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THE SUPREME COURT OF NEW HAMPSHIRE

Coos
Case No. 2024-0257
Citation: State v. Keville, 2026 N.H. 31

THE STATE OF NEW HAMPSHIRE

v.

CRAIG KEVILLE

Argued: April 9, 2026
Opinion Issued: August 19, 2026

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Sam M. Gonyea, assistant attorney general, on the brief and orally), for the State.

Pamela E. Phelan, senior assistant appellate defender, of Concord, on the brief and orally, for the defendant.

PER CURIAM.

[¶1] The defendant, Craig Keville, appeals his convictions following a jury trial in Superior Court (Bornstein, J.) on two counts of first degree murder, see RSA 630:1-a, I(a) (2016), and three counts of falsifying physical evidence, see RSA 641:6, I (2016). The sole question on appeal is whether the State introduced sufficient evidence to prove the crimes of first degree murder and falsifying physical evidence. We affirm.

I. Background

[¶2] The jury could have found the following facts. The defendant and Holly Banks had been in a relationship, living together at Banks's apartment in Gorham. In January 2022, their relationship ended and the defendant moved to an apartment in Berlin.

[¶3] On April 26, 2022, Banks went to Fagin's Pub in Berlin in the late afternoon. Keith LaBelle arrived and sat next to Banks at the bar. It appeared that Banks and LaBelle were meeting for the first time. Around 7:30 p.m., the defendant texted Banks asking her to come over to his apartment. Banks replied that "some Russian" was talking to her and she could not drive to the defendant's apartment because she had a taillight out. The defendant asked whether she wanted him to pick her up "or are you going to bring the Russian guy home?" Around 8:05 p.m., the defendant texted Banks that he was "about to come find [her]" and was "on [his] way." Banks responded "no" and that she was "already on [her] way home." The defendant replied, "okay, we will see," "can you please answer me," and "don't hurt me, please."

[¶4] A bartender and a patron at Fagin's Pub testified at trial to the following events. When the defendant arrived at Fagin's Pub, he "came in hot" and stood directly behind Banks. His body language "seemed like he was frustrated or aggravated" and "it looked like [the defendant] was very uncomfortable that there was somebody there with [Banks]." The interaction became aggressive as Banks became more "standoffish" with the defendant and tried to "redirect conversations with [LaBelle] more than with [the defendant]." The defendant grabbed Banks's phone "out of her hands, a couple of times." At one point during the interaction, the defendant and LaBelle both "stood up at each other," and LaBelle "yelled at the [bartender] that [the defendant] should leave."

[¶5] During the altercation, Banks "looked scared" and tried "not to make eye contact with too many people." The defendant tried to get Banks to leave. As the encounter became "more heated," the bartender told the defendant "he needed to leave." When he was asked to leave, the defendant's demeanor was "aggressive," "heated," and "angry." After the defendant left, the bartender called the police and officers responded to Fagin's Pub at 9:38 p.m. and spoke with witnesses. A police officer was given a description of the defendant's truck, and he testified that he issued an alert for officers to be on the lookout for a gray Toyota Tundra pickup truck with an "aftermarket ladder rack" and a Maine registration.

[¶6] At 11:19 p.m., the defendant texted Banks, "[y]ou're going to get people hurt, Holly." Between approximately 11:33 p.m. and 11:59 p.m., cell phone location data placed the defendant's phone in the vicinity of Banks's apartment. At 11:36 p.m., the defendant texted Banks "stop your games,

man." When Banks left Fagin's Pub around midnight, she asked a friend to follow her to her apartment. The friend did so and spoke with Banks on the phone shortly after Banks arrived at her apartment.

[¶7] At 12:03 a.m. on April 27, LaBelle messaged Banks confirming the street address of her apartment. Banks replied, "[y]es." At 12:10 a.m., the defendant texted Banks, "can you please just stop this and talk to me?" Banks responded asking, "[y]ou okay?" The defendant answered "no, not at all. I was ready to do some really bad stuff tonight. Not to you." He continued, "when are you gonna realize I'm not going to hurt you? And if it happened, I was just going to end myself." At 12:14 a.m., Banks messaged LaBelle, "[m]y ex is outside," "[d]on't come," and "[w]ell, I want you to come" "[b]ut I want him to leave first." At 12:15 a.m., Banks messaged LaBelle, "[h]e's left," "[h]urry." Cell phone location data established that the defendant's phone left the vicinity of Banks's apartment around 12:17 a.m.

