

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
July 22, 2026 Session

FILED

08/19/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DORIAN HEISS

Appeal from the Criminal Court for Roane County
No. 2020-CR-58 Jeffery Hill Wicks, Judge

No. E2024-01818-CCA-R3-CD

The Defendant, Dorian Heiss, was convicted by a Roane County Criminal Court jury of second degree murder, a Class A felony. *See* T.C.A. § 39-13-210 (2025) (subsequently amended). The Defendant was sentenced to twenty years' incarceration. On appeal, he contends that the evidence is insufficient to support his conviction. We affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

ROBERT H. MONTGOMERY, JR., J., delivered the opinion of the court, in which ROBERT L. HOLLOWAY, JR., and STACY L. STREET, JJ., joined.

Gerald L. Gulley, Jr., (on appeal) and Julia A. Trant (at trial), Knoxville, Tennessee, for the appellant, Dorian Heiss.

Jonathan Skrmetti, Attorney General and Reporter; Garrett D. Ward, Senior Assistant Attorney General; Russell Johnson, District Attorney General, Jonathan Edwards and Robert Edwards, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

This case arose from the August 27, 2019 shooting death of George Fleagle. The Defendant did not deny shooting the victim. Rather, he asserted that his conduct, which involved a variation of "Russian Roulette," supported a conviction for reckless homicide or criminally negligent homicide. Although the trial court gave jury instructions for both of these lesser included offenses, the jury convicted the Defendant of second degree murder.

At the trial, former Rockwood Police Department Officer Chris Marney testified that he responded to the 9-1-1 call regarding the victim's having suffered a gunshot wound. Mr. Marney stated that the victim lay on the living room floor while another officer performed CPR and that he saw a revolver in the living room. He drove two witnesses to the police station.

Roane County Sheriff's Office Detective Randy Heidle testified that, at the time of the shooting, he worked for the Rockwood Police Department. Detective Heidle stated that he arrived at the crime scene at 12:50 a.m., that the victim had sustained a gunshot wound to the chest, and that the victim died at the scene. Detective Heidle said that a .357 Ruger Magnum revolver, which was designed to hold five bullets in its cylinder, lay on a nearby ottoman and that four unfired bullets and one cartridge casing lay on the floor near the ottoman. The revolver, unfired bullets, and cartridge casing were received as exhibits.

Detective Heidle testified that he interviewed Kimberly King and Dakota Bailey and that each initially reported that the victim shot himself and did not mention that the Defendant had been present during the shooting. Detective Heidle stated that he interviewed Jacob Evans and that Mr. Evans identified six people, including the Defendant, who had been present during the shooting. Detective Heidle said that he interviewed Ms. King and Mr. Bailey again and that each stated that the Defendant had been present. Detective Heidle said that he interviewed Skyann Porter and that Ms. Porter said the Defendant had been present. Detective Heidle seized the cell phones of Ms. King, Mr. Bailey, Mr. Evans, and Ms. Porter, and the data from the phones were later extracted. Detective Heidle said that none of the phones contained a video recording of the shooting.

Detective Heidle testified that he and numerous other law enforcement officers drove Mr. Bailey to the house where the shooting occurred. Detective Heidle said that the Defendant did not return to the house but that officers found a backpack that contained a sawed-off shotgun and a nine-millimeter pistol inside a shed on a neighbor's property. Detective Heidle said that on August 27, 2019, at 1:30 p.m., Rockwood Police Captain Pittman received a telephone call from a person who reported that the Defendant was at the home of Jeremy Medsey. The Defendant was sitting in a police car when Detective Heidle arrived.

Detective Heidle testified that he and Tennessee Bureau of Investigation (TBI) Agent Luke Webb interviewed the Defendant at the police station and that the Defendant consented to a search of his cell phone. The Defendant's written statement was received as an exhibit, and Detective Heidle read it to the jury.

