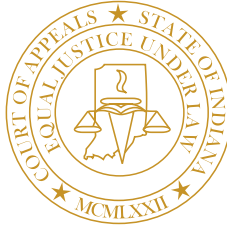


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Terry Lamont Horton, Jr.,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

November 14, 2025

Court of Appeals Case No.
25A-CR-621

Appeal from the Lake Superior Court
The Honorable Samuel L. Cappas, Judge
Trial Court Cause No.
45G04-2205-MR-21

Memorandum Decision by Judge Mathias
Judges Vaidik and Pyle concur.

Mathias, Judge.

[1] Terry Lamont Horton, Jr. appeals his conviction for murder and a corresponding firearm enhancement. He also appeals his resulting seventy-five-year sentence.¹ Horton raises five issues for our review, which we consolidate and restate as the following four issues:

1. Whether the trial court clearly erred when it denied Horton's constitutional challenge to the State's use of its peremptory challenges on prospective jurors.
2. Whether Horton's challenge to the admission of certain evidence is properly before us.
3. Whether the State presented sufficient evidence to support Horton's conviction and firearm enhancement.
4. Whether Horton's sentence is inappropriate in light of the nature of the offense and his character.

[2] We affirm.

¹ Horton mistakenly asserts that his aggregate sentence is eighty-five years, and he also mistakenly asserts that he stands convicted of both murder and attempted murder. *See* Appellant's Br. at 16-17.

Facts and Procedural History

- [3] In May 2022, Selena Saenz² lived in Gary with her fiancé, Nehemiah Martin. Saenz and Martin had three children together, all three years of age or younger at the time, who also lived with them.
- [4] On May 7, the day before Mother’s Day, Saenz and Martin took their children to a park near their home. After some time there, they ordered some food at a nearby restaurant to pick up and take home with them. And, from the restaurant, they intended to stop at a gas station and grab some groceries.
- [5] Saenz drove the family’s minivan from the restaurant to the gas station. Martin sat in the back with the three children. The road Saenz was driving on had “a lot of potholes,” so Saenz drove “slowly” near “the middle of the street” to avoid them. Tr. Vol. 2, p. 195. As she did so, Horton drove a vehicle quickly up alongside Saenz’s minivan, “gave [her] a dirty look,” and then “pulled out a gun” and “started firing.” *Id.* at 196. Saenz heard one of the minivan’s windows shatter, and she stopped the minivan. She then heard the rear passenger door open and saw Martin “lying . . . halfway in, halfway out of the car.” *Id.* at 200. Martin had been shot four times, including in the back of the head. He died at the scene. Saenz and Martin’s one-year-old child also suffered a gunshot wound to the arm.

² In his brief to our Court, Horton refers to Saenz as “Selena Chandler.” Appellant’s Br. at 6. The last name “Chandler” is nowhere in the record.

- [6] Martin’s sister, Tyeshia Mahone, was at the nearby gas station and heard the gunfire. She then saw Saenz and called 9-1-1 while a bystander attempted to resuscitate Martin. Tyeshia also saw Horton driving away in his vehicle; Tyeshia did not know Horton, but she got a good look at his face and “could [not] forget” it. Tr. Vol. 3, p. 34. Martin’s other sister, Tyronda Martin, heard of the shooting and came to the scene. There, she heard an unknown person say that “Terry shot ‘Miah.” *Id.* at 46. Tyronda then “started on Facebook looking up Terrys” in Gary. *Id.* She found “one picture,” which she sent to Saenz and Tyeshia. *Id.* Saenz and Tyeshia both recognized the man in the picture, Horton, as the shooter, and they sent the information to investigating officers. Later, both Saenz and Tyeshia identified Horton as the shooter out of photo arrays presented to them by the investigating officers.
- [7] The State charged Horton in relevant part with murder along with a firearm enhancement. During the jury selection for Horton’s ensuing trial, the State asked prospective jurors if they “would . . . be able to return a verdict based on the word of eyewitnesses alone[.]” Tr. Vol. 2, p. 43. Prospective Jurors 5, 25, 34, 41, 42, 43, 59, 60, 63, 65, 69, and 73 all said no. The State then presented a hypothetical factual scenario to see if any of those prospective jurors would “change [their] mind[s].” *Id.* at 45. After some back-and-forth, several of the prospective jurors agreed that they could find a defendant guilty beyond a reasonable doubt based only on eyewitness testimony. However, Prospective Juror 41 equivocated, and Prospective Jurors 34, 42, 59, and 63 did not express that they would be willing to do so.

[8] Horton used a peremptory challenge to strike Prospective Juror 63, and the State used peremptory challenges to strike Prospective Jurors 34, 41, 42, and 59. Horton then objected to the State’s use of its peremptory challenges and asserted that the State was “striking all the black folks [from] the jury.” *Id.* at 64. The State responded that it was using its peremptory challenges to remove prospective jurors who were unable to be “rehabilitated when presented with other circumstances and additional evidence” along with eyewitness testimony to render a verdict. *Id.* at 65. The court denied Horton’s objection and noted that only Prospective Jurors 34 and 42 were African-American; Prospective Juror 41 was Caucasian and Prospective Juror 59 was “Hispanic or Caucasian.” *Id.* The court also agreed that the State had provided a sufficient “race neutral reason” for its use of the peremptory strikes. *Id.* at 68.