[¶8] Surveillance video from the Big Apple convenience store in Berlin captured the defendant's truck traveling toward his apartment at 12:20 a.m. Surveillance video from a camera pointed at the defendant's apartment showed the vehicle pulling into the rear parking lot of the defendant's apartment building at 12:22 a.m. and parking. The driver got out of the vehicle and walked to the rear entrance of the building. Around 1:40 a.m., the video showed the defendant's living room light turn off and then on and remain lit when a person exited the rear of the building and went to the same vehicle that had previously parked at 12:22 a.m. At 1:44 a.m., the vehicle left the parking lot and drove in the direction of the Big Apple convenience store. Surveillance video from the Big Apple showed a vehicle matching the characteristics of the defendant's pickup driving past at 1:47 a.m., consistent with the time it would take to reach the Big Apple in a vehicle that left the defendant's parking lot at 1:44 a.m.

[¶9] Between 1:46 a.m. and 1:49 a.m., the defendant's cell phone went from connecting to a cell tower in Berlin to connecting to a tower in Gorham. The defendant's cell phone was in the vicinity of Banks's apartment between 1:51 a.m. and 1:55 a.m. Surveillance video from a camera at TMS Diesel that pointed toward Banks's apartment showed a vehicle pulling up to her apartment at 1:51 a.m. That time is consistent with how long it would have taken to travel from where the vehicle matching the description of the defendant's truck was last seen — the Big Apple at 1:47 a.m. — to Banks's apartment. The video captured a person getting out of the driver's side of the vehicle. The defendant's cell phone last connected to Banks's password-protected Wi-Fi network at 1:52 a.m. and disconnected at 1:55 a.m.

[¶10] Surveillance video showed the vehicle leaving Banks's apartment at 1:55 a.m. At 1:56 a.m., the defendant messaged his mother, "I'm sorry, mom." Surveillance video collected from Gorham Car Wash at 401 Main Street in

Gorham, south of Banks's apartment, showed a vehicle matching the description of the defendant's truck passing by at approximately 1:57 a.m. Around 2:14 a.m., the defendant's phone connected to cell towers south of Banks's apartment in the Wildcat Mountain area. Cell phone location data established that the defendant's cell phone continued moving south and connected to a tower in the area of Jackson at 2:24 a.m. The cell phone next connected to a tower in Gorham around 2:46 a.m., placing the phone near the Gorham police department. At 2:46 a.m., the defendant messaged his mother, "I love you."

[¶11] Around 2:50 a.m., Gorham police officers were dispatched to the Gorham police department because a person in the lobby was asking to speak with an officer. Upon arrival, the police noted a gray Toyota pickup truck with a Maine plate parked nearby. When the truck was searched by the police around 9:44 p.m. that night, officers found the defendant's cell phone on the front passenger seat.

[¶12] When the officers entered the police department, the defendant asked to speak with them in private. Once they were in a conference room, the defendant told the officers to "[g]o to [Banks's apartment]." When the officers arrived at Banks's apartment, they found the external door "propped open," the door to the residence unlocked, and no signs of forced entry in the home. Banks's body was found on the kitchen floor with a gunshot wound to her head. LaBelle's body was found upstairs on the bedroom floor with several gunshot wounds to the chest, neck, and head.

[¶13] Officers who collected evidence and photographed the crime scene on April 27 saw no evidence of a struggle before Banks and LaBelle were shot. The officers found shell casings from FC 9mm Luger ammunition. They also found a Ruger SR9c pistol registered to Banks in a backpack in the upstairs bathroom.

[¶14] Police obtained a warrant and searched the defendant's apartment on April 27 while he was still detained at the Gorham police department. The living room light was on in the apartment when they arrived. On the kitchen table was an unzipped, pistol-sized gun case. There was no gun inside the case.

[¶15] Inside the case, police found a bill of sale for a Ruger 9E pistol. Initial attempts to find the individual named on the bill of sale were unsuccessful. Later, the police ran a "trace" of the firearm's serial number from which they learned that the prior owner is deceased. The police photographed the gun case and the bill of sale but did not seize them at that time because the items fell outside the scope of the warrant.

[¶16] The police did not find a Ruger 9E handgun in the defendant's apartment. The police did not find any 9mm ammunition in the defendant's apartment. A K-9 search of the area in the vicinity of Banks's apartment did not locate a firearm. Following the search of his apartment, the defendant was released from the police department and allowed to return to his apartment.