In the statement, the Defendant said that on August 26, 2019, between 8:30 and 9:00 p.m., he, Mr. Bailey, Ms. King, and Ms. Porter went to a Knoxville Target and to a hookah bar. The Defendant said that after two hours, they returned to Mr. Bailey's house and that the victim and Mr. Evans were at the house when they arrived. The Defendant said that

everyone sat in the living room, that he retrieved a .357 revolver from a dresser, and that fifteen minutes later, he “emptied the gun and dry-fired the gun pointing” it at Mr. Evans and the victim, and himself. The Defendant stated that he loaded one bullet into the revolver, pointed it at the victim, and pulled the trigger. The Defendant stated that when he loaded the bullet, “I knew it was dangerous and I could kill someone.” The Defendant stated that when he pulled the trigger, “I shot [the victim] in the chest area.” The Defendant said that everyone began to scream, that someone called 9-1-1, and that he “just stood there.” The Defendant said that he ran when he saw the police cars “because I knew I was in trouble.” The Defendant said he did not know the victim was dead when he ran. He said he walked around and went to Jeremy Medsey’s home, where the police “caught” him. The Defendant said he purchased the revolver from an acquaintance.

Detective Heidle displayed the revolver to the jury and stated that it could hold five bullets. He explained that after a bullet was loaded into the revolver’s cylinder and closed, a person could see whether four of the five holes in the cylinder contained a bullet. He stated that the fifth hole in the cylinder would be hidden by the revolver’s hammer.

On cross-examination, Detective Heidle testified that the Defendant’s initial demeanor was quiet and non-aggressive and that the Defendant became upset and emotional at times when he discussed the shooting. Detective Heidle said that the interview lasted one and one-half hours and agreed that the Defendant admitted he shot the victim.

TBI Special Agent Luke Webb testified that he responded to the crime scene. He said the victim lay on the living room floor and had suffered a gunshot wound to the chest. Agent Webb assisted Detective Heidle with the witness interviews and stated that after speaking with Ms. King and Mr. Bailey, Agent Webb thought the shooting might have been a potential suicide. He said, though, that after Mr. Evans’s interview, the investigation became a homicide investigation and focused on the Defendant. Agent Webb said he assisted Detective Heidle with the Defendant’s interview.

A redacted audio recording of the Defendant’s interview was played for the jury. In the recording, the eighteen-year-old Defendant consented to a search of his cell phone. He stated that he had been staying at Mr. Bailey’s house, where the shooting occurred, for a couple of months. The Defendant stated that he had known Ms. King for about one or two weeks and that he had just met Ms. Porter. The Defendant said he had known the victim about one week.

The Defendant stated that, earlier in the evening, he, Mr. Bailey, Ms. Porter, and Ms. King went to Target and to a hookah bar. The Defendant said that they returned to Mr. Bailey’s house and that the victim and Mr. Evans met them there. The Defendant stated that everyone went inside the house and that he started “playing with” a .357 revolver. He said that everyone present played Russian Roulette and that the victim was

shot. The Defendant did not know where the victim was shot but said he “freaked out.” He said he ran from the house when he saw the police cars.

The Defendant initially denied that he “dry fired” the revolver while pointing it at each person in the living room. He said, though, that he pulled the trigger when he pointed it at himself, Mr. Evans, and the victim. The Defendant denied that he pointed the revolver at Mr. Bailey, Ms. Porter, and Ms. King and pulled the trigger. The Defendant thought the revolver was unloaded because he “dumped” the bullets onto the ottoman. When confronted with the accounts of witnesses who said that the Defendant placed one bullet in the cylinder, the Defendant stated that he did not know the revolver was loaded and that he did not look at the cylinder after dumping the bullets onto the ottoman.

Initially, the Defendant stated that only one round of Russian Roulette was played, but he said later that two rounds were played. He said that during the first round, he pointed the revolver and pulled the trigger at himself, Mr. Evans, and the victim and that nobody was hurt. The Defendant said that he did not spin the cylinder before the second round. The Defendant said that during the second round, he pointed the revolver at the victim and pulled the trigger and that the victim was shot.

The Defendant described how he held the revolver when he fired the fatal shot at the victim. Detective Heidle, though, challenged the Defendant’s account based upon the bullet’s trajectory. Detective Heidle said that, in his opinion, based upon the autopsy and the bullet trajectory, the victim sat on the couch and the Defendant stood.

