

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
September 1, 2026 Session¹

FILED

09/28/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. BOBBIE JEAN DELK

**Appeal from the Circuit Court for Henderson County
No. 23-218-3 Kyle C. Atkins, Judge**

No. W2025-01158-CCA-R3-CD

Bobbie Jean Delk, Defendant, was indicted for attempted first degree murder, especially aggravated kidnapping, especially aggravated robbery, and domestic assault. Prior to trial, the State dismissed the domestic assault charge. After a jury trial, Defendant was found guilty of the lesser-included offenses of reckless endangerment and aggravated kidnapping, and especially aggravated robbery as charged. As a result of the convictions, she was sentenced to an effective sentence of fifteen years. On appeal, Defendant challenges the sufficiency of the evidence for her convictions for aggravated kidnapping and especially aggravated robbery. Because the evidence was sufficient to support the convictions, we affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed

TIMOTHY L. EASTER, J., delivered the opinion of the court, in which J. ROSS DYER and TOM GREENHOLTZ, JJ., joined.

Jeremy Epperson, District Public Defender; Matthew Moore, Assistant Public Defender (at trial); Raven Prean-Morris, Assistant Public Defender – Appellate Division (on appeal), for the appellant, Bobbie Jean Delk.

Jonathan Skrmetti, Attorney General and Reporter; Ryan W. Davis, Assistant Attorney General; Jody Pickens, District Attorney General; and Joshua Dougan, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

¹ Oral argument was heard in this case at the University of Memphis, Cecil C. Humphreys School of Law, Memphis, Tennessee.

Tony Delk and Defendant married in 2007 but were going through a divorce in early 2023. On April 16, 2023, Defendant called Mr. Delk, the victim, and “told [him] to come get her in Jackson, Tennessee” because her pickup truck was “tore up.” The victim complied, driving to Jackson to pick up Defendant in his Dodge Ram pickup. The victim also owned a 2009 Chrysler Aspen SUV. The victim explained Defendant “wasn’t at a good place” and “pawned the pickup for some drugs and drug money.” Defendant wanted the victim to “get it [back] from the drug dealer.” The victim declined to go get the truck, instead choosing to call the police. The victim’s name was on the title, but the divorce decree specified Defendant retained possession of the truck. On April 16, Defendant did not realize that the divorce was final. The victim got the divorce “papers” from his truck and showed the papers to the officer and Defendant.

The next day at the marital home, Defendant and the victim discussed the divorce. The victim explained that Defendant was “still in a kind of self-denial.” The victim was in the basement in his “man cave.” Defendant “went upstairs” and the victim “did not hear her when she c[a]me back down” to the basement. The next thing the victim remembered was “[a] loud noise” in his ear. He did not know if he was “popped in the ear or what.” The victim “felt blood coming down [his] jaw.” He looked at Defendant and asked her what she had done. Defendant had his .22 pistol in her hand. The victim normally kept the gun in his pickup truck. The victim realized he had been shot. Defendant then “hit” the victim “in the mouth with the pistol.” The victim “stayed calm as [he] could” even though he had been shot in the head. The victim testified Defendant told him to move, so he got up from the recliner and moved to one side of the couch. Defendant sat on the other end of the couch with the gun. The victim told Defendant he “need[ed] to go to the doctor,” and Defendant said, “No, you’re going to be all right. They’re going to lock me up ‘cause [I] shot you.” The victim explained he “was basically just confined down there in the man cave, . . . , for maybe two or three hours.”

After Defendant shot the victim, she “put the pistol in her mouth and pulled the trigger twice.” The victim did not pass out and was not dizzy when he got shot. He remained on the couch while Defendant had the gun. “[A]fter a few hours, [Defendant] volunteered to go up and get [the victim] some clothes to change in[to].” She gave the pistol to the victim while she went upstairs. When asked if he “had a cell phone with [him] as all this was going on” the victim explained that Defendant “had confiscated all of that: house phone, cell phone.” The victim explained Defendant had “possession” of his “charger house phone and cell phone” during the time he was confined in the man cave after he was shot. The victim “eventually went upstairs” where he got the keys to his truck from Defendant. The victim drove himself to the hospital in Lexington in his pickup truck. He still did not have his phone. The victim left the pistol in the “man cave” because he was “just trying to get out of there.”

The victim arrived at the hospital and was flown to Vanderbilt in Nashville. Doctors took “the fragments” of a bullet out of his head. The victim still has two “spots” on the right side of his head. The victim remained in the hospital for “[m]aybe three days.” When the victim got back to his house the Chrysler Aspen was missing. The victim eventually recovered the vehicle from a wrecker company.

