

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs September 1, 2020

FILED

11/30/2020

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. JUVONTA CARPENTER

**Appeal from the Criminal Court for Shelby County
No. C1701562, 17-01255 Chris Craft, Judge**

No. W2019-01362-CCA-R3-CD

A Shelby County jury convicted the defendant, Juvonta Carpenter, of two counts of first-degree murder, two counts of first-degree felony murder, and one count of aggravated robbery. Following a sentencing hearing, the trial court imposed an effective sentence of life imprisonment plus nine years. On appeal, the defendant challenges the sufficiency of the evidence to support his convictions. The defendant also contends the trial court erred in admitting partially redacted police statements and in imposing a partial consecutive sentence. After reviewing the record and considering the applicable law, we affirm the judgments of the trial court.

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

J. ROSS DYER, J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER and CAMILLE R. MCMULLEN, JJ., joined.

Chloe Hawes, Memphis, Tennessee (on appeal) and Phyllis L. Aluko, Shelby County Public Defender and William Johnson, Assistant Public Defender (at trial), for the appellant, Juvonta Carpenter.

Herbert H. Slatery III, Attorney General and Reporter; Jonathan H. Wardle, Assistant Attorney General; Amy P. Weirich, District Attorney General; and Melanie Cox and Chris Lareau, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

Facts and Procedural History

During the early morning hours of January 9, 2016, Gerald Shields was at a dice game at the Tulane Apartments, where he lived with his girlfriend. The defendant, who Mr. Shields knew as “Vicious,” and Antwon Bess were also present. At approximately

1:00 a.m., the defendant received a phone call, and Mr. Shields heard the person on the other end ask if the defendant had “take[n] care of business.” The defendant replied that he was “fixin to go do it.” The defendant then pulled Mr. Shields aside, stated that he was going to rob Joe Fifer in retaliation for a previous robbery, and offered to pay Mr. Shields if he helped. Because people from various gangs lived at the apartments, the defendant knew Mr. Fifer would not open the door for someone he did not know well and wanted Mr. Shields, who had been friends with Mr. Fifer for several years, to lure him outside. Mr. Fifer, a member of the Vice Lords gang, was not friendly with the defendant or Mr. Bess, members of the Crips and Gangster Disciples gangs, respectively.

When the men approached Mr. Fifer’s apartment, Mr. Shields knocked on the door and identified himself. The defendant and Mr. Bess, who were both wearing black hoodies, had their guns drawn and pushed Mr. Shields out of the way as Mr. Fifer opened the door. The defendant was carrying a 9-millimeter handgun while Mr. Bess had a .45 caliber handgun. As soon as Mr. Fifer opened the door, the defendant and Mr. Bess began shooting, and Mr. Shields ran to his girlfriend’s apartment. Because Mr. Shields began running as soon as he heard the gunshots, he was unable to see who was shooting.

Daniel Pritchett was visiting a friend at the Tulane Apartments when he heard gunshots, but when he looked out the window, he did not see anything out of the ordinary. However, as he sat back down on the couch, Mr. Pritchett heard another series of gunshots. Mr. Pritchett returned to the window, which faced Mr. Fifer’s apartment, and observed a person in a black hoodie and hat open the door to Mr. Fifer’s apartment and quickly look outside. A few minutes later, Mr. Pritchett saw the same person exit Mr. Fifer’s apartment, walk down the stairs, and leave the area.

Mr. Pritchett and his friend, William Brown, then walked to Yalonda Buchanan’s apartment. They asked Ms. Buchanan to call Tamara Davis, Mr. Fifer’s girlfriend, because they had heard gunshots coming from her apartment. However, Ms. Buchanan was unable to reach Ms. Davis on the phone, and she sent Mr. Pritchett to Mr. Fifer’s apartment to check on them. When he entered the apartment, Mr. Pritchett saw “blood everywhere” and observed Mr. Fifer’s body lying on floor with multiple gunshot wounds. Mr. Pritchett then returned to Ms. Buchanan’s apartment and told her to call 911.

Officer Sean Blevins with the Memphis Police Department (“MPD”) responded to a “shots fired” call at the Tulane Apartments and arrived on the scene at approximately 3:50 a.m. As Officer Blevins approached Mr. Fifer’s apartment, he noticed the door was slightly ajar and announced his presence before entering. In the hallway, Officer Blevins observed what appeared to be a bloody footprint, and in the kitchen, he saw a man “laying [sic] in a pool of blood, unresponsive.” As he continued searching the apartment for additional victims, Officer Blevins observed an unresponsive female in a back bedroom.

