted that ballistics testing and bullet trajectory analysis were performed at the residence on two different days.

Special Agent Celinda Davidson and Special Agent Mike Parson of the Tennessee Bureau of Investigation (“TBI”) interviewed Defendant at approximately 9:38 p.m. on October 14, 2019. Special Agent Davidson testified that Defendant was more concerned about his wounds and other topics than the victim. She did not detect an odor of alcohol at the time or notice anything to indicate that Defendant was intoxicated.

During the interview, Defendant said that he and the victim had been fishing on the day of the shooting and drinking alcohol. When they arrived back home, Defendant said that the victim went to the bathroom, and he went into the bedroom. He claimed that he walked out of the bedroom and was facing the living room when she pushed him into the bedroom and attacked him with a knife. He also described the weapon as a razor blade and a box cutter. Defendant told the agents that he could not escape from the hallway because his back was up against the bathroom doorframe and that he fired at an angle toward the end of the hallway away from the living room. Defendant said that he was facing the end of the hallway when he shot the victim.

Special Agent Davidson obtained a video of the victim at a Dollar General Store on the day of the shooting, and she obtained a second video of Defendant at Oden’s Liquor Store that day. That video of Defendant at the liquor store and the one obtained earlier by Investigator Preslar showed that Defendant purchased a total of nine bottles of liquor. The videos verified Defendant’s statement that he and the victim went to the liquor store twice and to the Dollar General on the day of the shooting.

Special Agent Davidson testified that she and Investigator Preslar interviewed Defendant again on October 25, 2019. During that interview, Defendant said that he went to sleep in the recliner after he and the victim arrived home from fishing, and she was looking at his phone, because she always looked through it. Defendant told the investigators that he got up from the recliner to go to the bathroom and met the victim in the hallway. He claimed that she shoved him into the first bedroom on the left, and there was no weapon in her hand at the time. Defendant told the investigators that due to severe neuropathy, he went down to the ground when the victim shoved him. He said that they again met in the hallway after she went into another bedroom and came out with the box cutter. Defendant said that he was at first facing the hallway and did not recall if he got spun up against the wall. Special Agent Davidson testified that Defendant did not respond when asked if he was backing up while still looking at the victim or if he tried to run away. He could not remember if he tried to leave the hallway, and he did not know which side of

the hallway he was on or where he was standing at that time he shot the victim. Special Agent Davidson testified that Defendant thought he shot the victim twice, but he did not know. He said that he was standing in the same spot when he fired both shots.

Investigator Davidson agreed that during both interviews, Defendant said that the victim was trying to cut him, and he shot her in self-defense. He said that the altercation with her occurred because she wanted more liquor.

Special Agent Michael Parson of the TBI testified that during the first interview with Defendant on October 14, 2019, Defendant showed no emotion toward the victim and did not ask anything about her or her family. Special Agent Parson testified that Defendant never indicated that he attempted to aid the victim after he shot her. He said that Defendant was adamant that he shot down the hallway toward bedrooms two and three, but he was not sure where he and the victim were both standing. Defendant felt that his back was against the doorway, and he could not move. Special Agent Parson noted that Defendant was left-handed and shot the victim above her left ear as they were facing each other. He said that Defendant indicated the victim might have initially fallen, but she continued coming toward him as she was getting up and trying to cut him. Defendant also said that after he shot the victim the first time, she went down to a knee, but she was still trying to cut him, so he shot her a second time. Defendant demonstrated how the shooting occurred. Special Agent Parson testified that Defendant's injuries raised "red flags" to him because they were not significant.

Special Agent Parson interviewed Defendant a second time on October 15, 2019, due to "red flags" raised during the first interview. He noted that Defendant said that he was facing down the hallway when he shot the victim; however, the bullet traveled in an opposite path from where Defendant said that he fired the shot. Special Agent Parson noted that there was a hole in the wall that went through to the living room, and the bullet fragment was recovered from the kitchen. Special Agent Parson acknowledged Dr. Van Pelt's testimony that the bullet could have ricocheted or bounced when it struck the victim's skull.