Detective Heidle left the interview room, and the Defendant and Agent Webb remained in the room. Agent Webb told the Defendant that he knew the Defendant was not being truthful about knowingly placing one bullet in the cylinder. The Defendant said that he placed the bullet in the revolver before the second round but that he never pointed the gun at the women. He said that the revolver was unloaded during the first round and that he fired it at Mr. Evans, the victim, and himself. The Defendant said that he placed one bullet in the cylinder, spun it, and closed it. He said that he pointed and fired it at the victim, who was shot.

The Defendant said that one week before the shooting, he bought the gun “off the street” from a person he knew for \$350. The Defendant said that the gun was usually inside the safe but was in a dresser drawer on the night of the shooting. He said that he retrieved the revolver and that approximately fifteen to thirty minutes passed before he began playing Russian Roulette.

The Defendant said that he pulled the trigger four times. He said that after the victim was shot, he “freaked out” and that he ran when he saw the police cars because he did not know what to do. When asked if he knew the “danger” that “something could bad happen [sic]” by placing a bullet in the revolver, the Defendant said, “Yes.” When asked if he

knew at the time that he placed the one bullet in the revolver someone could get hurt because “it’s a dangerous game,” the Defendant said, “Yeah.” He agreed that he pointed the revolver at the victim and pulled the trigger.

When asked how the victim and Mr. Evans responded during the first round of Russian Roulette, the Defendant said that they did not tell him to stop. The Defendant said that he was sorry and that he would “change it” if he could because “nothing like that should happen to anybody.” He said he knew that “it” was dangerous and that someone could be killed and agreed that he did it anyway.

The Defendant stated that fifteen minutes after he retrieved the revolver from the dresser, he unloaded it. He said that, after he unloaded the revolver, he pointed it at Mr. Evans, the victim, and himself and that he pulled the trigger each time. He said that he then placed one bullet in the revolver, spun the cylinder, pointed the revolver at the victim, and pulled the trigger, at which time the victim was shot in the chest. He said that he knew the gun was dangerous when he placed the bullet in the revolver. He said that everyone screamed and that someone called 9-1-1. He said that he left when the police cars arrived because he was scared and in shock. He knew he would be in trouble with the police, although he did not know the victim died. The Defendant was audibly emotional throughout portions of the interview.

Dr. Christopher Lochmuller, an expert in forensic pathology, performed the victim’s autopsy and testified that the victim’s cause of death was a single gunshot wound to the left side of the chest and that the manner of death was homicide. Dr. Lochmuller stated that the bullet traveled through the heart, resulting in death within seconds to a few minutes. Dr. Lochmuller stated that the victim’s skin and clothes did not show soot or unburnt gunpowder particles, and he concluded that the gun was not in contact with the victim’s body at the time of the shooting. The victim’s blood toxicology showed the presence of marijuana. On cross-examination, Dr. Lochmuller stated that the victim was approximately six feet tall and that the trajectory of the bullet could be impacted if the heights of the shooter and the victim were different.

Jacob Evans testified that he and the victim had been close friends and coworkers. Mr. Evans said that he knew who the Defendant and Mr. Bailey were through Ms. King. Mr. Evans stated that on the night of the shooting, he and the victim had finished work around 10:00 p.m. and that they went to their apartment. He said that he received a telephone call from Ms. King and that he and the victim decided to go to Mr. Bailey’s house. Mr. Evans did not know if the Defendant lived at the house. Mr. Evans said that Ms. Porter was at the house and that Ms. Porter and Ms. King were friends.

Mr. Evans testified that everyone sat in the living room, that they listened to music and talked, and that at some point, the Defendant displayed a revolver. When asked how the Defendant introduced the revolver, Mr. Evans said “[s]ort of like a gun . . . Roulette.”

He said that when the Defendant began talking about Russian Roulette, he did not ask anyone if they wanted to play the game. Mr. Evans said that he did not consent to playing Russian Roulette and that the victim “obviously, did not want to play.” Mr. Evans said that the victim did not speak and “just sat there” like everyone else.