He also discovered three children sleeping behind a bedroom door which appeared to have been kicked in. While the children were removed from the apartment, Officer Blevins remained inside to secure the scene.

Officer Lee Walker with the MPD's Crime Scene Unit arrived at the Tulane Apartments between 4:00 and 6:00 a.m. and processed the scene, which included dusting for fingerprints and photographing and collecting all evidence. Officer Walker discovered one 9-millimeter casing under the kitchen table, three 9-millimeter casings under Ms. Davis's body, and five 9-millimeter casings around the bed in the bedroom where Ms. Davis's body was found. Additionally, in the same bedroom, Officer Walker found a 9-millimeter handgun tucked between the mattress and the wall. An inquiry on the handgun indicated it was stolen from Southaven, Mississippi.

As the police were investigating the scene, Mr. Shields returned to Mr. Fifer's apartment and approached Ms. Davis's mother, Zonya Davis, who Mr. Shields knew through his father.¹ Mr. Shields was "crying and screaming" as he hugged Zonya, and he promised to make the perpetrators "pay."

The day after the murders, Mr. Shields met the defendant and Mr. Bess at a nearby Shell gas station. When Mr. Shields asked them why they had killed the victims, Mr. Bess and the defendant threatened that "the same thing [would] happen to [Mr. Shields's] family" if he told anyone what had happened. Mr. Shields noticed the defendant was wearing Mr. Fifer's watch, and because he felt guilty for his part in Mr. Fifer's death, Mr. Shields asked the defendant if he could have the watch to remember Mr. Fifer.

On February 3, 2016, Jessica Fifer, Mr. Fifer's mother, approached Mr. Shields and asked him about Mr. Fifer's murder. During their conversation, Ms. Fifer noticed Mr. Shields was wearing her son's watch. When she asked him about the watch, Mr. Shields stated that he and Mr. Fifer had traded watches. Ms. Fifer did not believe Mr. Shields's story and discreetly took several pictures of Mr. Shields wearing the watch. The following day, Mr. Shields was arrested and gave the police a written statement admitting to his part in the murders. He also identified the defendant out of a photo lineup, stating "[t]his is Vicious, who shot and killed Little Joe and Big T."

Marlon Wright, previously a lieutenant with the MPD, was the lead investigator on the case. During his investigation, Mr. Wright developed Mr. Bess as a possible suspect. After detaining Mr. Bess and obtaining a statement, it became necessary to bring Mr. Bess's girlfriend, Jessica Brooks, to the station. Ms. Brooks, who was also the defendant's

¹ Because Tamara Davis and Zonya Davis share the same last name, we will refer to Zonya by her first name. We intend no disrespect.

sister, arrived at the station on February 9, 2016, and gave two statements. In the first statement, Ms. Brooks told Mr. Wright that both the defendant and Mr. Shields were present during the murders but insisted Mr. Shields was the shooter. After comparing Ms. Brooks's statement with the statement from Mr. Bess, Mr. Wright discovered several inconsistencies and approached Ms. Brooks to obtain a second statement. Ms. Brooks then admitted she was not truthful in her first statement and clarified that her brother, the defendant, was in fact the person who shot Mr. Fifer and Ms. Davis. During Ms. Brooks's interviews, Mr. Wright did not notice any signs of intoxication or instability and would not have taken her statement if he suspected she was under the influence of any substance. Following her second statement, Ms. Brooks was released, and Mr. Bess was not charged in connection with the murders.²

Dr. Marco Ross, an expert in forensic pathology and the interim chief medical examiner at the West Tennessee Regional Forensic Center, performed the autopsies on Mr. Fifer and Ms. Davis. Dr. Ross found Mr. Fifer suffered five gunshot wounds to the head and neck. The first bullet entered just above the left ear, went around his skull and brain, and exited on the right side of the forehead. The second bullet entered in front of the left ear and went through the deep facial bones before exiting the right cheek. The third gunshot wound was to the left chin area. This bullet went through the bones of Mr. Fifer's right cheek and through the skull and brain before becoming lodged underneath the skin on the right side of his head. The fourth bullet entered Mr. Fifer's left cheek and went down toward his spine, transecting the spinal cord. The fifth gunshot wound was to the left side of the neck and exited behind Mr. Fifer's left ear. Dr. Ross did not observe any soot or stippling around Mr. Fifer's wounds, except for gunshot wound number four, which indicated this wound was inflicted at a range of half an inch to approximately three feet.