Chief Deputy Mark Griffin of the CCSO testified that he interviewed Defendant on October 29, 2019. In the interview, Chief Deputy Griffin questioned Defendant's story of how he got cut. Defendant denied cutting himself and said that there was always a "razor blade" in one of the bedrooms. Defendant told him that the victim came out with a "razor" and cut him, and he shot her. Chief Deputy Griffin testified that Defendant was unsure if he was against the wall or doorway but felt that he could not move. He said that Defendant demonstrated how he was in close contact with the victim.

Elizabeth Fortin, an expert in forensic biology and former employee of the TBI Forensic Biology Unit, testified that she tested the swabs collected from the box cutter and the knife from the kitchen sink. The knife did not indicate a sufficient amount of human DNA for analysis. Ms. Fortin tested three areas on the box cutter. A stain near the case of the handle was consistent with the victim's DNA. An area on the edge of the blade was consistent with Defendant's DNA. The handle and silver button on the box cutter had a DNA profile from a mixture of at least three individuals, including at least one male. The major contributor of the DNA matched that of the victim, and the minor contributor profile was inconclusive.

Special Agent Brooke Duke of the TBI Crime Lab testified as an expert in the field of microanalysis. She conducted a "fiber analysis and comparison" on the box cutter and knife from the kitchen sink with Defendant's gray long-sleeved shirt and white t-shirt for possible fiber transfers. Special Agent Duke found white cotton fibers on the box cutter that were consistent with the t-shirt, but she did not find any gray fibers consistent with the long-sleeved shirt. She did not find any fibers on the knife.

Special Agent Brock Sain of the TBI testified as a firearms examiner. He was asked to perform a "bullet path or trajectory analysis" at the scene, and he prepared a diagram reflecting his analysis of the scene and a report. Special Agent Sain found a hole in the kitchen wall "that went completely through that wall on the other side in the kitchen, where the hole or the projectile ["bullet"] had passed through, and on the wall, there were some cabinets, and there was a point of a defect in that cabinet on the wall in the kitchen." He placed a trajectory rod into the hole and was able to determine the direction of the bullet path and where it terminated. Special Agent Sain could not say where the firearm was located when the bullet was fired. He did state that the direction can be changed when the bullet passes through or comes into contact with an object. He testified that hard objects, walls, a ricochet, floor, or any number of objects can alter the direction of a bullet. He admitted that a human body can change the trajectory. Special Agent Sain testified that the bullet originated in the area near the bathroom and hallway.

Dr. Michael Revelle worked as an emergency room physician at West Tennessee Healthcare, a medical examiner for Haywood and Hardeman Counties, and a flight physician for Air Evac. He testified as an expert in the field of trauma and emergency medicine. At the time of the shooting, he was a TBI consultant and reviewed the photographs of Defendant's injuries. It was his opinion that Defendant's wounds appeared to be "very superficial" and consistent with wounds he had seen in the past that were self-inflicted. Dr. Revelle testified that he expected deeper wounds to start superficial, become deeper, and come back shallow and not be superficial all the way down. He said that most of the time self-inflicted wounds have hesitation marks and are very superficial.

Dr. Revelle further testified that self-inflicted wounds are most often on the opposite side of the dominate hand, and he noted that Defendant was left-handed. He said that it would be difficult to “cut a shirt as cleanly” as Defendant’s shirt was cut, which was inconsistent with Defendant’s story of being attacked at different angles each time. Dr. Revelle saw nothing to indicate that Defendant tried to defend himself.

On cross-examination, Dr. Revelle admitted that some of the cuts on Defendant were longer, and some were shorter, which could have been the result of cutting by a person at a lower angle, such as going down on their knees. He further admitted that it was possible that Defendant was leaning over when he was cut, and the box cutter may not have made contact with his skin until it got to a lower area. Dr. Revelle agreed that an intoxicated person may have less sensation of pain which might explain why Defendant did not move or react quickly. He agreed that the victim’s DNA being found on the box cutter could be consistent with her wielding it, and he could not completely rule out her use of the box cutter.

