

IN THE COURT OF APPEALS OF IOWA

No. 22-1683
Filed February 21, 2024

STATE OF IOWA,
Plaintiff-Appellee,

vs.

TREVIN DAVID NICHOLSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Story County, John J. Haney, Judge.

A criminal defendant appeals his convictions for murder in the first degree and child endangerment resulting in death. **AFFIRMED.**

Martha J. Lucey, State Appellate Defender, and Vidhya K. Reddy, Assistant Appellate Defender, for appellant.

Brenna Bird, Attorney General, and Zachary Miller, Assistant Attorney General, for appellee.

Heard by Bower, C.J., Buller, J., and Gamble, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2024).

BULLER, Judge.

Trevin Nicholson appeals his convictions for murder in the first degree and child endangerment resulting in death, claiming there was insufficient evidence he inflicted fatal injuries on two-year-old E.A. Viewing the evidence in the light most favorable to the State, we affirm.

I. Background Facts and Proceedings

Paramedics and first responders found toddler E.A. near death, bruised black and blue and struggling to breathe, after he was in Nicholson's care. Medical evidence established E.A. died from abusive head trauma inflicted shortly before paramedics arrived. In the preceding weeks, Nicholson complained about E.A. interfering with his sex life, and he fought with E.A.'s mother, Danielle Obrecht, about her cheating on him. Obrecht pled guilty, cooperated with prosecutors, and testified against Nicholson at trial. Nicholson blamed Obrecht for injuring E.A., but the jury rejected his version of events and convicted him as charged.

Nicholson and Obrecht move to Iowa and Nicholson helps care for Obrecht's two-year-old child. Nicholson complains about the child's "shitty" behavior interfering with his sex life.

Nicholson and Obrecht moved to Ames to be near Obrecht's family. Obrecht was E.A.'s biological mother. Nicholson often cared for E.A. but was not the child's biological father.

In the weeks leading up to E.A.'s death, Nicholson sent text messages complaining about the child acting "shitty," how it was "[h]ard to have sex after a long day of screaming kids," and that "[t]rying to keep a kid happy then trying to keep ur girl equally tended to is tough." Other messages showed Nicholson believed Obrecht was cheating on him. Nicholson text messaged his brother:

“Fuck I wish I knew a way out of this.” And he complained about having to continue watching E.A. when he believed Obrecht was sexually involved with another man.

Nicholson accuses Obrecht of cheating on him but continues to care for E.A. E.A. breaks Nicholson’s cell phone, and Nicholson claims E.A. fell and seriously injured himself.

About a week and a half before E.A. died, Nicholson and Obrecht argued when Nicholson accused her of cheating. This argument continued from one evening into the next day, before Obrecht went to work her shift at a local barbecue restaurant. Sometime that afternoon, E.A. broke Nicholson’s cell phone.

When Obrecht returned, she saw “a huge bump” on E.A.’s head, bruises around his eye sockets, bruises on his ribs and chest, and a split lip—injuries which Obrecht testified were not present when she left that morning. E.A. vomited and had trouble walking that night. Nicholson told Obrecht E.A. fell from his booster seat.

That same evening, Nicholson text messaged his brother: “I swear lil man just had a seizure.” When his brother asked what happened, Nicholson responded: “He went ass stuff [sic] and puked on me was having trouble breathing and his vision is all fucked or something. I payed [sic] him down but I had to hold him and help him focus on breath.” Other messages Nicholson sent described E.A. as “beat up” and said he “wobbled next to his bed feeling the wall.” When Nicholson’s brother asked if Obrecht was home, Nicholson responded: “Just me she will be home in an hour max.” In another message, Nicholson said E.A.’s “head seems like its breaking out” and “he’s weirding me out.” A video Nicholson recorded, later extracted by investigators, showed injury to E.A.’s forehead and E.A. struggling to stand or keep his eyes open.