Mr. Evans testified that after the Defendant brought the revolver into the living room, he placed one bullet in the cylinder and spun the cylinder. Mr. Evans did not think the revolver was loaded before the Defendant placed the single bullet in the cylinder. Mr. Evans stated that the Defendant pointed the revolver at “everybody in the room” and that he heard the revolver “click for the first couple of times” before it fired. Mr. Evans stated that the Defendant pointed the revolver at him and pulled the trigger and that Mr. Evans became “squeamish” and scared. He said that the Defendant pointed the revolver at Ms. King and pulled the trigger and that the Defendant pointed the gun at Ms. Porter and pulled the trigger. Mr. Evans said the Defendant “may have” pointed the gun at himself. Mr. Evans said the Defendant did not open and spin the cylinder. Mr. Evans stated the Defendant pointed the gun at random body parts of the individuals present when the Defendant pulled the trigger each time. Mr. Evans said the Defendant acted “weirdly” when he pointed the gun and pulled the trigger. Mr. Evans said everyone else acted “skittish.”

Mr. Evans testified that at the time the revolver fired, the victim was seated and that the Defendant stood seven feet from the victim. Mr. Evans said that the Defendant pulled the trigger, that the gun fired, that the victim stood and grabbed his chest, that the Defendant ran, and that everyone else in the room “freaked out.” Mr. Evans said he never saw the Defendant again.

Mr. Evans testified that Ms. King called 9-1-1 immediately and that, before the police arrived, Mr. Bailey led a discussion “about how to deal with this.” Mr. Evans said that he initially told the police at the crime scene that the shooting had been an accident, “as [he] was instructed to do,” and that he did not mention the Defendant in his first statement. Mr. Evans said that he “felt bad” and that he was “kind of in shock.” He said, though, that he told the police during the interview at the police station that the Defendant shot the victim and left the house. Mr. Evans said he told the officers about Russian Roulette. Mr. Evans stated that the victim was healthy when he arrived at the house. Mr. Evans said that the victim did not kill himself.

On cross-examination, Mr. Evans testified that he did not ask the Defendant to stop pointing the revolver and pulling the trigger at everyone in the room because he was scared. Mr. Evans stated if he had said something to the Defendant, “who’s to say he wouldn’t have done it anyways.” Mr. Evans said that he and the victim did not smoke marijuana at the house. Mr. Evans said Mr. Bailey instructed everyone to exclude the Defendant from their police statements.

Mr. Evans testified that he gave a short written statement at the crime scene while he sat on the front porch and that he stated the shooting was accidental. He said that he provided a second written statement at the police station and that the police interview was recorded. The statements and the recording were received as exhibits. The recording was played for the jury.

In the recording, Mr. Evans stated everyone went inside the house, sat in the living room, and listened to music. He denied smoking marijuana when at the house. He said that he saw the revolver on a table when he arrived. He said that he mentioned "they" had played Russian Roulette previously and that the Defendant began to play the game. He said that the Defendant pointed the revolver at the victim and pulled the trigger and that he heard a loud noise. Mr. Evans said he panicked and did not know when the Defendant left the house. Mr. Evans said he did not think the Defendant was serious about playing Russian Roulette.

When asked if the Defendant only placed one bullet in the revolver, Mr. Evans said that "sometimes . . . when [the Defendant] did play [Russian Roulette], . . . [the Defendant] put more in there." Mr. Evans said that the Defendant pointed the revolver at "different people" and that the victim grabbed his chest when he was shot. Mr. Evans stated that the Defendant attempted to help the victim "for a minute." Mr. Evans expressed concern for his safety if the Defendant knew the contents of his statement. Mr. Evans stated that the group did not discuss what to tell the police before officers arrived at the crime scene.

Mr. Evans's written statement made at the time of the recorded interview reflected, in relevant part, that the victim and Mr. Evans sat beside each other on the couch, that Mr. Evans mentioned that "they" had played Russian Roulette the other day, and that the Defendant "came out there" and asked if someone mentioned Russian Roulette. Mr. Evans said that the Defendant emptied the bullets from the revolver but put one or two bullets in the revolver and began "aiming and dry firing at all of us in the room until we heard a boom." Mr. Evans said that the victim was shot and bleeding, that everyone panicked, and that someone called 9-1-1.

Mr. Evans's written statement made at the crime scene reflected that he sat on the couch and that a gun was "picked up to be moved and then it was fired on accident I'm pretty sure."