[¶17] After obtaining a second warrant, on April 29 the police conducted another search of the defendant's apartment to look for the gun case and the bill of sale. They located the bill of sale ripped up in the trash and located the gun case in the trash. Police also obtained a warrant to search the defendant's storage unit. In a gun safe in the storage unit, the police found two rifles, a bill of sale for a Glock .40-caliber Gen4 pistol, a FC Luger 9mm live round, and a Ruger instruction manual for six different firearms in the Ruger SR series, including SR9c and 9E. A Ruger 9E handgun was not found in the defendant's storage unit and no gun found in the storage unit was compatible with the FC 9mm Luger round.

[¶18] An expert in the field of firearms examination and comparison examined the shell casings, fired bullets, and bullet fragments that were collected at the crime scene. The expert also test-fired the Ruger SR9c that was registered to Banks and compared the bullets and cartridges to the ones found at the crime scene. The expert concluded that the bullets found at the scene were all fired from the same 9mm pistol and that they were not fired from the pistol registered to Banks.

[¶19] Following a twelve-day trial, the jury found the defendant guilty of first degree murder for the deaths of Banks and LaBelle, and simple assault for unprivileged contact with Banks by grabbing her cell phone from her at Fagin's Pub on April 26, 2022. The jury also found the defendant guilty of falsifying physical evidence for impairing the verity or availability of the Ruger 9E handgun, the gun case, and the bill of sale for the Ruger 9E. This appeal followed.

II. Analysis

[¶20] The defendant argues that the State introduced insufficient evidence to prove beyond a reasonable doubt the first degree murder and falsifying physical evidence charges. He asserts that "[n]o reasonable jury could have found that the evidence proved beyond a reasonable doubt" that he shot Banks and LaBelle, or that he "purposely did anything with the gun used in the shooting or an empty gun case and bill of sale located in his home to impair the availability of such items for any police investigation."

[¶21] A challenge to the sufficiency of the evidence raises a question of law, which we review de novo. State v. Seibel, 174 N.H. 440, 445 (2021). When the evidence is solely circumstantial, it must exclude all rational

conclusions except guilt. State v. Lopez, 162 N.H. 153, 155 (2011). Under this standard, however, we still consider the evidence in the light most favorable to the State and examine each evidentiary item in context, not in isolation. Id. Where the defendant challenges a finding for which the record contains only circumstantial evidence, the defendant must establish that the evidence fails to exclude all reasonable conclusions except guilt. See Seibel, 174 N.H. at 445.

[¶22] The proper analysis is not whether the evidence excludes every possible conclusion consistent with innocence, but whether it has excluded all reasonable conclusions other than guilt. Id. We do not determine whether the defendant has suggested another possible hypothesis that could explain the evidence in an exculpatory fashion. See id. Rather, we evaluate the evidence in the light most favorable to the State and determine whether the alternative hypothesis is sufficiently reasonable that a rational trier of fact could not have found proof of guilt beyond a reasonable doubt. Id. Where solely circumstantial evidence is at issue, the critical question is whether, even assuming all credibility resolutions in favor of the State, the inferential chain of circumstances is of sufficient strength that guilt is the sole rational conclusion. Id.

A. First Degree Murder

[¶23] The defendant argues that the State introduced insufficient evidence to prove that he committed two counts of first degree murder because the "circumstantial evidence was insufficient to exclude all reasonable conclusions other than guilt." In support, he posits two alternative scenarios. First, he notes the absence of evidence that: (1) the door to Banks's apartment was unlocked at the time he was there; (2) he had a key; or (3) his fingerprints were on the door handle. Thus, the defendant contends, after knocking on Banks's door and receiving no answer, he could have "simply left," "drove for a while," and knowing Banks "had been out with a man she did not know, he thought it might be good for the police to check on her, leading him to the police station." Second, the defendant asserts that even if he did enter the apartment, in the absence of evidence of blood or gunshot residue on the defendant or in his truck, the evidence is consistent with a conclusion that, upon seeing Banks's body shot by someone else he "left driving for a while to gather his emotions before going to the police station." We are not persuaded that the defendant has established that the evidence at trial fails to exclude all reasonable conclusions except guilt. See Lopez, 162 N.H. at 155.