[9] During Horton’s trial, Saenz and Tyeshia identified Horton as the person who had shot Martin, and Saenz and Tyeshia likewise testified, without objection, that they had identified Horton out of photo arrays following the shooting. After the jury found Horton guilty of murder, the court had the jury return to deliberations based on the trial evidence to determine if Horton had used a firearm in the commission of the offense. The jury found that he had.

[10] After a sentencing hearing, the court found the following aggravating and mitigating circumstances:

Aggravating Circumstances:

1. The defendant has had a troubled criminal history starting with six (6) contacts in the juvenile justice system resulting in two (2) juvenile adjudications;
2. The Court finds that the defendant violated juvenile probation twice . . . ;
3. The defendant has had nine (9) contacts with the adult criminal justice system resulting in one (1) felony conviction;
4. The defendant was out on bond for the felony of [m]urder when he was charged with [the instant m]urder;
5. The defendant's prior [m]urder charge was reduced to Assisting a Criminal in exchange for his cooperation against a co-defendant;^[3]
6. The Court finds the nature and circumstances of the offense aggravating in that [Saenz's] impact statement indicates that the shooting had a significant traumatic effect on her children;
7. When the defendant fired into [Saenz's] car, there were five (5) people in the vehicle, two (2) adults and three (3) minor children, all under the age of fourteen (14). . . . [The] Court also finds that the one (1) year old was shot through the arm to be an aggravating circumstance which is greater than necessary to prove the elements of the offense; and

³ We conclude that this fact was intended to be listed under the court's identified mitigating circumstances.

8. The defendant was out on bond and not allowed to possess a firearm, which he did.

Mitigating Circumstances:

1. The defendant is twenty-seven (27) years of age;
2. The defendant indicates that he has seven (7) children [who] will suffer greatly from his absence. However, the defendant is not court-ordered to pay child support[,] and the defendant presented no evidence that his children will suffer because of his absence;
3. . . . [D]efendant's criminal history may not have a positive impact on his children; and[]
4. The defendant expressed remorse to the family . . . which the Court finds to be sincere.

Appellant's App. Vol. 3, pp. 134-35 (font modified). The court then found the aggravators to outweigh the mitigators and sentenced Horton to sixty years for murder, which the court enhanced by an additional fifteen years for the use of a firearm in the commission of the offense.

[11] This appeal ensued.

1. The trial court properly denied Horton’s objection to the State’s use of its peremptory challenges.

[12] On appeal, we first address Horton’s argument that the trial court erred when it denied his objection to the State’s use of its peremptory challenges during jury selection. As our Supreme Court has explained:

. . . Purposeful racial discrimination in selection of the venire violates a defendant’s right to equal protection because it denies him the protection that a trial by jury is intended to secure. The exclusion of even a sole prospective juror based on race, ethnicity, or gender violates the Fourteenth Amendment’s Equal Protection Clause[under *Batson v. Kentucky*, 476 U.S. 79, 86 (1986)].

Pursuant to *Batson* and its progeny, a trial court must engage in a three-step process in evaluating a claim that a peremptory challenge was based on race. First, a defendant must make a prima facie showing that a peremptory challenge has been exercised on the basis of race; second, if that showing has been made, the prosecution must offer a race-neutral basis for striking the juror in question; and third, in light of the parties’ submissions, the trial court must determine whether the defendant has shown purposeful discrimination. A step two explanation is considered race-neutral if, on its face, it is based on something other than race. Although the burden of persuasion on a *Batson* challenge rests with the party opposing the strike, the third step—determination of discrimination—is the duty of the trial judge. The trial court evaluates the persuasiveness of the step two justification at the third step. It is then that implausible or fantastic justifications may (and probably will) be found to be pretexts for purposeful discrimination. Also, at the third stage, the defendant may offer additional evidence to demonstrate that the proffered justification was pretextual.

Upon appellate review, a trial court's decision concerning whether a peremptory challenge is discriminatory is given great deference, and will be set aside only if found to be clearly erroneous. . . .

Cartwright v. State, 962 N.E.2d 1217, 1220-21 (Ind. 2012) (citation modified).

And, under the clearly erroneous standard, we “determin[e] whether the evidence supports the findings and, if so, whether the findings support the judgment.” *Town of Linden v. Birge*, 204 N.E.3d 229, 233 (Ind. 2023). We will not reweigh the evidence or reassess the credibility of the witnesses. *Id.* at 234.

