

[Cite as *State v. Hill*, 2018-Ohio-4614.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 106017

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**CHRISTOPHER HILL**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
AFFIRMED

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-17-614706-A

**BEFORE:** S. Gallagher, J., E.A. Gallagher, A.J., and McCormack, J.

**RELEASED AND JOURNALIZED:** November 15, 2018

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SEAN C. GALLAGHER, J.:

{¶1} In this reopened appeal, Christopher Hill argues that his conviction for involuntary manslaughter is not supported by sufficient evidence. We affirm.

{¶2} In Hill's direct appeal, he challenged his conviction on sufficiency and manifest weight grounds, but failed to argue the ultimate issue in the case. *State v. Hill*, 8th Dist. Cuyahoga No. 106017, 2018-Ohio-1401, \_ 11 ("*Hill I*"). We affirmed his conviction.

{¶3} Hill then filed an application to reopen his appeal pursuant to App.R. 26(B). There, he alleged appellate counsel was ineffective for arguing irrelevant issues and for failing to argue the ultimate issue in the case. On August 31, 2018, this court granted the application and reopened the appeal. *State v. Hill*, 8th Dist. Cuyahoga No. 106017, 2018-Ohio-3564 ("*Hill II*").

The scope of the reopened appeal was limited to “whether Hill knowingly sold or offered to sell controlled substances \* \* \* and whether Hill’s conduct in trafficking drugs created the foreseeable risk of the victim’s death.” *Id.* at \_ 11, quoting *Hill I* at ¶ 11.

{¶4} Hill filed an appellate brief with a single assignment of error: “The evidence did not demonstrate that [he] knowingly trafficked in controlled substances; but even if this court concludes that it did, the state failed to prove that [his] conduct created a foreseeable risk of [Stephen] Menter’s death.”<sup>1</sup>

{¶5} Hill’s assigned error argues a lack of sufficient evidence, which raises a claim of whether the evidence is legally sufficient to support the verdict as a matter of law. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52, 678 N.E.2d 541. In reviewing a sufficiency challenge, “[t]he relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.” *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

{¶6} Hill was charged with involuntary manslaughter, as relevant here defined as causing the death of another as a proximate result of committing or attempting to commit a felony. R.C. 2903.04(A). The indictment in this case listed the predicate felony offense as drug trafficking. One traffics in drugs when they “sell or offer to sell a controlled substance”; or when they “prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance \* \* \* when the offender knows or has reasonable cause to believe that the controlled substance \* \* \* is intended for sale or resale by the offender or another person.” R.C.

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<sup>1</sup> We recognize that the surname of the victim and his brother was incorrectly spelled in various documents in this proceeding. All references to “Mentor” are intended to refer to “Menter.”

2925.03(A)(1) and (A)(2). When the controlled substance is marijuana, as in this case, the offense is at least a fifth-degree felony. R.C. 2925.03(C)(3).

{¶7} Further, the complicity statute, R.C. 2923.03, defines what actions taken in conjunction with another may result in criminal liability as if the principal offender. These include aiding or abetting another in the commission of an offense, i.e., “supports, assists, encourages, cooperates with, advises, or incites the principal in the commission of the crime, and shares the criminal intent of the principal.” *State v. Poole*, 8th Dist. Cuyahoga No. 80250, 2002-Ohio-5326, ¶ 50, citing *State v. Johnson*, 93 Ohio St.3d 240, 245-246, 754 N.E.2d 796 (2001). The intent of a person “may be inferred from the circumstances surrounding the crime.” *Id.*, citing *Johnson*.

{¶8} Hill argues that there is no evidence that he was anything but a purchaser of drugs, that he did not want to be involved with the transaction between Deon Bulger and Jonathan Menter, and that he was not trying to make any money on the transaction. Hill claims he only introduced Jonathan, his marijuana supplier, to a friend, Bulger. If this was an accurate description of Hill’s role, then he would likely be correct, and the elements necessary for criminal liability for involuntary manslaughter would be lacking. However, Hill’s claims are belied by the record.

{¶9} Hill admitted in his videotaped police interview, played at trial, that he acted as the middleman in the drug transaction between Jonathan and Bulger. Hill also admitted, and cell phone records confirmed, that he arranged the drug transaction, directed Jonathan where to go, when to go, and how much product to bring. He facilitated all communication between the purchaser and seller of drugs over a significant period of time. The text messages exchanged between Jonathan and Hill retrieved from Jonathan’s phone were introduced at trial, and

demonstrated that Hill did more than simply introduce two individuals who then engaged in a drug transaction. In Hill's interview, he also admitted that he expected some form of remuneration from Jonathan for the sale. He stated that he thought Jonathan would give him some free product during their next interaction.

{¶10} At the least, the state demonstrated that Hill was complicit with Jonathan in drug trafficking. The state produced sufficient evidence that Hill engaged in drug trafficking by facilitating the sale of marijuana. Therefore, the state met its burden of demonstrating that Hill committed the predicate offense for involuntary manslaughter.