[¶24] As set forth above, the evidence considered in the light most favorable to the State shows that several hours before the murders, the defendant acted aggressively toward Banks and LaBelle because he was angry that LaBelle was with Banks at Fagin's Pub. Surveillance video and cell phone location data showed that the defendant's truck and cell phone traveled to Banks's apartment around 1:46 a.m. on April 27, 2022, and evidence showed

that he left an unzipped, empty, pistol-sized gun case on his kitchen counter containing a bill of sale for a Ruger 9mm pistol — a handgun that fires ammunition of the type that killed the victims. The defendant's truck pulled up to Banks's apartment, an individual exited the driver's side of the vehicle, and between 1:52 a.m. and 1:55 a.m. the defendant's cell phone automatically connected to Banks's password-protected Wi-Fi network. Around 1:55 a.m., that individual returned to the truck, and at that same time the defendant messaged his mother, "I'm sorry," drove his truck south to the Wildcat Mountain area, turned north again, and returned to Gorham. Around 2:46 a.m., the defendant messaged his mother, "I love you," entered the Gorham police department around 2:50 a.m., and told the police to go to Banks's apartment. Subsequently, live ammunition of the type that killed the victims was found in the defendant's storage unit.

[¶25] The defendant's alternative hypotheses are not sufficiently reasonable that a rational trier of fact could not have found guilt beyond a reasonable doubt. See Seibel, 174 N.H. at 445. The defendant's alternative hypotheses do not reasonably explain the defendant's entire course of conduct, including the presence of the unzipped, empty, pistol-sized gun case that he left on his kitchen table before going to Banks's apartment, his message to his mother after leaving Banks's apartment saying that he was sorry, and his decision to go to the Gorham police department and direct them to go to Banks's apartment. Nor do the alternative hypotheses explain his decision to dispose of the empty gun case and bill of sale after being released from the police department, or the presence of 9mm ammunition in his storage unit despite the absence of any firearm in his possession capable of firing such ammunition. Although law enforcement found no blood or gunshot residue on the defendant or in his truck, the lead investigator assigned to the case testified that she had participated in ninety-four homicide investigations and that forensic evidence such as blood or gunshot residue is not always available in every investigation due to degradation of evidence, disposing of evidence, and washing of hands. When viewed in context, not in isolation, the cumulative effect of this circumstantial evidence is such that the defendant's alternative scenarios do not reasonably explain the evidence. See Lopez, 162 N.H. at 155.

[¶26] We have objectively reviewed the record and, evaluating the evidence in the light most favorable to the State, we conclude that, as the State asserts, the evidence supports that the defendant "had the means, motive, opportunity, and intent to commit the murders, and that he exhibited a consciousness of guilt after committing them." Accordingly, we hold that there was sufficient evidence for a rational trier of fact to find beyond a reasonable doubt that the defendant committed two counts of first degree murder. See Seibel, 174 N.H. at 445.

B. Falsifying Physical Evidence

[¶27] Next, the defendant argues that the trial court erred in finding sufficient evidence to prove that he falsified physical evidence in violation of RSA 641:6, I, specifically, disposing of the Ruger 9E handgun, gun case, and bill of sale. "A person commits a class B felony if, believing that an official proceeding . . . or investigation is pending or about to be instituted, he . . . [a]lters, destroys, conceals or removes any thing with a purpose to impair its verity or availability in such proceeding or investigation." RSA 641:6, I.

[¶28] The defendant argues that the evidence does not prove that he "impaired the verity or availability of the gun." (Underlining omitted.) He asserts that "the evidence is fully consistent with the proposition that on April 26 and 27 [he] did not have a 9mm handgun" given that the gun case "could have held any sort of handgun," the Ruger bill of sale was not in his name, the instruction manual "could have been a manual that belonged with Banks' 9mm Ruger," and the live ammunition in his storage unit could have been "a stray round for Banks' gun."

[¶29] As set forth above, the State's evidence established that when the police searched the defendant's apartment on April 27 while the defendant was detained at the police station, they found an empty pistol-sized gun case on his kitchen table inside the pocket of which was a bill of sale for a Ruger 9E. A subsequent search of the defendant's storage unit uncovered a manual which included instructions for, among other guns in the Ruger SR series, a Ruger 9E. The ammunition that was used to kill Banks and LaBelle was fired from a single 9mm pistol, the shell casings at the crime scene were FC 9mm Luger ammunition, a FC Luger 9mm live round was found in the defendant's storage unit, and no gun found in the defendant's apartment or storage unit was compatible with that ammunition. Following the shooting deaths of Banks and LaBelle, the defendant drove for nearly an hour, heading south from Gorham through the Wildcat Mountain area to Jackson before then turning north and returning to Gorham where he arrived at the police station.