Mr. Evans testified that he told the police officers that nobody discussed "a conspiracy story." He said, though, that Mr. Bailey told everyone when they stood on the front porch to report the shooting as an accident. Mr. Evans said that he never stated during the recorded police interview that the shooting was an accident. He agreed that he told the police he heard "stories" about the Defendant's playing Russian Roulette before the night of the shooting but that he did not know if the stories were true.

On redirect examination, Mr. Evans testified that he was still concerned about retribution from the Defendant and Mr. Bailey. Mr. Evans stated that he had been truthful in his statement at the police station and that he waited to tell the police the truth because he was scared. On recross-examination, Mr. Evans stated that he did not know the Defendant's whereabouts since he gave his police statements.

Kimberly King testified that on the night of the shooting, she, the Defendant, Mr. Bailey, and Ms. Porter went to a hookah bar and to Target. Ms. King said that Mr. Evans and the victim sent her text messages in which they asked if they could "hang out" at Mr. Bailey's house. Ms. King said that she did not want to stay at the house long but that the victim and Mr. Evans came to the house. She said that she had known the victim and Mr. Evans for three months and that she and Mr. Evans had been "talking." She said that the victim and Mr. Evans were waiting outside Mr. Bailey's house when they arrived at the house.

Ms. King testified that everyone went inside Mr. Bailey's house and sat in the living room. She said, though, the Defendant walked around inside the house and went to another room. She said that the Defendant returned to the living room after Mr. Evans whispered to her that "he was . . . a little crazy and liked to play with guns." She said that the Defendant picked up a revolver that lay on an ottoman and asked, "[Y]ou want to play roulette?" She said that everyone said no and that she told the Defendant not to point the revolver at Ms. Porter. Ms. King said that she screamed at the Defendant, that he dry fired the revolver at her and Mr. Evans, that the Defendant dry fired the gun at himself, and that the revolver discharged when the Defendant pointed the gun at the victim and pulled the trigger.

Ms. King testified that she saw the Defendant "mess" with the revolver and that he "twisted" the cylinder. When asked if the victim consented to playing Russian Roulette, she stated, "No, none of us did."

On cross-examination, Ms. King testified that her first police statement was false but that her second statement was true. She did not recall telling the police that Mr. Evans suggested playing Russian Roulette. She denied lying to the police at the crime scene and said that she had just witnessed the fatal shooting of her friend. When asked if the victim told the Defendant to stop or not to point the gun at the victim, Ms. King said that "[w]e were all just kind of yelling no, don't."

Ms. King's written statements and the recording of her police interview were received as exhibits. A portion of her recorded police interview was played for the jury.

In the recording, Ms. King stated that she sat in a chair in the living room and that she did not see the revolver when it was fired. She said that she heard the gunshot and saw the victim fall backward. She said she applied pressure to the victim's wound and called

9-1-1. She said that she had seen guns at the house previously and that she saw the revolver on the ottoman before the shooting. She said she did not see anyone move the revolver. She did not know who unloaded it. She said Mr. Bailey owned the revolver. She said that “we” had smoked marijuana earlier in the day. Detective Heidle left the interview room while Ms. King wrote her statement.

In the recording, Detective Heidle returned to the interview room. Ms. King stated that she was scared and that the Defendant was “acting stupid with the gun.” She said that the Defendant held the revolver, “flipped the thingy,” and said he was going to play Russian Roulette.

Ms. King’s written statement obtained at the time of the police interview reflected that everyone went inside Mr. Bailey’s house and sat in the living room. She said that the revolver lay on the ottoman when she arrived at the house and that she did not “pay much attention to it after that.” She stated that the Defendant mentioned Russian Roulette and that Mr. Evans “jokingly said [let’s] play.” She said the Defendant began dry firing the gun, “even aiming it at his own head.” She said the Defendant “spun the rounds,” pointed the gun at the victim, and fired it. She said that the victim was shot and that she did not remember anything other than calling 9-1-1 and applying pressure to the victim’s gunshot wound.