Dr. Ross found Ms. Davis suffered from ten gunshot wounds. The first gunshot wound was to the right side of her forehead and that bullet was recovered from her left chin area. The second bullet entered in front of her right ear, went through the skull and brain, and was recovered from the skin behind her left ear. The third bullet entered in front of the right ear and exited the left temporal scalp. The fourth gunshot wound was to Ms. Davis's right upper cheek and exited the left temple. The fifth bullet entered her right cheek and went through the deep facial bones before exiting the left cheek area. The sixth bullet entered her right lower eyelid and exited in front of her left ear. The seventh gunshot wound was to the left cheek and exited just below the left eye lid. The eighth gunshot wound was to Ms. Davis's right, upper chest wall. The bullet went through the soft tissues and muscle in the upper chest and armpit area and exited the left back. The final two gunshot wounds were very close together in the left shoulder area. Both bullets entered the left shoulder and exited toward the back of the shoulder. Dr. Ross found very slight

² Mr. Bess passed away prior to trial.

stippling on the right side of Ms. Davis's face and opined at least one gunshot wound was inflicted from a range which would cause stippling. Additionally, during Ms. Davis's autopsy, Dr. Ross discovered she was approximately four months pregnant at the time of her death.

At trial, the State called Jessica Fifer, Zonya Davis, Daniel Pritchett, Yalonda Buchanan, Officer Sean Blevins, Officer Lee Walker, Gerald Shields, Marlon Wright, and Dr. Marco Ross as witnesses, and all rendered testimony consistent with the foregoing. Michael Harbor with the Shelby County Sheriff's Office testified he is responsible for compiling and monitoring inmate phone calls, and, during the week of trial, Mr. Harbor received a request from the district attorney's office to pull the defendant's jail calls. The State played three of the defendant's calls for the jury, and Mr. Harbor agreed the defendant mentioned someone named Jessica during the calls and discussed her possible testimony.³

Mr. Shields testified he was charged with first degree murder in connection with the murders of Mr. Fifer and Ms. Davis. Although he denied receiving a deal in exchange for his testimony, Mr. Shields agreed he hoped to receive a lighter sentence. On cross-examination, Mr. Shields admitted that he was a member of the Gangster Disciples and that he had a prior conviction for aggravated burglary.

Ms. Brooks testified she was under the influence of Percocet and Xanax when she gave her statements to police and insisted the information in her statements were simply rumors from the street that Ms. Brooks repeated to "get [the police] off [her] back" and protect Mr. Bess. Although Ms. Brooks acknowledged she told the police that her brother came to her house on the night of the murders and admitted to shooting Mr. Fifer, she testified this was a lie that Mr. Bess told her to tell.

The defendant called Kathleen Wright who testified she was a legal investigator with the Shelby County Public Defender's Office. During her investigation, she discovered an online posting from News Channel 3 on February 5, 2016, which mentioned Mr. Shields's arrest in connection with the murders of Mr. Fifer and Ms. Davis.

The defendant testified on his own behalf, denying any involvement in Mr. Fifer and Ms. Davis's murders. Although the defendant admitted to knowing both Mr. Fifer and Mr. Shields, he denied asking Mr. Shields to knock on any doors, seeing Mr. Shields at the Shell gas station, or giving Mr. Shields a watch. He also denied asking Ms. Brooks to change her police statement or testimony. Instead, he simply encouraged her to "stay strong and tell the truth."

³ The record does not contain a copy of the jail phone calls.

Following deliberations, the jury found the defendant guilty of two counts of first-degree murder and aggravated robbery with regards to his actions against Joe Fifer (Counts one, two, and five) and two counts of first-degree murder with regards to his actions against Tamara Davis (Counts three and four). The trial court imposed a sentence of life for Counts one, two, three, and four and nine years at 85% for Count five. Additionally, the trial court merged Count two into Count one and Count four into Count three. Counts one and three were to be served concurrently with each other but consecutive to Count five, for an effective sentence of life plus nine years.

The defendant filed a timely motion for new trial, which the trial court denied. This timely appeal followed.

Analysis

On appeal, the defendant argues the evidence presented at trial was insufficient to support his convictions. The defendant also contends the trial court erred in admitting a redacted copy of Ms. Brooks's police statements and in imposing consecutive sentences. The State contends the evidence is sufficient, and the trial court properly sentenced the defendant. The State also contends the defendant waived the issue concerning Ms. Brooks's police statements. We agree with the State.

