NOTICE
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2026 IL App (5th) 230695-U

NO. 5-23-0695

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Piatt County.
	)	
v.	)	No. 21-CF-71
	)	
BLAYTON COTA,	)	Honorable
	)	Dana C. Rhoades,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BOIE delivered the judgment of the court.
Justices Vaughan and Sholar concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the defendant's felony murder conviction where the killing of the victim took place during the commission of a forcible felony, in that the defendant had not reached a place of safety at the time of the killing, and the victim's use of force prior to his death was foreseeable resistance to the defendant's escape and was not disconnected from the defendant's commission of the forcible felony.

¶ 2 The defendant, Blayton Cota, appeals his July 17, 2023, conviction for first degree murder in violation of section 9-1(a)(3) of the Criminal Code of 2012 (Code) (720 ILCS 5/9-1(a)(3) (West 2020)), arguing that the burglary underlying the conviction was no longer in progress at the time of the killing, and that the victim's use of force was an intervening factor that broke the causal chain. For the following reasons, we affirm the defendant's conviction.

¶ 3 I. BACKGROUND

¶ 4 The defendant was charged by information on September 30, 2021, with one count of first degree murder, in that he, or one for whose conduct he was legally responsible, without lawful justification, while committing a burglary in violation of section 19-1(a) of the Code (720 ILCS 5/19-1(a) (West 2020)), discharged a firearm at Michael Brown, thereby causing Brown's death, in violation of section 9-1(a)(3) of the Code (*id.* § 9-1(a)(3)).

¶ 5 The State's evidence at trial established that in the early morning hours of January 25, 2021, the defendant and his half-brother, Jerome Schmidt, stole a Sig Sauer 9-millimeter semiautomatic pistol from an unlocked truck parked in a driveway in Cantrall, Illinois. The owner discovered the theft and reported it around 7 a.m. that day. That evening, the defendant, Schmidt, and 15-year-old L.F., who testified at trial as to these events, drove from Springfield, Illinois, to Lovington, Illinois, where the defendant and Schmidt stole a Ford F-150 pickup truck from a garage while L.F. stood watch.

¶ 6 With Schmidt driving the truck, the three proceeded to Hammond, Illinois, and parked the truck approximately four or five houses away from the home of Brown. Schmidt was in possession of the stolen 9-millimeter pistol at that time. He provided L.F. with a ski mask and gloves, and then Schmidt and the defendant began checking nearby garages and cars for unlocked doors. L.F. stood lookout, but occasionally assisted the brothers in their search for property that they could steal.

¶ 7 When the three of them arrived at Brown's house and attempted to enter a garden shed on his property, the security system alerted Brown's wife, Linda Brown, that activity had been detected. After observing still images of the three intruders captured by surveillance cameras, Linda informed Brown of the situation. Brown proceeded outside carrying a loaded Glock .45

caliber pistol. By that time, the three intruders had entered a large, detached garage also located on the property.

¶ 8 The garage contained multiple vehicles and workshop areas. It had two large garage doors to the east, one smaller garage door to the south, and two pedestrian doors, one at each end of the north wall, both facing the residence. The garage also had automatic lights, and shortly after the three intruders entered the garage, the lights turned on.

¶ 9 While the defendant and Schmidt searched for a tool to open a large safe located within the garage, L.F. spotted a breaker panel that he believed would control the lights. Before he was able to approach the panel and turn the lights off, Brown entered the garage through one of the doors on the north wall, closed the door behind him, and locked it from the inside. Brown then announced his presence and L.F. dropped to the floor, attempting to hide underneath a truck parked in the garage. L.F. saw Brown point his gun at the brothers near the front of the truck and direct them both onto their knees with their hands in the air, stating that the police were coming. Because they were caught, the defendant then told L.F. to come out of hiding, and as L.F. emerged, Brown turned and pointed his gun at L.F.

¶ 10 When Brown turned toward L.F., the defendant ran for the second pedestrian door, slid to the ground, and exited the garage. When the defendant fled, Brown turned to follow the defendant and fired a shot toward the defendant. That bullet struck a folding table propped against the north wall of the garage. Schmidt then fired approximately four shots, striking Brown in the back three times.