On direct examination, the victim explained that he did not leave the basement after he got shot because Defendant “still had possession of the weapon” and he “didn’t want to cause any more confrontation by wrestling, or whatever, over it.” The victim explained that Defendant had “an addiction” to drugs. He gave Defendant the opportunity to “go to rehab a couple of times” in the year before the divorce but she “got worse.” In January of 2023, the victim decided to pursue the divorce.

The victim knew Defendant took “different medications” including “Seroquel,” but he could not remember all the medications. At the time Defendant shot him she was “absolutely not” in her right mind.

The victim explained that there was a door in the “man cave” that led to the outside. Defendant went upstairs to get clothes at some point, and the victim “went out[side]” through the basement door. Defendant came back downstairs before he could escape. Defendant eventually let the victim go upstairs and gave him the keys to the truck. The victim described Defendant’s behavior as “sad.” He explained that they never had a “physical altercation” during their marriage, so he knew “it wasn’t her . . . it was a demon that caused it.”

Sergeant Bradley Greer of the Henderson County Sheriff’s Office met the victim at the hospital. The victim was “bleeding from the right side of his head and his mouth.” Investigator Alan Nowell responded to the Delk residence. Defendant was not present when he arrived. Investigator Nowell found a “substantial amount of blood around the area where the shooting supposedly occurred” and on the couch in the basement. He also located a .22 shell casing under a bar stool. The 2009 Aspen was not at the residence.

Captain Ricky Montgomery with the Lexington Police Department interviewed Defendant. During the interview Defendant told Captain Montgomery that “she shot [the victim] in the back of the head” and “threw” the gun “out the window” on her way back to Jackson on I-40 at Law Road. Defendant claimed it was an accident.

Defendant testified at trial that she was sixty-two years old. The victim told her their divorce was final on April 16. That same day, her truck “got taken” and the victim picked her up in Jackson. She tried to jump out of the victim’s truck on the way home. When they got home she “went in the house,” took a shower and made herself some food

before going to the master bedroom. Defendant testified she took her medication including Trazodone, Seroquel, Lexapro, and Hydroxyzine. Defendant lay down but “couldn’t sleep” because she “had been up for a few days using drugs.” She “tossed and turned” for a bit before she called downstairs and asked the victim if he had anything to drink. The victim brought her “a cup of gin [or vodka].” She drank it and still could not sleep. At that point, Defendant “got up and went downstairs to talk” to the victim who was “reclined back in the recliner asleep.” She “saw his keys laying on the end table, and [] picked the keys up and went to his truck and got the pistol out of the truck.” She testified:

When I got back in the house with the pistol, I went downstairs, and I noticed - - well, I forgot my glasses and my Vape, so I laid the pistol down on the side table next to the pool table, and I went upstairs and got my Vape and my glasses.

I came back downstairs, and I picked the gun up in my left hand, and I laid my glasses on top of the gun in my left hand. I’m right-handed. And I started walking. I was Vaping with one hand and toting the gun and the glasses with the other.

When I got almost around the side of the pool table, I put my Vape down on the pool table, and I reached for my glasses. When I reached for my glasses, the gun went off in my hand. I was headed for the back door. My intentions w[ere] to go out there and shoot myself on the patio, but I didn’t make it.

When the gun went off . . . , it scared me, and [the victim] slid down on the floor in front of the recliner, and he said, “You shot me,” and I said, “No.” I went around to him, and I guess that must have been when I hit him in the mouth because I started panicking. And I got him up, and I started walking him backwards and set him down on the recliner opposite from where I sat down at.

I sat there, and he talked to me.

Defendant “jammed the clip back up in the gun” and put it in her mouth and “click.” She did it again. She “fumbled” with the gun, took the clip out, put it back in, and put it to her heart and “click.” She did not remember how much time passed while they were in the basement. She eventually told the victim she would take him to the hospital. She went upstairs to get him a clean shirt and a washcloth. When she returned, the victim was gone. She found him outside standing at the corner of the house. Defendant testified she cleaned the victim up, and they went upstairs to the kitchen. Defendant testified she still had possession of the gun. She picked up the house phone and put it in her purse with the gun

and the victim's cell phone and went to the garage. The victim told her he could drive himself. The victim took the keys, got in the truck, locked the door, and left the house in the truck. Defendant stood there for a few minutes, got the key to the Aspen, "panicked" and "left." She went to Jackson because she was "scared" and wanted to get to her niece's house because she was a "nurse practitioner" and could "get [her] calmed down."