Ms. King’s written statement obtained by police at the crime scene reflected, in relevant part, that the group sat in the living room, that she heard a gunshot, and that she saw the victim had been shot. She said that everyone panicked and that she called 9-1-1 and applied pressure to the victim’s wound. She said she had not seen a gun “except for earlier on the ottoman.”

Ms. King testified that her second statement was correct. She agreed that that she told the police in her first statement that the Defendant pointed the revolver at the Defendant’s head and that she did not mention that they were screaming for the Defendant to stop pointing the revolver at them. She agreed that she did not mention that the Defendant pointed the revolver at her. She said, though, that she did not recall much of the night “until later on, especially after the gun went off.” She said her memory was better at the time of her testimony than at the time of the shooting. She said that she performed CPR on the victim, that she attempted to stop the bleeding, and that there were “a lot of holes on that day.” She said that she had been treated by a therapist and that “[y]ou don’t realize with trauma until later on when you talk to other people and start healing from it.”

On redirect examination, Ms. King testified that nobody told her to change her statement. She said that talking about the events frequently “slowly helped me put the pieces together.” On recross-examination, she stated that although she felt as though her initial statement to the police was accurate, “it was just missing a lot of the pieces.”

Dakota Bailey testified for the defense that he and the Defendant were childhood friends. Mr. Bailey provided testimony consistent with that of Mr. Evans and Ms. King about how everyone came to be at his house on the night of the shooting. Mr. Bailey said he, the victim, and Mr. Evans had “hung out” two or three times at the victim’s apartment. Mr. Bailey stated that the victim had seen photographs on Mr. Bailey’s social media account of a .357 revolver and that the victim asked about it. Mr. Bailey said that he told the Defendant to retrieve the revolver for the victim, that the victim looked at it, and that the victim returned it to Mr. Bailey, who instructed the Defendant to put away the revolver. Mr. Bailey said that Mr. Evans “said something about playing Russian Roulette” and that everyone joined the game.

Mr. Bailey testified that the Defendant removed the bullets from the cylinder and spun the cylinder but that he did not know how many bullets the Defendant left in the cylinder. Mr. Bailey said that the Defendant first pointed the revolver at the Defendant’s head and that the Defendant pulled the trigger. Mr. Bailey stated that the Defendant spun the cylinder after each time he pulled the trigger. Mr. Bailey stated that the Defendant next pointed the revolver at Mr. Bailey, followed by the victim, Mr. Evans, Ms. Porter, and Ms. King. When asked if anyone said they did not want to participate, Mr. Bailey said that Ms. Porter said she did not want to participate after the Defendant pointed the gun and pulled the trigger twice. Mr. Bailey said that the Defendant stopped pointing the gun at her but that nobody else protested. When asked if the victim and Mr. Evans “continued to want to participate,” Mr. Bailey stated, “Yes, we played like two or three more times.” He said that the Defendant spun the cylinder, pointed the gun, and pulled the trigger at himself, followed by Mr. Bailey, the victim, Mr. Bailey, and the victim, at which time the revolver fired.

Mr. Bailey testified that after the victim was shot, everyone “freaked out” and that he “just kind of sat there” because he did not know what to do and was scared. He said that the Defendant stood still, stared, and dropped the revolver. Mr. Bailey said that nobody had a conversation about “how to handle the situation . . . to come up with some kind of story” before the police and paramedics arrived. He denied that he told anyone to tell the police anything.

Mr. Bailey testified that before the shooting, Mr. Evans and the victim did not appear to be concerned or scared. Mr. Bailey said that Mr. Evans sat on the couch and “kind of laugh[ed]” and that the victim and Mr. Bailey were “talking, cutting up.” Mr. Bailey said everyone smoked marijuana.

On cross-examination, Mr. Bailey testified that he had graduated from high school. He said that his aunt owned the house where the shooting occurred and that she rented the house to him. He said that the Defendant lived at the house and that they each paid half of the rent. Mr. Bailey said that he bought the revolver two weeks before the shooting and did not dispute that he told the police that he paid \$350 for it. He denied that he owned the

two guns found in the shed on the neighboring property and said that the Defendant did not bring any guns to the house. Mr. Bailey said that he and the Defendant each liked guns and that Mr. Bailey had posted photographs of himself with various guns on his social media account.