On redirect examination, Dr. Revelle testified that it was his expert opinion that Defendant’s wounds most likely did not occur as he described and were most likely self-inflicted. He said that it was unusual not to see defensive wounds if a victim is awake and alert. He also said that assault wounds always vary in depth and places, along with defensive wounds, and it was unusual for the wounds in this case to follow the curves of Defendant’s abdomen. Dr. Revelle testified:

. . .showing the pictures and having been assaulted two separate occasions, you know, moments apart potentially but to not have any other wounds or defensive wounds and for someone who was both intoxicated and potentially moving around as - - as I was asked on cross examining for those wounds to still be in the same general area is alarming.

Defendant’s Proof

Dr. John Hunsaker, professor emeritus and former Associate Chief Medical Examiner for the Commonwealth of Kentucky who now works in the Department of Pathology at the University of Kentucky College of Medicine, testified as an expert in the field of forensic pathology and manner and cause of death. He reviewed photographs of Defendant’s injuries and was present during court proceedings to listen to the testimony. It was his opinion that there was no medical or scientific evidence as to whether Defendant’s injuries were self-inflicted or inflicted by someone else. It was also Dr. Hunsaker’s opinion that Dr. Revelle mischaracterized the nature of Defendant’s wounds by referencing the abrasions and lacerations on the right side of Defendant’s torso. He

testified that the wounds were blunt force injuries, and the wounds on Defendant's skin on his torso were sharp force injuries and specifically, incised wounds.

Dr. Hunsaker disagreed with the conclusion that Defendant's wounds were self-inflicted because Defendant was left-handed, and that would not be the only possibility of how the wounds got there. He said that if Defendant cut himself, it was with his right hand. Dr. Hunsaker testified that it was not his experience that self-inflicted wounds are more often very superficial. He noted that force and the sharpness of the blade can determine how deep the blade goes and that some blades are very dull and cause little damage. Dr. Hunsaker testified that he could not state whether Defendant or the victim inflicted the wounds and that Defendant's version of events could be true.

Dr. Hunsaker testified that the amount of alcohol consumed by both Defendant and the victim would cause a person to have a slower action time and be less sensitive to pain. He said that it was possible for the box cutter to have first cut Defendant's shirts without cutting his skin. Dr. Hunsaker opined that it could not be said with any degree of medical certainty that Defendant's wounds were self-inflicted, and he viewed the wounds as "undetermined." He agreed with Dr. Van Pelt's testimony that the bullet could have struck the victim's skull and ricocheted to change the bullet's path. Dr. Hunsaker testified that he did not feel that the absence of defensive wounds on Defendant meant that Defendant's story was untrue. He said that it was possible for Defendant to have pushed the victim away and not have any defensive wounds.

On cross-examination, Dr. Hunsaker testified that due to Defendant's intoxication, Defendant may not have felt being cut. He agreed that Defendant was able to pull his gun out and shoot the victim. Dr. Hunsaker testified that the lack of defensive wounds was reasonable.

ANALYSIS

Defendant contends that the evidence was insufficient to support his conviction for second degree murder because he acted in self-defense at the time of the shooting. The State responds that the evidence presented was sufficient to sustain Defendant's conviction.

"Because a verdict of guilt removes the presumption of innocence and raises a presumption of guilt, the criminal defendant bears the burden on appeal of showing that the evidence was legally insufficient to sustain a guilty verdict." *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009) (citing *State v. Evans*, 838 S.W.2d 185, 191 (Tenn. 1992)). "Appellate courts evaluating the sufficiency of the convicting evidence must determine 'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a

reasonable doubt.” *State v. Wagner*, 382 S.W.3d 289, 297 (Tenn. 2012) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)); see Tenn. R. App. P. 13(e). When this court evaluates the sufficiency of the evidence on appeal, the State is entitled to the strongest legitimate view of the evidence and all reasonable inferences that may be drawn from that evidence. *State v. Davis*, 354 S.W.3d 718, 729 (Tenn. 2011) (citing *State v. Majors*, 318 S.W.3d 850, 857 (Tenn. 2010)).

