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IN THE SUPREME COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

LENNON TAMI DECLARO
aka TOMMY,

Appellant

v.

REPUBLIC OF THE MARSHALL
ISLANDS,

Appellee.

Supreme Court No. 2023-01468

OPINION

BEFORE: CADRA, Chief Justice; SEABRIGHT,* and SEEBORG,** Associate Justices
SEEBORG, A.J., with whom CADRA, C.J., and SEABRIGHT, A.J. Concur:

I. INTRODUCTION

In June of 2023, following a six-day bench trial before the High Court, Lennon Tami Declaro, also known as Tommy (Appellant), was convicted of one count of murder in the first degree and one count of unlawful possession of a firearm in connection with the death of Waynold Daniel, Appellant’s acquaintance, who was thirty-six years old at the time of his death. Following his conviction, Appellant received a twenty-year sentence.

Appellant now appeals his conviction on the basis that the High Court lacked sufficient evidence to convict him. For the reasons stated herein, his appeal is denied and the High Court’s conviction is affirmed.

* The Honorable J. Michael Seabright, Senior United States District Judge, District of Hawaii, sitting by designation of the Cabinet.

** The Honorable Richard Seeborg, Chief United States District Judge, Northern District of California, sitting by designation of the Cabinet.

II. BACKGROUND

A. The Murder of Waynold Daniel

In the early hours of October 23, 2022, Appellant, Waynold Daniel, Appellant's girlfriend Jasmin Riklong, and Jasmin Riklong's relative Pearl Freddy, were in a Samsung SM3 dark gray rental car ("the vehicle"). The vehicle was headed to the home of Rudy Riklong, Jasmin Riklong's brother. Appellant was driving the vehicle, and Daniel sat in the front passenger seat. Between 2 and 3 a.m., Appellant drove to Katoj Park where he parked the vehicle briefly, before leaving shortly thereafter.

Several hours later, around 6 a.m., Anto Riklong, a security guard at the Katoj Park, found Daniel's deceased and blood-covered body lying on the ground. Anto Riklong was able to flag down a passing police vehicle and lead three officers to the body. Medical personnel arrived shortly thereafter, and the police officers were asked to take Daniel's body to the emergency room at the Majuro Hospital. There, a CT scan and autopsy were performed, and a bullet was extracted from Daniel's body.

An ensuing investigation into Daniel's death led the Marshall Islands Police Department (MIPD) to Appellant. Appellant was arrested at the home of Romen Liabwij, his uncle. There, officers retrieved Appellant's firearm and two corresponding cartridges from Laibwij, who stated that they belonged to Appellant. The items were eventually sent to a forensics laboratory in Guam for testing, alongside the bullet retrieved from Daniel's body. Appellant's firearm was compared to the bullet extracted from Daniel's body. Forensic analysis determined that the bullet had been emitted from the submitted firearm.

B. Legal Proceedings

Appellant was charged on December 8, 2022, in the third amended information with three counts: Count I: murder, a felony in the first degree, in violation of Section 210.2(1)(a) and (2) of the Criminal Code 2011, 31 MRIC, Chapter 1; Count II: unlawful possession of a firearm, in violation of Section 1306(1) of the Weapons Control Act, 7 MIRC, Chapter 13; and Count III: unlawful possession of a firearm, in violation of Section 1306(1) of the Weapons

Control Act, 7 MIRC, Chapter 13.

Counts I and II were charged in connection with the events involving the death of Waynold Daniel on October 23, 2022. Count III was charged in connection with a separate event that occurred on October 15, 2022, where Appellant allegedly aimed a firearm at an individual. Appellant waived his right to a jury trial and a bench trial occurred between June 14 and June 21, 2023.

At trial, the government presented sixteen witnesses, including Pearl Freddy, medical personnel who had conducted Daniel's CT scan and autopsy, and law enforcement officials that had led the investigation and analyzed the bullet recovered from Daniel's body and Appellant's firearm. The defense's only witness was Appellant's girlfriend Jasmin Riklong, who testified that they had never gone to Katoj Park that night and had instead driven Waynold Daniel to the Marshall Islands Club (MIC) before heading to Rudy Riklong's home.

Following the six-day trial, the High Court found Appellant guilty of Counts I and II in connection with Daniel's murder, and not guilty of Count III on the basis that it lacked sufficient evidence to convict Daniel of that second charge of unlawful possession of a firearm (and third overall charge). A judgment of conviction was rendered on the same day as closing arguments.

III. LEGAL STANDARD

An RMI conviction "is supported by the sufficiency of the evidence when 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." *RMI v. Kijiner*, 3 MILR 122, 124 (2010) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (emphasis in original)) (internal quotations omitted). With this background, the reviewing court "may not ask whether a finder of fact could have construed the evidence produced at trial to support acquittal"; rather, the appellate inquiry must proceed strictly upon evidence construed "in a manner favoring the prosecution." *Id.* (quoting *United States v. Nevils*, 598 F.3d 1158, 1164-67 (9th Cir. 2010)). "Only after we have construed all the evidence at trial in favor of the prosecution do we take the second step, and determine whether the evidence at trial, including any evidence of innocence,

could allow *any* rational trier of fact to find the essential elements of the crime beyond a reasonable doubt.” *Id.* (quoting *Nevils*, 598 F.3d at 1164-65).