I. Sufficiency

When the sufficiency of the evidence is challenged, the relevant question of the reviewing court is "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." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see also* Tenn. R. App. P. 13(e) ("Findings of guilt in criminal actions whether by the trial court or jury shall be set aside if the evidence is insufficient to support the findings by the trier of fact of guilt beyond a reasonable doubt."); *State v. Evans*, 838 S.W.2d 185, 190-92 (Tenn. 1992); *State v. Anderson*, 835 S.W.2d 600, 604 (Tenn. Crim. App. 1992). All questions involving the credibility of witnesses, the weight and value to be given the evidence, and all factual issues are resolved by the trier of fact. *State v. Pappas*, 754 S.W.2d 620, 623 (Tenn. Crim. App. 1987). "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). Our supreme court has stated the following 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 (Tenn. 1963)). “A jury conviction removes the presumption of innocence with which a defendant is initially cloaked and replaces it with one of guilt, so that on appeal a convicted defendant has the burden of demonstrating that the evidence is insufficient.” *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982).

On appeal, the defendant does not challenge the sufficiency of the evidence as it relates to the elements of the offenses. Rather, the defendant maintains the State failed to provide sufficient evidence to corroborate the testimony of Mr. Shields as an accomplice.

It is well-established that “a conviction may not be based upon the uncorroborated testimony of an accomplice.” *State v. Shaw*, 37 S.W.3d 900, 903 (Tenn. 2001) (citing *State v. Bigbee*, 885 S.W.2d 797, 803 (Tenn. 1994)). This Court has defined the term “accomplice” to mean “one who knowingly, voluntarily, and with common intent with the principal unites in the commission of a crime.” *State v. Allen*, 976 S.W.2d 661, 666 (Tenn. Crim. App. 1997). The test of whether a witness qualifies as an accomplice is “whether the alleged accomplice could be indicted for the same offense charged against the defendant.” *Id.* Mr. Shields was indicted for the same offenses charged against the defendant and, therefore, qualified as an accomplice.

Our supreme court has described what is required to establish sufficient corroboration as follows:

[T]here must be some fact testified to, entirely independent of the accomplice’s testimony, which, taken by itself, leads to the inference, not only that a crime has been committed, but also that the defendant is implicated in it; and this independent corroborative testimony must also include some fact establishing the defendant’s identity. This corroborative evidence may be direct or entirely circumstantial, and it need not be adequate, in and of itself, to support a conviction; it is sufficient to meet the requirements of the rule if it fairly and legitimately tends to connect the defendant with the commission of the crime charged. It is not necessary that the corroboration extend to every part of the accomplice’s evidence.

Shaw, 37 S.W.3d at 903 (quoting *Bigbee*, 885 S.W.2d at 803). The corroborating evidence need only be “slight.” *State v. Griffs*, 964 S.W.2d 577, 589 (Tenn. Crim. App. 1997).

Whether sufficient corroboration exists is for the jury to determine. *Shaw*, 37 S.W.3d at 903.

In the present case, Mr. Shields testified he was at a dice game with the defendant and Mr. Bess when the defendant asked if he would assist in the robbery of Mr. Fifer. Mr. Shields agreed; however, after Mr. Shields lured Mr. Fifer outside, the defendant and Mr. Bess began shooting at Mr. Fifer. Ms. Brooks's police statements corroborated Mr. Shields's testimony implicating the defendant in the commission of the crimes. Although both of Ms. Brooks's statements placed the defendant at the scene of the murder, her second statement specifically named the defendant as the shooter. Additionally, Mr. Pritchett testified he saw someone wearing a black hoodie leave Mr. Fifer's apartment immediately following the gunshots, and Mr. Shields testified the defendant was wearing a black hoodie at the time of the murders. We conclude this evidence was sufficient to corroborate Mr. Shields's testimony.

To the extent the defendant calls Mr. Shields and Ms. Brooks's credibility into question, "Questions concerning the credibility of the witnesses, the weight and value of 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). The defendant is not entitled to relief on this issue.

II. Redaction of Police Statements

The defendant argues the trial court erred in allowing the admission of partially redacted copies of Ms. Brooks's police statements, which the defendant contends served only to mislead and confuse the jury.