Mr. Bailey testified that he kept the revolver inside his gun safe and that the Defendant knew the combination to the safe. Mr. Bailey knew that the Defendant had turned age eighteen a few days before the shooting and denied that he allowed the Defendant access to the safe before the Defendant turned eighteen. Mr. Bailey said that during his interview at the police station, he told the officers that he sat on the couch, that the victim asked to see the revolver, that it fired suddenly, that the gunshot was loud, and that he did not know what happened. Mr. Bailey said he was scared.

Mr. Bailey testified that he did not recall telling the police that the Defendant mentioned Russian Roulette or that Mr. Evans mentioned it. Mr. Bailey recalled telling the police that he saw the revolver in the Defendant's hand when the Defendant dry fired it and that he did not see the Defendant shoot the victim.

Mr. Bailey testified that after the victim looked at the revolver and returned it, Mr. Bailey gave it to the Defendant, who "emptied" and "spun" the cylinder. Mr. Bailey said that the order in which the Defendant pointed the gun and pulled the trigger was the Defendant, Mr. Bailey, the victim, Mr. Evans, Ms. Porter, and Ms. King. Mr. Bailey had assumed the revolver was unloaded because it only held five bullets. He said that the Defendant spun the cylinder and dry fired it at everyone again in the same order. Mr. Bailey said that after the second round, Ms. Porter told the Defendant to stop. Mr. Bailey agreed that he had only known the victim, Mr. Evans, Ms. Porter, and Ms. King for two weeks before the shooting. When asked who said, "I'll play Russian [R]oulette," Mr. Bailey said Mr. Evans had. Mr. Bailey stated, though, that "nobody said they'd play, [Mr. Evans] brought it up." Mr. Bailey said that nobody told the Defendant that "they didn't want to play." Mr. Bailey stated that Ms. King lied if she testified that everyone objected to playing the game. Mr. Bailey said that during the game, only the Defendant held the revolver.

Mr. Bailey testified that he never saw a bullet inside the cylinder and did not see the Defendant place a bullet inside the cylinder. Mr. Bailey assumed the revolver was unloaded through the third round of the game and did not know it held one bullet. He said that the bullets from the revolver lay on the ottoman in the living room. Mr. Bailey stated that during the fourth round, the Defendant pointed the revolver and pulled the trigger at himself, Mr. Bailey, and the victim, at which time it fired. Mr. Bailey said that the Defendant did not point the revolver at Ms. Porter or Ms. King. Mr. Bailey said that the Defendant pointed the revolver at Mr. Bailey's chest.

Mr. Bailey testified that he and the Defendant remained friends after the shooting. Mr. Bailey denied that he and the Defendant discussed “who ratted . . . out” the Defendant and denied that the Defendant was upset someone had told the police the Defendant was at Jeremy Medsey’s home.

Mr. Bailey identified his audio-recorded police statement and testified that he did not tell the police that everyone played Russian Roulette three to four times or that everyone agreed to play the game. He disputed the prosecutor’s statement that he failed to appear for a previously scheduled trial date, although he had been subpoenaed. Mr. Bailey said he had been to “every court.” He said he never told the prosecutors about playing four rounds of Russian Roulette. He acknowledged that he had previous convictions for felony marijuana possession with the intent to sell.

On redirect examination, Mr. Bailey testified that he did not tell the police officers that the victim shot himself. Mr. Bailey said that he had played Russian Roulette on a previous occasion and that it was unnecessary for a person to state that the person wanted to participate. He said that, regarding participation, “If they didn’t say no, then yes.” He said nobody left the house during the game.

Upon this evidence, the jury found the Defendant guilty of second degree murder. The trial court imposed a twenty-year sentence. This appeal followed.

The Defendant contends that the evidence is insufficient to support his second degree murder conviction. He argues that the proof failed to show that he was “reasonably certain” that playing Russian Roulette would cause the victim’s death because the game is one of luck. He asserts that he should have been convicted of reckless homicide or criminally negligent homicide. The State responds that the evidence is sufficient. We agree with the State.