{¶11} The resultant death must still be a proximate result that is reasonably foreseeable for criminal liability to attach. "The proximate-cause element is satisfied when the accused sets in motion a sequence of events that makes the death of another a 'direct, proximate, and reasonably inevitable consequence.'" *State v. Marshall*, 175 Ohio App.3d 488, 2008-Ohio-955, 887 N.E.2d 1227, ¶ 53 (1st Dist.), quoting *State v. Lovelace*, 137 Ohio App.3d 206, 215, 738 N.E.2d 418 (1st Dist.1999). A defendant can be held criminally responsible for "consequences which are direct, normal, and reasonably inevitable when viewed in the light of ordinary experience." *State v. Wilson*, 182 Ohio App.3d 171, 2009-Ohio-1681, 912 N.E.2d 133, ¶ 26 (8th Dist.), citing *State v. Losey*, 23 Ohio App.3d 93, 95, 491 N.E.2d 379 (10th Dist.1985).

{¶12} Hill argues that Stephen Menter's death was not reasonably foreseeable based on his prior experience that Jonathan Menter never possessed a firearm during drug transactions. The state counters that Hill knew of Bulger's gang affiliation with the Heartless Felons, a gang with a reputation for violence and murder. The state asserts that it was reasonably foreseeable that Hill's actions in facilitating a drug transaction that involved such a dangerous individual could result in death.

{¶13} But for the drug transaction arranged by Hill, Bulger and Jonathan would not have arranged to meet, and Bulger would not have had the opportunity to attempt to rob and shoot Jonathan and his brother Stephen. The jury rejected only Hill's involvement in the robbery. The only question that remains is whether the violence that resulted in Stephen's death was a reasonably foreseeable consequence. *State v. Muntaser*, 8th Dist. Cuyahoga No. 81915, 2003-Ohio-5809, \_ 38. It must be noted that "[i]t is not necessary that the accused be in a position to foresee the precise consequence of his conduct; only that the consequence be foreseeable in the sense that what actually transpired was natural and logical in that it was within the scope of the risk created by his conduct." *Losey* at 96.

{¶14} In *Marshall*, the First District found that evidence in the record established that drug transactions were inherently dangerous undertakings that could often lead to robbery or deadly violence. *Marshall*, 175 Ohio App.3d 488, 2008-Ohio-955, 887 N.E.2d 1227, at \_ 54. The court went on to find that deadly violence is a reasonably foreseeable consequence of drug trafficking. *Id.*

{¶15} Similarly, this court and others have recognized that drug transactions are inherently dangerous and often lead to violence. *Wilson*, 182 Ohio App.3d 171, 2009-Ohio-1681, 912 N.E.2d 133, at \_ 29, citing *Marshall* at \_ 54; *State v. Workman*, 12th Dist. Clermont Nos. CA2016-10-065 and CA2016-10-066, 2017-Ohio-2802, ¶ 24. In the present case, the investigating detective testified about the dangers involved in drug transactions and the reputation of the gang with which Bulger was affiliated. Hill admitted to knowledge of this affiliation and at least some of Bulger's past criminal convictions.

{¶16} Hill attempts to distinguish these cases by pointing out that Jonathan testified that he did not carry a firearm during drug transactions and Hill, in his police interview, stated the

same. While *Marshall* may be factually distinguishable in that Marshall was the drug dealer and carried a firearm, the proximate cause analysis of the issues surrounding drug transactions is applicable to the present case. Further, this is not a sufficient distinguishing factor given other facts in the record addressed below.

{¶17} Not every drug transaction ends in violence, and being in a gang does not make a drug transaction so much more likely to end in violence that it would be foreseeable in every case. Here, there is more than these two factors that made the violence that occurred reasonably foreseeable.

{¶18} Hill had a prior relationship with Jonathan where Hill purchased amounts of marijuana products generally totaling between \$300 and \$500. The amount of the transaction Hill arranged between Bulger and Jonathan was much greater.

{¶19} Further, Hill engaged in subterfuge when arranging the drug transaction. Hill made it seem to Jonathan that Hill was the one meeting him and that Hill was already at the house where they were to meet. Hill was not. He sent a text message to Jonathan, presented as written with additional punctuation as noted, stating, “Yo im at my girl an sons house it’s off of Lee road” and “it’s not that far from that house u go to[.]” Jonathan responded, “Ok that’s cool do u wanna shoot me a address[?]” Hill relayed the address of the vacant house. Hill sent text messages to Jonathan indicating Hill was getting money together for the purchase. Hill was not. Hill convinced Jonathan that he was on his way when Jonathan indicated he was leaving the meet-up location because no one was there. Hill was not.

{¶20} If Hill was not a willing participant in the plot to rob Jonathan, as the jury found, then this deception perpetrated by Hill is another indicator that something was amiss in this situation. This was not the average drug transaction, and Hill’s participation in this deception

constitutes notice of that fact. This was also apparent to Hill, who admitted to detectives during his videotaped interview that he had a bad feeling about the transaction.

{¶21} This subterfuge and Hill's participation in it, coupled with the inherently dangerous nature of drug transaction and Hill's knowledge of Bulger's membership in a street gang known for violence, lead this court to the conclusion that the violence that occurred was a reasonably foreseeable consequence given the facts of this case. Consequently, we affirm.

It is ordered that appellee recover of appellant costs herein taxed. The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, JUDGE

EILEEN A. GALLAGHER, A.J., and  
TIM McCORMACK, J., CONCUR