¶ 11 Brown then turned back toward Schmidt, and Brown and Schmidt each fired multiple shots. L.F. was not sure whether Brown or Schmidt fired first after Brown's initial shot in the direction of the defendant. The only firearm L.F. saw was Brown's weapon. After the shooting ended, L.F.

saw Schmidt standing over Brown, who was laying on the floor of the garage, and Schmidt was firing shots down into Brown. In addition to the shots to his back, Brown was shot three times in the abdomen and in both arms. While running from the garage to the parked truck, the defendant heard the shots being fired. After the shooting had ended, Schmidt ran out of the garage and then ran back in and told L.F. they had to go. Schmidt and L.F. ran out of the garage together. They then joined the defendant in the stolen pickup truck and the three of them fled the scene.

¶ 12 After observing the intruders fleeing, Linda approached the garage and heard Brown moaning. Linda entered the garage and saw Brown on the floor, locked the garage doors, and went back to Brown. Brown told Linda that he could not breathe and that he was going to die. Linda helped Brown sit up and attempted to apply pressure to his wounds, but there were too many. Linda held Brown and told him she loved him for 5 to 10 minutes until he died.

¶ 13 Thereafter, the police and paramedics arrived, and Brown was pronounced dead at the scene. An autopsy was later performed and revealed that Brown had eight total gunshot wounds. A paper hospital mask was collected from the garage, and the parties stipulated that the mask had been examined for DNA and the DNA recovered from the mask matched the DNA profile of the defendant.

¶ 14 When the defendant, Schmidt, and L.F. fled the scene, Schmidt drove the pickup truck back to Springfield. On the way, Schmidt called the brothers' mother. Also on that drive, the defendant picked up the gun and threatened to kill L.F. if he said anything about what had happened. When they reached Springfield, they abandoned the stolen pickup truck in a wooded area. The truck was found in February 2021 and in April 2021 the stolen 9-millimeter pistol that was used to kill Brown was found in pieces along a bank of the Sangamon River.

¶ 15 The defendant was questioned by law enforcement regarding the incident, and after initially giving a different version of events, he ultimately gave an account largely consistent with L.F.'s version. After acknowledging that Schmidt shot Brown, and agreeing that Schmidt was trying to protect the defendant, he stated that "the guy should have stayed in his own house."

¶ 16 The defense presented no evidence at trial. Following closing arguments, the jury received instructions regarding felony murder, burglary, and the law of accountability. After deliberations, on July 17, 2023, the jury returned a verdict finding the defendant guilty of first degree murder. On August 11, 2023, the defendant filed a motion for judgment notwithstanding the verdict and a motion for a new trial. That motion was heard prior to the defendant's sentencing hearing on August 29, 2023. After considering arguments, the trial court denied the posttrial motion. The trial court then held a sentencing hearing and sentenced the defendant to 40 years' incarceration in the Illinois Department of Corrections with 3 years' mandatory supervised release. The defendant filed a motion to reconsider his sentence on August 30, 2023, and after a hearing on September 18, 2023, the trial court denied the motion. The defendant then filed his timely notice of appeal.

¶ 17 II. ANALYSIS

¶ 18 The defendant appeals his conviction arguing that the State failed to prove the defendant guilty beyond a reasonable doubt where, according to the defendant, the burglary had ended at the time that Brown was killed, and Brown's decision to fire a shot at the defendant was an intervening cause that broke the causal relationship between the burglary and the death of Brown. We begin our analysis with a determination of the appropriate standard of review.

¶ 19 A. Standard of Review

¶ 20 The defendant argues that because the facts are not in dispute in this matter, the standard of review on appeal should be *de novo*. The State disagrees, arguing that when considering a claim

that a defendant was convicted on insufficient evidence, a reviewing court will set aside the conviction only where the evidence is so improbable or unsatisfactory that it creates a reasonable doubt as to his guilt.