[¶30] The inferential chain of circumstances established by the State's evidence taken in the light most favorable to the State is of sufficient strength that the sole rational conclusion is that the defendant disposed of a Ruger 9E pistol before going to the Gorham police department. See Seibel, 174 N.H. at 445. We have objectively reviewed the record and, evaluating the totality of the evidence in the light most favorable to the State and examining each evidentiary item in context, not in isolation, we conclude that the defendant's alternative hypothesis — that on April 26 and 27 he did not have a 9mm handgun — is not sufficiently reasonable that a rational trier of fact could not have found guilt beyond a reasonable doubt. See id.; see also Lopez, 162 N.H. at 155. When viewed in context with the surrounding circumstances uncovered in the investigation, including the defendant's aggressive behavior

towards Banks and LaBelle at Fagin's Pub on April 26 and his presence at Banks's apartment in the early morning on April 27, the presence of the unzipped, empty, pistol-sized gun case on the defendant's kitchen counter, the bill of sale for the 9mm handgun, and the presence of 9mm ammunition in his storage unit of the type that killed the victims, together with the fact that the defendant drove for nearly an hour after leaving Banks's apartment, the evidence is sufficient for a rational trier of fact to find that the defendant was in possession of a 9mm handgun on April 26 and 27 and that he disposed of it after he committed the murders and before he arrived at the Gorham police department.

[¶31] We disagree with the defendant's suggestion at oral argument that this case is similar to State v. Harris, 177 N.H. 473 (2025), 2025 N.H. 32. In Harris, the defendant was involved in a shooting incident and did not return to his apartment until approximately an hour and a half later. Harris, 177 N.H. at 476, 2025 N.H. 32, ¶¶3, 5. The police searched the defendant's apartment within an hour of the incident and did not locate the firearm but made no further attempt to search the apartment. Id. at 485, 2025 N.H. 32, ¶34. We concluded that a rational conclusion consistent with the defendant's innocence — that the defendant left the gun in his apartment after returning there before his arrest and after the police searched it — was not excluded by the State's circumstantial evidence. Id. at 486, 2025 N.H. 32, ¶35. In the case before us, because the police searched the defendant's home two times, including before and after releasing him from their custody, the reasoning in Harris is inapposite. See id.

[¶32] The defendant also argues that the State failed to prove that he "did anything with the gun case and bill of sale with a purpose to impair their availability in the investigation." See RSA 641:6, I (providing that a person is guilty of falsifying physical evidence if he believes an investigation or proceeding is about to be initiated and alters, destroys, conceals or removes any thing "with a purpose to impair its verity or availability in such proceeding or investigation"). Specifically, he argues that the evidence was insufficient because "the police had searched his home and there was no evidence that he knew that anything in his home was of interest in any ongoing investigation." He asserts that there was no evidence that he "knew what had transpired in Banks' home or how what police observed there connected in any way to his belongings" and that he "believed that the police determined that these were not pertinent to any investigation."

[¶33] After visiting Banks's apartment in the early hours of April 27, the defendant then drove for nearly an hour before arriving at the Gorham police department to tell the police to go to Banks's apartment. He was detained by law enforcement and knew that the police had searched his apartment while he was in custody. Shortly after he was released by the police, he disposed of the gun case and bill of sale before his apartment was searched a second time.

Viewing this evidence in context with the other circumstantial evidence presented at trial leaves only one rational conclusion: the defendant disposed of the gun case and bill of sale to impair their verity and availability in the ongoing investigation into the shooting deaths of Banks and LaBelle. See Seibel, 174 N.H. at 445; Lopez, 162 N.H. at 155.

[¶34] Accordingly, we conclude that the record establishes that the State introduced sufficient evidence to prove beyond a reasonable doubt that the defendant committed two counts of first degree murder in violation of RSA 630:1-a, I(a) and three counts of falsifying physical evidence in violation of RSA 641:6, I. Any issues the defendant raised in his notice of appeal but did not brief are deemed waived. See State v. Blackmer, 149 N.H. 47, 49 (2003).

Affirmed.

DONOVAN, COUNTWAY, GOULD, and WILL, JJ., concurred; MACDONALD, C.J., sat for oral argument but did not participate in the final vote.