

Jerome Herrod, Sr. appeals his conviction of murder.¹ Herrod questions whether the State provided sufficient evidence he acted knowingly or intentionally.

We affirm.

FACTS AND PROCEDURAL HISTORY

On October 21, 2006, Herrod was visiting his sister, Debra Herrod, at the Delaney Projects in Gary. Herrod sat on a porch and began drinking with several men including Nathaniel Herrod, Maurice Herrod, LaRoy Griffin, Shedrick Worthey, Jr., and “Peter Rabbit” (real name unknown). Griffin grabbed Herrod and said he could “take him.” (Tr. at 324.) Herrod threw Griffin to the ground. “Peter Rabbit” stood up and said “that’s fam” to Herrod, pulled a gun out of his waistband, and struck Herrod in the face with it. (*Id.*) There are discrepancies on the record as to whether the gun discharged, but Herrod was injured. He drove to a friend’s house where he picked up an AK-47 and put on a bulletproof vest.

Herrod returned to the Delaney Projects. He parked a block away and headed toward the porch through a gangway. Herrod began yelling and shooting as he approached the porch. Worthey was on the porch with Kash Edwards and several other people. Herrod shot into the air an unknown number of times, paused, then shot three times in the direction of Worthey. Worthey was struck twice: one bullet grazed the left side of his chin, and the second entered his throat and exited through the right side of his back.

Herrod left the scene and went to his brother’s house. Eventually Herrod was driven to St. Margaret Mercy Hospital in Hammond, from which he was airlifted to St.

¹ Ind. Code § 35-42-1-1.

James Hospital in Illinois. Worthey was taken by ambulance to Northlake Methodist Hospital in Gary where he died from the gunshot wounds.

Herrod gave the police a statement on October 23, 2006. He told the police where they could find the AK-47 used in the shooting. Herrod expressed remorse and stated he did not intend for Worthey to get hurt. Herrod said he came forward because he did not want anyone else to get hurt as a result of his actions.

Herrod was charged with three counts: murder, attempted murder, and battery. A jury found him guilty of murder. He was sentenced to fifty-five years in the Department of Correction.

DISCUSSION AND DECISION

On a challenge to the sufficiency of evidence to support a conviction, we do not reweigh the evidence or judge the credibility of the witnesses. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). We respect the jury's exclusive province to weigh conflicting evidence. *Id.* We 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.*

"A person who (1) knowingly or intentionally kills another human being ...commits murder, a felony." Ind. Code § 35-42-1-1. "A person engages in conduct 'knowingly' if, when he engages in the conduct, he is aware of a high probability that he is doing so." Ind. Code § 35-41-2-2(b). "A person engages in conduct 'intentionally' if, when he engages in the conduct, it is his conscious objective to do so." Ind. Code § 35-41-2-2(a). "Intent is a mental function. Absent an admission by the defendant, it must be

determined from a consideration of the defendant's conduct and the natural and usual consequences thereof." *Lush v. State*, 783 N.E.2d 1191, 1196 (Ind. Ct. App. 2003).

There was ample evidence Herrod acted knowingly or intentionally. Herrod left the Delaney Projects, picked up an AK-47 from a friend, put on a bullet-proof vest, drove back to the Delaney Projects, and opened fire. Herrod stated he shot into the air and did not aim at anyone. While some shots were fired into the air, a witness saw Herrod point the AK-47 at Worthey and fire three times. Another witness said he shot "everywhere." (Tr. at 180.) The jury could weigh this evidence and determine Herrod acted with the "conscious objective" to kill someone or with the awareness "of a high probability that" someone in the area would die. *See* Ind. Code § 35-42-1-1(a), (b). We may not invade the jury's province to weigh the evidence. *See McHenry*, 820 N.E.2d at 126.

The judgment of the trial court is affirmed.

Affirmed.

VAIDIK, J., and MATHIAS, J., concur.