Guilt may be found beyond a reasonable doubt where there is direct evidence, circumstantial evidence, or a combination of the two. *State v. Sutton*, 166 S.W.3d 686, 691 (Tenn. 2005); *State v. Hall*, 976 S.W.2d 121, 140 (Tenn. 1998). 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 *Hanson*, 279 S.W.3d at 275). The jury as the trier of fact must evaluate the credibility of the witnesses, determine the weight given to witnesses’ testimony, and reconcile all conflicts in the evidence. *State v. Campbell*, 245 S.W.3d 331, 335 (Tenn. 2008) (citing *Byrge v. State*, 575 S.W.2d 292, 295 (Tenn. Crim. App. 1978)). Moreover, the jury determines the weight to be given to circumstantial evidence, the inferences to be drawn from this evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence. *Dorantes*, 331 S.W.3d at 379 (citing *State v. Rice*, 184 S.W.3d 646, 662 (Tenn. 2006)). When considering the sufficiency of the evidence, this court “neither re-weighs the evidence nor substitutes its inferences for those drawn by the jury.” *Wagner*, 382 S.W.3d at 297 (citing *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997)).

Second degree murder is a knowing killing of another. T.C.A. § 39-13-210(a)(1). A “person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result.” *Id.* § 39-11-302(b).

A self-defense instruction was given in this case. In Tennessee, a person who is not engaged in unlawful activity may use deadly force in self-defense when that person has a reasonable belief, based upon reasonable grounds, that there is an imminent, real danger of death or serious bodily injury. *Id.* § 39-11-611(b)(2). If the person was engaged in unlawful activity, there is a duty to retreat before using deadly force. See *State v. Perrier*, 536 S.W.3d 388, 394-401 (Tenn. 2017). It is well established under Tennessee law, “that whether an individual acted in self-defense is a factual determination to be made by the jury as the sole trier of fact.” *State v. Goode*, 956 S.W.2d 521, 527 (Tenn. Crim. App. 1997) (citing *State v. Ivy*, 868 S.W.2d 724, 727 (Tenn. Crim. App. 1993)).

We conclude that the evidence viewed in the light most favorable to the State proves that Defendant knowingly killed the victim. Defendant admitted to shooting the victim in the head two times, on opposite sides, at close range. One of the gunshot wounds was a

contact wound with the muzzle of the gun contacting the victim's right eyebrow. At no time did Defendant attempt to render aid to the victim after shooting her, and she died from her wounds. As argued by the State, this evidence is sufficient to sustain Defendant's conviction. See *State v. Watkins*, 648 S.W.3d 235, 256 (Tenn. Crim. App. 2021) (a defendant's second degree murder affirmed where "the evidence show[ed] that the Defendant approached the victim and shot him in the head at close range" and [t]he act of shooting someone in the head at intermediate range is reasonably certain to cause the result of death").

Although Defendant argues that he acted in self-defense when he shot the victim twice in the head, the jury, as was its prerogative, rejected Defendant's claim. *State v. Meade*, 942 S.W.2d 561, 564 (Tenn. Crim. App. 1996). Defendant asserted during the 911 call that the victim had stabbed him with a knife or razor blade. He initially said that she stabbed him two times but later in the call said that it was four or five times and then seven or eight times. He described the weapon as a "regular knife" and a "box blade." Defendant told the dispatcher that he was "pouring blood" from his right side. However, when officers arrived at the scene, they saw Defendant outside with superficial wounds to his chest and abdomen that appeared to have been self-inflicted, and there was a box cutter in the deceased victim's hand. The jury obviously accredited the testimony of the State's expert, Dr. Revelle, that in his opinion, Defendant's wounds appeared to be "very superficial" and most likely self-inflicted. There was also a lack of defensive wounds on Defendant's hands. Additionally, Defendant's version of events changed each time that he spoke with investigators, and contradicted the bullet trajectory. There was no evidence to show that Defendant faced an imminent, real danger of death or serious bodily injury so as to justify his use of deadly force against the victim given the "very superficial" scratches on his chest and abdomen, the fact that the victim was intoxicated, and Defendant's claim that the victim slipped before he shot her and was crawling toward him with a box cutter. We conclude that a rational jury could have determined beyond a reasonable doubt that Defendant knowingly killed the victim. Therefore, the evidence is sufficient to support Defendant's second degree murder conviction, and he is not entitled to relief on this issue.

CONCLUSION

Based on the foregoing analysis, we affirm the judgment of the trial court.

JILL BARTEE AYERS, JUDGE