¶ 21 The death of Brown occurred on the evening of January 25, 2021. To resolve the standard of review issue, we first note that at the time of the shooting, first degree murder under section 9-1(a)(3) of the Code, frequently referred to as "felony murder," was defined as follows:

> "(a) A person who kills an individual without lawful justification commits first degree murder if, in performing the acts which cause the death:
>
> * * *
>
> (3) he or she is attempting or committing a forcible felony other than second degree murder." 720 ILCS 5/9-1(a)(3) (West 2020).

¶ 22 Prior to amendment of the statute in July 2021, Illinois followed the proximate cause theory to determine applicability of the felony murder statute. *People v. Lowery*, 178 Ill. 2d 462, 465 (1997); 720 ILCS 5/9-1(a)(3) (West 2020). Under the proximate cause theory, courts determine whether the defendant's actions set in motion a chain of events that ultimately caused the decedent's death. *Lowery*, 178 Ill. 2d at 473. Liability attaches for any death proximately resulting from the unlawful activity, even when the killing was committed by one resisting the felony. *Id.* at 465.

¶ 23 When a defendant challenges a jury's factual determination that the defendant's acts were a contributing cause of death, essentially challenging the sufficiency of the evidence supporting the causation element, the sufficiency of the evidence standard applies; specifically, whether 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. *People v. Brackett*, 117

Ill. 2d 170, 176-77 (1987). Our supreme court has stated unequivocally that the causal relationship is a question of fact that should be left to the trier of fact, and we will not disturb the jury's determination unless the evidence is "so unreasonable, improbable and unsatisfactory as to leave a reasonable doubt as to defendant's guilt." *Id.* at 177. While the facts comprising the sequence of events are not in dispute in this matter, the defendant is challenging the causal relationship between the burglary and the death of Brown and will be reviewed under the sufficiency of the evidence standard.

¶ 24 B. Sufficiency of the Evidence

¶ 25 On appeal, the defendant claims that the State failed to prove that Brown's death occurred during the commission of a burglary or attempt burglary. He further argues that Brown's actions broke the causal chain between the burglary and his death.

¶ 26 Under the felony murder statute, a defendant is responsible for the direct and foreseeable consequences of his felonious actions. *Lowery*, 178 Ill. 2d at 467. The purpose behind the felony murder statute is to limit the violence that accompanies the commission of forcible felonies so that anyone engaged in such violence will be automatically subject to a murder prosecution should someone be killed during the commission of a forcible felony. *People v. Shaw*, 186 Ill. 2d 301, 322 (1998). Illinois courts apply the proximate cause theory of felony murder, under which a defendant may be found guilty "for any death proximately resulting from the unlawful activity—notwithstanding the fact that the killing was by one resisting the crime." *Lowery*, 178 Ill. 2d at 465. "It has long been the rule in Illinois that a defendant may be held responsible for a death that occurs during an escape following the commission of a forcible felony." *People v. Klebanowski*, 221 Ill. 2d 538, 546 (2006).

¶ 27 In support of his first argument that Brown's death did not occur during the commission of a burglary, the defendant cites *People v. Beauchamp*, 241 Ill. 2d 1 (2011), to support the proposition that the offense of burglary is complete once a person enters a building with felonious intent. The defendant argues that at the point that he and Schmidt were on their knees at gunpoint in the garage, the commission or attempt at commission of a burglary had ended, along with any liability for felony murder. This argument fails. The *Beauchamp* court decided whether the elements comprising a burglary were met at the point that an individual made an unauthorized entry into a motor vehicle with the intent to commit a felony or theft therein. *Id.* at 8. In determining that the felony or theft did not need to be accomplished for a burglary to have occurred, the *Beauchamp* court held that entering the motor vehicle with the intent to do so was sufficient to meet the elements of the crime, even prior to the felony or theft occurring. *Id.* While the *Beauchamp* court found that the elements of the crime were met, and the crime was therefore fully committed, at the moment of unauthorized entry with intent, it did not speak to the issue of whether, and at what point, the commission of the burglary had ended for felony murder liability purposes.