When Defendant got to her niece's house, she calmed down and got cleaned up. Eventually, the next morning, she called the police. When she talked to police, she first told them that she wanted them to help her find her truck. Then she told the officer she was "carrying a gun in [her] left hand, and when . . . [she] reached for [her] glasses, it fired a shot. . . . [She] I didn't tell [the officer] that [she] shot him on purpose. [She] told him it was accidental. And it was accidental." She explained:

my intention was to kill myself. [I] had committed (sic) suicide in 2023, ended up in the hospital in Jackson. Don't know why [the victim] forgot that. But when you asked him earlier, he said that [I] had not been suicidal. committed (sic) suicide in 2023. [I] suffer from anxiety. I have panic attacks. [I] have PTSD. I'm bipolar. I'm bipolar, too.

Defendant admitted that she panicked and took the Aspen after she shot the victim. She admitted that she had prior convictions because of her drug use but explained that most of those crimes were committed thirty years ago.

Defendant claimed that she had never handled the .22 pistol before that day and was "not familiar" with guns. Defendant said she "panicked" and did not call 911. Defendant testified that she had been awake for five days and high for three days on "crack cocaine" prior to the shooting. She also claimed she used drugs the morning of the incident and was "high" when the "accident" occurred. Defendant claimed she only intended to kill herself. She stated that she had "lost hope." Defendant admitted that on the day of the incident she "took the house phone, [the victim's] cell phone, the pistol, and the [SUV]."

The indictment charged Defendant with attempted first-degree murder (Count 1); especially aggravated kidnapping (Count 2); especially aggravated robbery (Count 3); and domestic assault (Count 4). The State dismissed the domestic assault charge prior to trial.

At the conclusion of the proof, a jury found Defendant guilty of the lesser-included offenses of reckless endangerment in Count 1 and aggravated kidnapping in Count 2. Defendant was convicted of especially aggravated robbery as charged in Count 3. The trial court sentenced Defendant to eleven months and twenty-nine days for reckless endangerment and imposed minimum concurrent sentences of eight years for Count 2 and fifteen years for Count 3. At the hearing on the motion for new trial Defendant argued that

the proof presented at trial did not support her convictions for aggravated kidnapping and especially aggravated robbery because the “injury was accidental, not in furtherance of any theft” and there was no proof establishing a “nexus between the actual harm that occurred . . . and the actual taking.” She also argued the victim was not confined in a way that substantially interfered with his liberty and “there was no knowing or intentional confinement.” The trial court denied the motion for new trial and Defendant filed a timely notice of appeal.

Analysis

On appeal, Defendant challenges the convictions for aggravated kidnapping and aggravated robbery. Specifically, Defendant argues that the proof did not establish “a knowing and unlawful confinement as required by the aggravated kidnapping statute” and that “the alleged confinement was incidental to and not in excess of that necessary to accomplish the reckless endangerment conviction.” As to the especially aggravated robbery conviction, Defendant argues that the “proof does not support a taking accomplished with a deadly weapon because the injury was accidental and not in furtherance of any theft.” The State disagrees, insisting that the evidence is sufficient to support both convictions.

Our standard for reviewing the sufficiency of the evidence, both direct and circumstantial, is limited. *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011). We must afford the State “the strongest legitimate view of the evidence as well as all reasonable and legitimate inferences which may be drawn therefrom.” *State v. Thomas*, 687 S.W.3d 223, 249 (Tenn. 2024) (quoting *State v. Majors*, 318 S.W.3d 850, 857 (Tenn. 2010)); see also *State v. Vasques*, 221 S.W.3d 514, 521 (Tenn. 2007) (citing *State v. Cabbage*, 571 S.W.2d 832, 835 (Tenn. 1978)). On appeal, the State is “entitled to ‘the strongest legitimate view of the evidence and any reasonable inferences that may be drawn from it.’” *State v. Parker*, No. M2022-00955-SC-R11-CD, 2026 WL 2564584, at *7, ___ S.W.3d ___ (Tenn. Aug. 31, 2026) (citing *State v. Rimmel*, 710 S.W.3d 640, 645 (Tenn. 2025) (quoting *State v. Hawkins*, 406 S.W.3d 121, 131 (Tenn. 2013)); see also Tenn. R. App. P. 13(e).² “Because a verdict of guilt removes the presumption of innocence and raises a presumption of guilt, the criminal defendant bears the burden on appeal of showing that the evidence was legally insufficient to sustain a guilty verdict.” *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009) (citing *State v. Evans*, 838 S.W.2d 185, 191 (Tenn. 1992)). Although we review de novo the application of the law to the facts, *Jordan v. Knox Cnty.*, 213 S.W.3d

² Defendant cites a law review article to support her argument that this Court should “evaluate all the evidence in order to determine whether the trier of fact was rational in its weighing of the evidence.” See Atnip, Joseph P., *The Betrayal of Jackson v. Virginia and the Way to Restore its Purpose*, 103 Den. L. Rev. 1 (2025). We decline to adopt a different standard of review other than that articulated by our supreme court.