The next day, Nicholson messaged his brother “kid looks rough.” A video recorded by Nicholson that morning showed E.A.’s head, ear, and face swollen black and blue. On the recording, a male voice said something like, “That’s definitely fucked.” Another short recording from Nicholson’s phone, taken that evening, showed E.A. still bruised and asleep around 5:00 p.m. A third recording that night showed E.A. having trouble breathing, with a vacant expression. A male voice on the recording tells E.A. to “breathe.”

Nicholson and Obrecht discussed whether to take E.A. to a doctor, but Nicholson told her “the law will get involved, and things can go south.” Obrecht eventually called a nurse hotline but did not take E.A. to see any healthcare professional for treatment. Obrecht also did not take E.A. to daycare in the following days because she thought daycare staff would call the police when they saw E.A.’s visible injuries.

Over the next week, Obrecht stayed home and took care of E.A. In her words,

He was getting worse because of what had happened to him. . . . He couldn’t remember a lot of things. Like, he didn’t know how to say words, and before the injury happened, he was very great on keeping in contact with me, and it’s like his memory just lost it all. And he didn’t remember how to say “milk” or any of, like, food items, and the only thing that he knew how to say was “mama.” And he just wanted to sleep all day long, and he didn’t want to do any activities, whether—if it was, like, playing with his toys. He just wanted to fall asleep.

E.A. was eating, drinking, and sleeping some—but not normally.

Nicholson and Obrecht argue again about her cheating. The next day, Obrecht leaves E.A. in Nicholson's care. Paramedics find E.A. unresponsive and E.A. dies at the hospital one day later.

Toward the end of the week, in the days before E.A. was hospitalized, Nicholson again confronted Obrecht about her cheating. Despite the problems in their relationship, Obrecht asked Nicholson to watch E.A. the next day while she went to talk to her manager. Obrecht left on foot around 2:50 p.m.

At 3:11 p.m., Nicholson text messaged Obrecht, "Hey, baby." One minute later, Nicholson recorded a video of E.A. moaning and struggling to breathe, which doctors later described as "agonal breathing." Within the same one-minute span, Nicholson also text messaged Obrecht: "[E.A.]'s freaking me out," followed by "[h]e's just breathing [and] moaning weird." Three minutes after that, at 3:15 p.m., Nicholson called Obrecht. He said E.A. was "having trouble" breathing or "wasn't breathing." Obrecht suggested Nicholson call an ambulance, but he "didn't want to" at first. Obrecht ran back to the apartment.

Nicholson called 911 at 3:23 p.m. He told the dispatcher that E.A. "I guess got hurt the other day," was "having trouble breathing," and "it's almost like he's knocked out with his eyes open." E.A. could be heard moaning in the background and asking for his "mommy."

Paramedics were on scene by the time Obrecht returned. First responders found E.A. on the floor with Nicholson nearby. E.A.'s head was "pretty badly deformed, pretty badly bruised," with a "massive bruise" on the forehead suggesting severe head trauma. There were a mix of old and new injuries to E.A.'s face and upper body, including blood around his mouth and bruising on his neck

and rib cage. E.A. was completely nonresponsive, other than ineffective shallow breaths.

Obrecht and Nicholson told a responding officer E.A. had fallen from his booster seat the week before. But it was obvious to first responders that E.A.'s injuries—which they rated ten out of ten in severity—were not consistent with a fall that long ago. Paramedics suspected abuse.

E.A. was taken by helicopter to a hospital in Des Moines. E.A. was still nonresponsive—as he would remain for the rest of his life. A pediatric-critical-care specialist coordinated E.A.'s medical treatment, including computed tomography (CT) and magnetic resonance imaging (MRI) scans. The scans confirmed a skull fracture and showed internal bleeding, swelling, and inflammation on and in E.A.'s brain. The MRI indicated “cell death” in E.A.'s brain caused by lack of oxygen. And an ophthalmologist observed retinal hemorrhaging. Based on the severity of injuries, there was essentially nothing physicians could do to reverse the damage, and doctors concluded E.A. would never regain consciousness. The next day, E.A. died after Obrecht gave consent to end life support.