¶ 28 To determine when the commission of a felony has ended for felony murder liability purposes, the rule is that a felony is not complete until the perpetrators have reached a place of safety. *Klebanowski*, 221 Ill. 2d at 548; *People v. Hickman*, 59 Ill. 2d 89, 94 (1974); *People v. Bongiorno*, 358 Ill. 171, 173 (1934). We assess whether a defendant has reached a place of temporary safety by examining whether the killing and the felony were closely related in time, place, causation, and continuity of action. *People v. Moore*, 375 Ill. App. 3d 234, 241 (2007). We will first examine whether the events were closely related in time, place, and continuity of action, and then analyze the fourth element, causation, along with the defendant's second issue.

¶ 29 The defendant urges this court to find that his burglary was complete when he was on his knees and Brown held him at gunpoint. The defendant argues that he had already entered the garage with the intent to commit a theft, and that once he was subdued, he was no longer committing a burglary. This argument is without merit. It cannot be said that the defendant had reached a place of temporary safety when he was within the place of the burglary mere moments after having entered with the intent to commit a theft, he was interrupted in the middle of the commission of the burglary, and Brown held the defendant on his knees at gunpoint to aid officers in apprehending the defendant for the burglary. He likewise had not reached a place of temporary safety when he ran from the garage and Brown shot at him. He was still running from the garage and had not reached a place of temporary safety when he heard the shots fired that killed Brown. The burglary and the killing were therefore closely related in time, place, and continuity of action.

¶ 30 That leaves the causation element of temporary safety still to be addressed. While not identical issues, the defendant's second issue of causal relationship requires the same analysis as the causation element of temporary safety, and so the two issues will be examined together. The defendant argues that Brown's attempt to apprehend the burglars with deadly force broke the causal relationship between the burglary and the killing of Brown. The defendant claims that with regard to victim resistance, a defendant only proximately causes a death for felony murder purposes when the defendant creates a struggle that causes the victim to instinctually react to protect themselves. Because none of the burglars here initiated a struggle, the defendant argues that this case is distinguishable from other cases examining victim resistance.[1] The defendant

[1]To bolster his assertion that a victim's resistance breaks the chain of causation unless the perpetrator initiates a struggle, the defendant cites *Lowery*, 178 Ill. 2d 462; *Shaw*, 186 Ill. 2d 301 (1998); *People v. Burnom*, 338 Ill. App. 3d 495 (2003); *People v. Payne*, 359 Ill. 246 (1935); *People v. Mills*, 252 Ill. App. 3d 792 (1993); *People v. Dekens*, 182 Ill. 2d 247 (1998).

further argues that he could not have foreseen, for proximate cause purposes, that Brown would shoot at him during his attempt to escape. The defendant then engages in a self-defense analysis to claim that Brown was not authorized by law to shoot at the defendant as he fled, and therefore that action by Brown was not foreseeable and broke the causal chain of events between the burglary and Brown's death.

¶ 31 For felony murder purposes, Illinois law does not require that the defendant's action be the sole and immediate cause of death. *Brackett*, 117 Ill. 2d at 176. An intervening cause, however, completely unrelated to the acts of the defendant, is a valid defense to felony murder and relieves a defendant of criminal liability. *People v. Domagala*, 2013 IL 113688, ¶ 39. An intervening cause is a "supervening act disconnected from any act of the defendant." *People v. Gulliford*, 86 Ill. App. 3d 237, 241 (1980). To determine whether an event is an intervening cause, the foreseeability of the ensuing harm caused from the culpable act of a defendant plays a large role. *Id.*

¶ 32 When a forcible felony is committed, the perpetrators know that they may encounter resistance to their affirmative actions and to any subsequent escape. *Klebanowski*, 221 Ill. 2d at 555. Because a perpetrator knows that they might encounter resistance to their forcible felony and escape therefrom, it is unimportant that a perpetrator did not anticipate the precise sequence of events that followed the underlying crime. *Id.* at 555. Resistance is foreseeable. Further, when a death is caused by the actions of another during a defendant's commission of a forcible felony and escape therefrom, the legality of the other person's actions is not determinative of the defendant's liability. The focus is not whether the killing was justified, but whether the defendant's actions set in motion a chain of events that ultimately caused the death. *People v. Martinez*, 342 Ill. App. 3d 849, 855 (2003). Where a defendant's unlawful acts precipitate the events, that defendant is responsible for the consequences. *Id.*