[13] The trial court's rejection of Horton's *Batson* challenge is not clearly erroneous. As the trial court found in crediting the State's race-neutral justification for the use of the State's peremptory challenges, the prospective jurors struck by the State were all unwilling to say that they would be able to base a conviction on eyewitness testimony alone. Further, the State's use of its peremptory challenges struck one Caucasian, one person who was either Caucasian or Hispanic, and two African-Americans. Accordingly, the trial court's denial of Horton's *Batson* challenge is supported by the record. Further, Horton's argument that the State's race-neutral reason was pretextual is merely a request for our Court to reweigh the evidence, which we will not do.

2. Horton's challenge to the admissibility of certain evidence is not properly before us.

[14] We next consider Horton's argument that the trial court erred in the admission of certain evidence, namely, Saenz's identification of Horton from a photo

array. But Horton did not object to the admission of that evidence in the trial court, and on appeal he does not argue that the admission of the evidence was fundamental error. *See* Appellant's Br. at 10-12. Accordingly, Horton's argument is not properly before us, and we do not consider it. *See, e.g., Bowman v. State*, 51 N.E.3d 1174, 1179-80 (Ind. 2016).

3. The State presented sufficient evidence to support Horton's conviction and enhancement.

- [15] We thus turn to Horton's sufficiency arguments. For challenges to the sufficiency of the evidence, we consider only the probative evidence and the reasonable inferences therefrom that support the judgment of the trier of fact. *Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021). We will neither reweigh the evidence nor judge witness credibility. *Id.* We will affirm a conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*
- [16] To prove that Horton committed murder, the State was required to show that Horton knowingly or intentionally killed another human being. Ind. Code § 35-42-1-1(1) (2021). And, to prove the firearm enhancement, the State was required to show that Horton knowingly or intentionally used a firearm in the commission of the murder. I.C. § 35-50-2-11(d).
- [17] Horton asserts that the State failed to present sufficient evidence that he murdered Martin because Saenz was not a credible witness and her testimony was not supported by any physical or forensic evidence. But Horton's argument

is simply a request for us to reweigh the evidence, which we will not do. *Hall*, 177 N.E.3d at 1191. Further, it is well established that the testimony of a single witness is sufficient to support a conviction. *E.g.*, *Bailey v. State*, 979 N.E.2d 133, 135 (Ind. 2012). And Saenz was not a single witness; Tyeshia also witnessed Horton fleeing the scene after he had shot Martin. Accordingly, we affirm Horton's conviction for murder.

[18] As for his firearm enhancement, Horton argues that the State's evidence was insufficient because no one saw Horton shoot Martin, no firearm was recovered, and no "DNA, fingerprint, gunshot residue, or surveillance footage" linked Horton "to any weapon." Appellant's Br. at 14. But Horton is incorrect. Saenz testified that Horton pulled his vehicle alongside hers, "gave [her] a dirty look," and then "pulled out a gun," with shots being fired from Horton's vehicle into hers. Tr. Vol. 2, p. 196. Accordingly, the State presented sufficient evidence to support the firearm enhancement.

4. Horton's sentence is not inappropriate.

[19] Horton's final argument on appeal is that his seventy-five-year sentence is inappropriate in light of the nature of the offense and his character. Under Indiana Appellate Rule 7(B), we may modify a sentence that we find is "inappropriate in light of the nature of the offense and the character of the offender." Making this determination "turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008).

- [20] However, sentence modification under Rule 7(B) is reserved for “a rare and exceptional case.” *Livingston v. State*, 113 N.E.3d 611, 612 (Ind. 2018) (per curiam). Thus, when conducting this review, we will defer to the sentence imposed by the trial court unless the defendant demonstrates compelling evidence that portrays the nature of the offenses and his character in a positive light, such as showing a lack of brutality in the offenses or showing substantial virtuous character traits. *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).
- [21] The sentencing range for murder is forty-five to sixty-five years. I.C. § 35-50-2-3(a). And the firearm enhancement authorizes our trial courts to impose an additional fixed term of between five and twenty years. I.C. § 35-50-2-11(g). Here, after finding that the aggravating circumstances outweighed the mitigating circumstances, the trial court sentenced Horton to sixty years for murder with an additional fifteen years under the firearm enhancement.
- [22] Horton argues that his aggregate seventy-five-year term is inappropriate because the State’s case against him was weak; because his sentence is “harsher than what many defendants receive in more aggravated cases”; and based on his age, criminal history, family history, and mental- and physical-health histories. Appellant’s Br. at 17-18. But we cannot agree. Regarding the nature of the offense, Horton, in an apparent act of road rage, fired multiple shots at a family traveling in a minivan, killing the father of three children right in front of the children. He also shot a one-year-old child. Regarding his character, Horton has an established criminal history despite his age, and prior attempts at leniency did not deter the instant offense. We affirm his sentence accordingly.

Conclusion

[23] For all of these reasons, we affirm Horton’s conviction for murder and his enhancement for using a firearm, and we also affirm his sentence.

[24] Affirmed.

Vaidik, J., and Pyle, J., concur.

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