We initially note the defendant has waived our consideration of this claim by failing to cite relevant authority and present an adequate argument in his brief. Tennessee Rule of Appellate Procedure 27(a)(7) provides that a brief shall contain "[a]n argument . . . setting forth the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record . . . relied on[.]" Tennessee Court of Criminal Appeals Rule 10(b) states that "[i]ssues which are not supported by argument, citation to authorities, or appropriate references to the record will be treated as waived in this court." *See State v. Sanders*, 842 S.W.2d 257, 259 (Tenn. Crim. App. 1992) (holding an issue was waived where the defendant cited no authority to support his claim). Here, the defendant failed to provide any reasoning as to why he is entitled to appellate relief. Instead, in a single sentence, the defendant simply states, "[t]he [trial] court erred in the manner in which Ms. Brooks's statements were allowed presentation to the jury at trial, because it resulted in misleading and confusing the jury."

The defendant also failed to include the unredacted police statements in the record on appeal. The defendant has the burden of ensuring the record on appeal is “sufficient to convey a fair, accurate, and complete account of what transpired with respect to those issues that are the bases of appeal.” Tenn. R. App. P. 24(a); *State v. Ballard*, 855 S.W.2d 557, 560-61 (Tenn. 1993).

Furthermore, although the defendant now argues the trial court erred in redacting Ms. Brooks’s police statements, he failed to object to their redaction at trial. Instead, while the State asked that the full statements be admitted, the defendant argued it was necessary to go “line by line, not to allow [the State] to reenter the entire statements in their entirety.” Because the defendant himself requested their redaction, he has waived consideration of this issue. *See* Tenn. R. App. P. 36(a) (“Nothing in this rule shall be construed as requiring relief be granted to a party responsible for an error or who failed to take whatever action was reasonably available to prevent or nullify the harmful effect of an error.”).

Likewise, although the defendant briefly argues the trial court erred in admitting his jail phone calls, this issue is waived for failing to adequately argue it in his brief, failing to include it in his motion for new trial, and failing to include a copy of the phone calls in the appellate record. Tenn. R. App. P. 3(e), 24(a), 27(a)(7); Tenn. Ct. Crim. App. R. 10(b). The defendant is not entitled to relief on this issue.

III. Consecutive Sentencing

The defendant argues the trial court erred in imposing consecutive terms. Specifically, the defendant argues the trial court erred in finding him to be a “dangerous offender.” The State contends the trial court properly imposed partial consecutive terms.

When determining the appropriate sentence, the trial court must consider these factors: (1) the evidence, if any, received at the trial and the sentencing hearing; (2) the presentence report; (3) the principles of sentencing and arguments as to sentencing alternatives; (4) the nature and characteristics of the criminal conduct involved; (5) the evidence and information offered by the parties on the mitigating and enhancement factors set out in Tennessee Code Annotated sections 40-35-113 and -114; (6) any statistical information provided by the Administrative Office of the Courts as to sentencing practices for similar offenses in Tennessee; and (7) any statement the defendant made on his own behalf about sentencing. *See* Tenn. Code Ann. § 40-35-210; *State v. Taylor*, 63 S.W.3d 400, 411 (Tenn. Crim. App. 2001). The trial court must also consider the potential or lack of potential for rehabilitation or treatment of the defendant when determining the sentence alternative or length of a term to be imposed. Tenn. Code Ann. § 40-35-103.

When the record establishes the sentence imposed by the trial court was within the appropriate range and reflects a “proper application of the purposes and principles of our Sentencing Act,” this Court reviews the trial court’s sentencing decision under an abuse of discretion standard with a presumption of reasonableness. *State v. Bise*, 380 S.W.3d 682, 707 (Tenn. 2012). The trial court must state on the record the factors it considered and the reasons for the sentence imposed. Tenn. Code Ann. § 40-35-210(e); *Bise*, 380 S.W.3d at 706. The party challenging the sentence on appeal bears the burden of establishing that the sentence was improper. Tenn. Code Ann. § 40-35-401, Sentencing Comm’n Cmts.

In *State v. Pollard*, 432 S.W.3d 851 (Tenn. 2013), the Tennessee Supreme Court expanded its holding in *Bise* to also apply to decisions by trial courts regarding consecutive sentencing. *Id.* at 859. This Court must give “deference to the trial court’s exercise of its discretionary authority to impose consecutive sentences if it has provided reasons on the record establishing at least one of the seven grounds listed in Tennessee Code Annotated section 40-35-115(b).” *Id.* at 861. “Any one of [the] grounds [listed in section 40-35-115(b)] is a sufficient basis for the imposition of consecutive sentences.” *Id.* at 862 (citing *State v. Dickson*, 413 S.W.3d 735 (Tenn. 2013)).