¶ 33 In this case, under the proximate cause theory of felony murder, whether Brown was justified in using deadly force to prevent the defendant from fleeing the garage, and whether Schmidt was justified in shooting Brown, is irrelevant to the question of whether or not the defendant is guilty of the murder. The lawfulness of Brown's act of firing a shot at the defendant as he fled the garage is not determinative of our analysis regarding the causal chain of events. See *People v. Nash*, 2012 IL App (1st) 093233, ¶ 33 ("Liability under a felony murder theory is still applicable even though the felons were attempting an escape when the intended victim used force against them."). See also *Martinez*, 342 Ill. App. 3d at 855; *Lowery*, 178 Ill. 2d at 473. The proximate cause analysis required in this case asks not whether Brown's act of firing a shot at the defendant was legal, but rather asks whether the act was direct and foreseeable versus whether it was "a supervening act disconnected from any act of the defendant." *Gulliford*, 86 Ill. App. 3d at 241.

¶ 34 A victim's retaliation, though potentially unlawful, is a direct and foreseeable consequence of a defendant's criminal acts when committing a forcible felony, and that retaliation does not break the causal chain. *Lowery*, 178 Ill. 2d at 471. "It would defeat the purpose of the felony-murder doctrine if such resistance-an inherent danger of the forcible felony-could be considered a sufficient intervening circumstance to terminate the underlying felony or attempted felony." *Id.*

¶ 35 In this case, the defendant attempted to flee despite knowing that he might encounter resistance to his escape because Brown had caught him and was holding him at gunpoint until the police arrived. That Brown might shoot if the defendant fled was entirely foreseeable in that situation. Further, Brown only held the defendant at gunpoint because the defendant was burglarizing Brown's garage and only fired a shot at the defendant because he attempted to escape. Schmidt shot Brown because Brown fired at the defendant. If the defendant had never made his

attempt at escaping apprehension for the burglary, Brown would likely still be alive. There simply was no identifiable disconnect between the burglary, Brown's attempt to apprehend the burglars, and the shooting of Brown, such that the chain of causation was broken.

¶ 36 We have already found that, regarding whether the defendant had reached a place of temporary safety, the killing of Brown and the burglary were closely related in time, place, and continuity of action. We now further find that the killing and the burglary were also closely related in causation, and therefore conclude that the defendant had not reached a place of temporary safety when the killing occurred, and so felony murder liability still attached during the defendant's escape. We further find pursuant to the foregoing analysis that Brown's resistance, and Schmidt's killing of Brown, were direct and foreseeable consequences of the burglary, and there is no disconnect between the events such that the causal chain was broken.

¶ 37 The jury in this case determined that the facts were sufficient to establish that the causal chain was intact and the defendant's burglary proximately caused the death of Brown. Again, our supreme court has stated unequivocally that the causal relationship is a question of fact that should be left to the trier of fact, and we will not disturb the jury's determination unless the evidence is "so unreasonable, improbable and unsatisfactory as to leave a reasonable doubt as to defendant's guilt." *Brackett*, 117 Ill. 2d at 177. The evidence at trial supported the jury's determination that the defendant's commission of a burglary proximately caused Brown's death, and the verdict therefore was not so unreasonable, improbable and unsatisfactory as to leave a reasonable doubt as to the defendant's guilt. We will not disturb the jury's determination as to this issue.

¶ 38 III. CONCLUSION

¶ 39 We affirm the defendant's felony murder conviction where the killing of the victim took place during the commission of a forcible felony, in that the defendant had not reached a place of

safety at the time of the killing, and the victim's use of force prior to his death was foreseeable resistance to the defendant's escape and was not disconnected from the defendant's commission of the forcible felony. The jury's determination, therefore, was not so unreasonable, improbable and unsatisfactory as to leave a reasonable doubt as to the defendant's guilt.

¶ 40 Affirmed.