Nicholson and Obrecht tell police E.A.'s only injuries were from a short fall a week before he died.

At the apartment shortly after Nicholson called 911, he and Obrecht told a responding officer E.A. had fallen from his booster seat the week before. Nicholson gave a similar story to police at the hospital. He said that, after the fall, E.A. seemed “out of it” for a while and vomited but otherwise seemed relatively normal. Around this time, he also text messaged his mother that E.A. fell the week before and “just has looked worse daily.” He described how police were

investigating and said he was still “dealing with . . . issues with [Obrecht] cheating.” Nicholson told police he called 911 because E.A. was moaning and breathing “really heavy” like his “friend’s dog” when the dog was dying.

Police questioned Nicholson again after E.A. died. Nicholson again said E.A. fell from his booster seat, and he showed officers how E.A. allegedly fell in a carpeted area of the apartment. Nicholson also said E.A. had recently broken Nicholson’s cell phone. Once he and Obrecht got back to the apartment, Nicholson said he planned to leave the state.

Medical evidence establishes E.A. was killed by inflicted abusive head trauma. The manner of death was homicide.

The Polk County Medical Examiner performed an autopsy. He found bruises and scrapes “scattered” across E.A.’s body, particularly on the face, forehead, and around the eyes, and he attributed the injuries to at least two separate incidents. In total, the exam found approximately twenty-five separate external blunt-force injuries. The internal exam revealed deep bruising to E.A.’s head, a four-inch skull fracture, and evidence of bleeding below the scalp and on or around the brain. All of these injuries were consistent with blunt-force trauma. And they were survivable, though they likely would have led to mental deficits.

The medical examiner opined that the fatal injury was likely craniocerebral trauma—brain hemorrhages and other head and neck injuries—consistent with “abusive head trauma,” which is the modern medical term for what was once referred to as “shaken baby” syndrome. The abusive-head-trauma conclusion was also bolstered by retinal and optic-nerve hemorrhages, as well as bilateral hemorrhaging of the spine. The medical examiner and the pediatric-critical-care

physician who treated E.A. both explained that abusive-head-trauma injuries require “a great deal of force” beyond what a toddler could self-inflict and more like a “severe, crushing injury” such as a car accident or a “fall[] from tremendous height.” The medical examiner opined that the injuries were not consistent with a short fall from a table or chair. And the injuries were likely caused by repetitive motion or multiple blows.

Based on the forensic evidence, the medical examiner concluded the injuries leading to death were inflicted by another person and ruled the manner of death homicide. The pediatric-critical-care specialist similarly opined E.A. was killed by multiple head injuries inflicted by another person.

The medical examiner and pediatric-critical-care specialist also both testified that, shortly or immediately after the fatal injuries were inflicted, a child would have abnormal breathing and other deficits such as loss of consciousness, eye motion, and muscle tone. In response to hypothetical questions, the pediatric-critical-care specialist and medical examiner both agreed the appearance of E.A. in a video Nicholson recorded shortly before calling 911 was consistent with symptoms that would rapidly follow inflicted abusive head trauma.

The county attorney charges Nicholson and Obrecht. Obrecht pleads guilty and testifies for the State. Nicholson takes the stand and, for the first time at trial, blames Obrecht for E.A.’s injuries.

The Story County Attorney charged both Nicholson and Obrecht with felony offenses. Obrecht entered into a plea agreement with the State, substantially reducing her sentencing exposure from fifty years to twenty in exchange for truthful testimony. Nicholson proceeded to trial on murder in the first degree, a class “A” felony in violation of Iowa Code section 707.2(1)(e) (2021), and child

endangerment resulting in death, a class “B” felony in violation of sections 726.6(1)(a)–(b) and 726.4(4).