A trial court “may order sentences to run consecutively” if it finds the defendant is “a dangerous offender whose behavior indicates little or no regard for human life, and no hesitation about committing a crime in which the risk to human life is high[.]” Tenn. Code Ann. § 40-35-115(b)(4); see *State v. Wilkerson*, 905 S.W.2d 933, 936 (Tenn. 1995). Before a trial court may impose consecutive sentences on the basis that a defendant is a dangerous offender, the trial court must find “that an extended sentence is necessary to protect the public against further criminal conduct by the defendant and that the consecutive sentences . . . reasonably relate to the severity of the offenses committed.” *Wilkerson*, 905 S.W.2d at 939. Our supreme court has stated that the trial court must make specific findings about “particular facts” which show the *Wilkerson* factors apply to the defendant. *State v. Lane*, 3 S.W.3d 456, 461 (Tenn. 1999).

In imposing consecutive sentences on the basis that the defendant is a dangerous offender, the trial court articulated its reasons, as follows:

I find that the defendant is a dangerous offender whose behavior indicates little, or no regard for human life, no hesitation about committing a crime in which the risk to human life is high.

From Mr. Shields, who testified, as soon as the door opened, they just started blasting away.

And I find these factors;

The circumstances surrounding the commission of the offense are aggravated.

And I say that, “aggravated,” because in my mind there was just – of course there is never any reason for a killing. But, from the facts in the trial, that the jury believed and I find as thirteenth juror is guilt beyond a reasonable doubt, there was no asking of these people for money, there was no robbery, until they just blasted away.

And then, particularly, I can understand if someone were miffed that the male victim had taken something from them, or robbed them, or whatever grudge they had against this man. They premeditated the robbery, got Mr. Shields to come and open the door, so they could have access. And just to kill her is just senseless, absolutely senseless, other to eliminate witnesses, when they were going to kill him.

There was no request for money, no resistance. So I find it is aggravated, it was a planned, walking up to the door and then killing.

Confinement for an extended period of time is necessary to protect society from the defendant’s unwillingness to lead a productive life and as a resort to criminal activity and furtherance of his anti-societal lifestyle.

[The defendant] is a violent man. He has two convictions for domestic violence. And I’ll note in the presentence report, on page seven, that with their strong R that he has, with that assessment tool he scores a high for violence. Just a violent person.

An aggregate length of sentence has to reasonably relate to the offense of which the defendant stands convicted.

I think running these life sentences consecutive would be too much, but I do find that we do need to run the aggravated robbery, the nine-year sentence for aggravated robbery, consecutive to counts one and three, even though they are running concurrently.

Because I think that society needs to be protected from [the defendant], who, looking at his life and his lifestyle he had a couple of children while he was in high school, dropped out of school, had no education, was doing nothing with his life that I could see, other than

violence, it is just sad, that he would not get a good job and work towards helping himself, instead of violence, so that is the reason for this [c]ourt's findings.

In determining whether to require the defendant to serve his sentences consecutively, the trial court properly considered the facts and evidence of the case and the defendant's criminal history. The trial court determined the defendant had little to no regard for the lives of Mr. Fifer and Ms. Davis. *See* Tenn. Code Ann. § 40-35-115(b)(4). The trial court noted the defendant shot Mr. Fifer as soon as the door was opened. Moreover, the trial court found the only reason the defendant had for killing Ms. Davis was to dispose of a potential witness. As a result, the trial court determined the defendant was a dangerous offender. *See id.*

The trial court then proceeded to consider the *Wilkerson* factors. First, the trial court determined an extended sentence was necessary to protect the public from further criminal conduct by the defendant. *Wilkerson*, 905 S.W.2d at 939. In supporting this decision, the trial court considered the defendant's criminal history and his convictions in the present case. The trial court explained that the defendant's prior convictions of domestic violence, his strong R assessment score of "high for violence," and the facts of the present case demonstrated the defendant's antisocial and criminal behavior. Next, in supporting its conclusion that the defendant's sentences reasonably related to the severity of his offenses, the trial court noted that running the two life sentences consecutively would be "too much." However, because of the facts and circumstances surrounding the case, the trial court concluded that a partial consecutive sentence reasonably related to the defendant's offenses. The evidence does not preponderate against the trial court's findings. Therefore, the trial court did not abuse its discretion in imposing consecutive sentences, and the defendant is not entitled to relief on this issue.

Conclusion

Based on the foregoing authorities and reasoning, the judgments of the trial court are affirmed.

J. ROSS DYER, JUDGE