IV. DISCUSSION

Appellant’s claim that the High Court’s finding of guilt on Counts I and II lacks sufficient evidentiary support is unfounded. Officer John Tyquiengco, an agent with the Guam Police Department and Forensics Firearm Examiner, received the bullet recovered from Daniel’s body, Appellant’s firearm, and the two cartridges from the MIPD for forensics analysis. His evaluation of the items revealed that the bullet extracted from Daniel was fired by the submitted firearm, testimony that was unchallenged at trial.¹

To the extent Appellant seeks to challenge the chain of custody of the firearm and the two cartridges on appeal, this argument is unsupported by the evidence submitted at trial. Laibwij and Officer Terry both testified that Laibwij received the gun and cartridges from Appellant before turning them over to MIPD Officer Carney Terry, who subsequently stored the items in an evidence locker, as reflected in a chain of custody document prepared by Officer Terry. *See* Gov’t Tr. Exh. 36. The government provided an additional chain of custody document for the bullet extracted from Daniel’s person, which was provided to Officer Terry by Doctor Joemil Donasco, who conducted Daniel’s postmortem autopsy. *See* Gov’t Tr. Exh. 13. Officer Terry secured that bullet in an evidence locker as well. *Id.* Finally, a third chain of custody document showed that Officer Terry sent the firearm, associated cartridges, and the bullet extracted from Daniel’s body to Guam for analysis on January 23, 2023, and that Officer Tyquiengco signed the document upon receipt in Guam on February 14, 2023. *See* Gov’t Tr. Exh. 40.

The bulk of Appellant’s argument on appeal seemingly rests on the absence of blood spatter in the vehicle following Daniel’s death.² This disproves, in Appellant’s view, the

¹ Appellant attacks Tyquiengco’s testimony on the alternative grounds that no latent prints were found on the firearm. Tyquiengco clearly testified, however that it is “rare to find latent prints on firearms and even on casings,” so this argument is meritless.

² Appellant also apparently argues that Anto Riklong’s testimony that he heard no gunshot during the early hours of October 23, 2022 while residing at Katoj Park and despite having no

government's entire case because it apparently indicates that Daniel was not shot in the vehicle. Notwithstanding the compelling results of Officer Tyquiengco's forensics evidence, Pearl Freddy provided testimony of the incident, recounting that, while in the vehicle, she heard a loud sound before seeing Appellant pull Daniel out of the vehicle from the passenger seat. She then heard another loud sound. Consistent with her testimony, Daniel's body presented evidence of having been shot twice.

Even without Freddy's testimony, the government presented more than enough evidence to support the High Court's ruling. Doctor Ahinoame Underwood, a doctor employed with Majuro Hospital, testified that she was working in the Emergency Room in the morning of October 23, 2022 when Daniel's body was brought in. She observed three wounds on Daniel's person, two on the head and one on the face that was consistent with a close-range gunshot. She also conducted a CT scan, which showed an entry and exit wound for one of the gunshots and that the other remained lodged in Daniel's neck. Doctor Donasco similarly testified that the slug from the gunshot without an exit wound was recovered only an inch or so below the skin, which would explain the lack of excessive bleeding. Furthermore, Officer Tyquiengco also observed that he had seen cases where a lodged bullet failed to produce significant blood spatter. Contrary to Appellant's view, the absence of blood spatter in the vehicle fails to refute the testimonies of these experts in aggregate and does not outweigh the noteworthy forensics and eyewitness evidence establishing Appellant as the perpetrator of the charged crimes.

Appellant also raises no specific arguments on appeal challenging his conviction of the unlawful possession of a firearm charge, but that conviction is also supported by sufficient evidence. The Weapons Control Act requires an individual to have an identification card issued by the RMI Office of the Attorney General to purchase, possess, or use a firearm as a prerequisite. 7 MIRC Ch. 13 § 1306. It is undisputed that, at the time of Daniel's murder,

hearing issues means that no gun was, in fact, fired. Notwithstanding the logical flaws of this argument, the remainder of the evidence presented by the government supports Appellant's conviction for the reasons explained herein.

Appellant did not hold such an identification card as was required.

V. CONCLUSION

For the reasons explained herein, Appellant's conviction on Counts I and II as charged in the third amended information was supported by sufficient evidence. As such, the High Court's judgment is affirmed.

Dated: July 22, 2024

/s/ Daniel N. Cadra
Daniel N. Cadra
Chief Justice

Dated: July 22, 2024

/s/ J. Michael Seabright
J. Michael Seabright
Associate Justice

Dated: July 22, 2024

/s/ Richard Seeborg
Richard Seeborg
Associate Justice