Nicholson testified in his own defense. He criticized Obrecht’s parenting of E.A. and described her as impatient and bad at handling stress related to childcare. He claimed Obrecht “slamm[ed]” E.A. into the ground and hit him repeatedly, which she denied in her own sworn testimony. Nicholson claimed he recorded the video of E.A.’s agonal breathing so he could “show [his] family, if [he] had to.” He testified that he was “pretty high” or “extremely intoxicated” while talking to police and misleading them about what happened to E.A. And he agreed with the prosecutor that the first time he told police or anyone publicly that Obrecht hurt E.A. was at trial.

The jury found Nicholson guilty as charged, and the district court sentenced him to life in prison without parole. Nicholson appeals.

II. Standard of Review

“We review sufficiency-of-evidence claims for correction of errors at law.” *State v. Cahill*, 972 N.W.2d 19, 27 (Iowa 2022). “[W]e are highly deferential to the jury’s verdict. The jury’s verdict binds this court if the verdict is supported by substantial evidence.” *Id.* (quoting *State v. Jones*, 967 N.W.2d 336, 339 (Iowa 2021)). “In determining whether the jury’s verdict is supported by substantial evidence, we view the evidence in the light most favorable to the State, including all ‘legitimate inferences and presumptions that may fairly and reasonably be deduced from the record evidence.’” *Jones*, 967 N.W.2d at 339 (quoting *State v. Tipton*, 987 N.W.2d 653, 692 (Iowa 2017)).

III. Discussion

Nicholson's claim on appeal largely boils down to arguing the jury should have believed his testimony that Obrecht inflicted the fatal injuries and he had no part in E.A.'s death. But "[i]nherent in our standard of review of jury verdicts in criminal cases is the recognition that the jury was free to reject certain evidence, and credit other evidence." *State v. Button*, 622 N.W.2d 480, 483 (Iowa 2001) (citation omitted). As a result, the jury was entitled to reject Nicholson's self-serving and inconsistent testimony and instead believe Obrecht's version of events and the forensic evidence offered by the State.

Moving beyond the credibility challenge, the only element of the offenses challenged by Nicholson on appeal is identity—whether he inflicted the injuries that killed E.A. But E.A. was in Nicholson's sole care for more than twenty minutes before paramedics arrived. And medical evidence established the injuries were inflicted minutes before the video depicting E.A.'s agonal breathing. The jury reasonably concluded Nicholson inflicted the injuries. See *State v. Meyers*, 799 N.W.2d 132, 138 (Iowa 2011) ("In assessing the sufficiency of the evidence, we find circumstantial evidence equally as probative as direct.").

The medical evidence also proved the injuries were caused by abusive head trauma consistent with shaking and slamming a child and inconsistent with the short fall Nicholson claimed. The jury could have found Nicholson's story about E.A. falling was false and intended to cover up the crime or deceive police. See *State v. Odem*, 322 N.W.2d 43, 47 (Iowa 1982) ("A false story told by a defendant to explain or deny a material fact against him is by itself an indication of guilt."). This circumstantial evidence was bolstered by motive evidence: Nicholson's text

messages about E.A.'s "shitty" behavior, E.A. breaking his phone, and Nicholson's belief E.A. was interfering with his sex life. See *State v. Syperda*, No. 18-1471, 2019 WL 6893791, at *6 (Iowa Ct. App. Dec. 18, 2019) ("While motive is not an essential element of murder, motive evidence is always relevant."). And that evidence was reinforced by Nicholson concealing E.A.'s earlier injuries by dissuading Obrecht from seeking medical care, while taking videos of E.A.'s developing injuries the week before his death. See *State v. Crawley*, 633 N.W.2d 802, 804 (Iowa 2001) (recognizing evidence of concealment, like evidence of flight or false statements, reflects consciousness of guilt). Viewing the evidence in the light most favorable to the State, Nicholson's convictions were supported by proof beyond a reasonable doubt.

IV. Disposition

We affirm Nicholson's convictions for murder in the first degree and child endangerment resulting in death.

AFFIRMED.