In determining the sufficiency of the evidence, the standard of review is “whether, 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.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see State v. Vasques*, 221 S.W.3d 514, 521 (Tenn. 2007). The State is “afforded the strongest legitimate view of the evidence and all reasonable inferences” from that evidence. *Vasques*, 221 S.W.3d at 521. The appellate courts do not “reweigh or reevaluate the evidence,” and questions regarding “the credibility of witnesses [and] the weight and value to be given the evidence . . . are resolved by the trier of fact.” *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997); *see State v. Sheffield*, 676 S.W.2d 542, 547 (Tenn. 1984).

“A crime may be established by direct evidence, circumstantial evidence, or a combination of the two.” *State v. Hall*, 976 S.W.2d 121, 140 (Tenn. 1998); *see State v. Sutton*, 166 S.W.3d 686, 691 (Tenn. 2005). “The standard of review ‘is the same whether

the conviction is based upon direct or circumstantial evidence.” *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011) (quoting *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009)). A conviction may be based upon circumstantial evidence alone. *See Dorantes*, 331 S.W.3d at 380-381.

Second degree murder is a knowing killing of another. T.C.A. § 39-13-210(a)(1); *see id.* § 39-11-106(a)(20) (2025). With regard to second degree murder, a person acts knowingly “when the person is aware that the conduct is reasonably certain to cause the result.” *Id.* § 39-11-302(b) (2025); *see State v. Page*, 81 S.W.3d 781, 787 (Tenn. Crim. App. 2002). “[T]he ‘nature of the conduct’ that causes death is inconsequential.” *Page*, 81 S.W.3d at 787. A knowing intent is shown if the defendant acts with an awareness that his conduct is reasonably certain to cause the victim’s death. *See id.* at 790-93.

In the light most favorable to the State, the victim, the Defendant, Mr. Evans, Mr. Bailey, Ms. Porter, and Ms. King sat in the living room of Mr. Bailey’s house. The Defendant retrieved a .357 revolver and mentioned playing Russian Roulette. Ms. King testified that when the Defendant asked if they wanted to play Russian Roulette, everyone declined to participate and that nobody consented. Mr. Evans testified that the Defendant placed one bullet in the revolver’s cylinder, spun it, and pointed it at everyone in the room in turn. Mr. Evans testified that the Defendant pulled the trigger while pointing the revolver at Mr. Evans, Ms. King, Ms. Porter, and the Defendant and that the Defendant aimed at random body parts. The Defendant did not spin the cylinder after each time he pulled the trigger before the victim sustained a fatal gunshot wound to the chest.

The record, likewise, reflects the Defendant admitted in his written statement that he retrieved the revolver, that he removed the bullets, and dry fired the revolver at himself, the victim, and Mr. Evans. The Defendant admitted that when he loaded one bullet in the cylinder, he knew it was dangerous and could kill someone. The Defendant pointed the revolver at the victim, pulled the trigger, and shot the victim in the chest. In the recorded police statement, the Defendant admitted that two rounds of Russian Roulette were played. He stated that during the first round, he pointed the unloaded revolver at himself, Mr. Evans, and the victim. Afterward, the Defendant loaded one bullet in the revolver, spun the cylinder, and closed it. The Defendant admitted that he pointed the revolver at the victim and pulled the trigger and that he shot the victim in the chest. The Defendant stated that he knew placing a bullet in the revolver made the gun dangerous, that he knew “something could bad happen,” and that he knew someone could get hurt because “it’s a dangerous game.” The Defendant knew that his conduct was dangerous and that someone could be killed. The Defendant said that he did it anyway.

As a result, the evidence reflects that the Defendant partially loaded a revolver, pointed it at multiple people, and pulled the trigger multiple times before shooting the victim. The Defendant knew that firing a loaded revolver at a person was dangerous and that someone could be killed. The jury could have concluded beyond a reasonable doubt

that the Defendant's aiming the loaded revolver at the victim's chest and pulling the trigger was reasonably certain to cause the victim's death. The evidence is sufficient to support the Defendant's conviction. He is not entitled to relief on this basis.

In consideration of the foregoing and the record as a whole, we affirm the judgment of the trial court.

s/ Robert H. Montgomery, Jr.
ROBERT H. MONTGOMERY, JR., JUDGE