751, 763 (Tenn. 2007) (citing *State v. Thacker*, 164 S.W.3d 208, 247-48 (Tenn. 2005)), we cannot substitute our own inferences for those drawn by the factfinders at trial, *State v. Lewter*, 313 S.W.3d 745, 747-48 (Tenn. 2010).

Defendant was convicted of especially aggravated robbery, aggravated kidnapping, and reckless endangerment. Defendant does not challenge the conviction for reckless endangerment.

A. Aggravated Kidnapping

As charged here, aggravated kidnapping is false imprisonment “[w]here the victim suffers bodily injury.” T.C.A. § 39-13-304(a)(4).³ False imprisonment takes place when a person “knowingly removes or confines another unlawfully so as to interfere substantially with the other’s liberty.” *Id.* § -302. Confinement is unlawful if it is accomplished by force, threat, or fraud. *Id.* § -301(15). “Bodily injury” includes “a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty.” T.C.A. § 39-11-106(a)(3). A person acts knowingly when she is “aware of the nature of the conduct or that the circumstances exist,” or where she is “aware that the conduct is reasonably certain to cause the result.” *Id.* § -106(a)(23).

Defendant argues that she did not “knowingly and unlawfully confine” the victim such that it “interfere[d] substantially with his liberty.”⁴ Her argument essentially asks this Court to reweigh the evidence presented to the jury.

In the alternative, Defendant argues that the confinement was incidental to the reckless endangerment. In *State v. White*, 362 S.W.3d 559 (Tenn. 2012), our supreme court examined due process considerations that arise when kidnapping accompanies another felony.⁵ When a defendant is charged with kidnapping and another crime against the

³ In a footnote in her brief, Defendant claims the trial court instructed the jury that “serious bodily injury” was required for the lesser included offense of aggravated kidnapping. The transcript belies this assertion. Both the transcript and the written jury charge indicate that the trial court instructed the jury that “bodily injury” was required. In any event, Defendant failed to raise this issue in the motion for new trial and could therefore only challenge the instructions on appeal for plain error. *See* Tenn. R. App. P. 36(b). Defendant has not asked this Court to review the jury instructions for plain error and we decline to do so.

⁴ The trial court charged the jury (with regard to aggravated kidnapping) that “[t]o find the defendant guilty of this offense, you must also find beyond a reasonable doubt that the removal or confinement was to a greater degree than that necessary to commit the offenses of Attempted First-Degree Murder as charged in count one.”

⁵ We recognize that Defendant was charged with a felony against the victim, attempted first degree murder, but was ultimately convicted of reckless endangerment, a misdemeanor. We note that although *White* uses the term “accompanying felony,” the Tennessee Supreme Court has required a *White* instruction

person regarding the same victim, such as reckless endangerment, the jury must be instructed that it may “return [a] kidnapping conviction[] only [if] the victim’s removal or confinement exceeds that which is necessary to accomplish the accompanying felony.” *Id.* at 578; *see State v. Teats*, 468 S.W.3d 495, 502 (Tenn. 2015). The *White* Court provided the appropriate instruction a trial court must give to the jury, which was subsequently adopted in the Tennessee Pattern Jury Instructions. *State v. Williams*, No. M2016-00568-CCA-R3-CD, 2017 WL 1063480, at *4 (Tenn. Crim. App. Mar. 21, 2017) (first citing *White*, 362 S.W.3d at 580-81; and then citing 8 Tenn. Prac. Pattern Jury Instr. T.P.I. - Crim. 8.03(a)), *perm. app. denied* (Tenn. July 19, 2017).

The inquiry of whether the confinement of the victim was essentially incidental to the underlying felony “is a question for the jury after appropriate instructions, which appellate courts review under the sufficiency of the evidence standard as the due process safeguard.” *White*, 362 S.W.3d at 562. To guide the jury’s determination, the *White* Court identified several non-exclusive factors, including (1) the nature and duration of the confinement; (2) whether it occurred during the commission of the accompanying offense; (3) whether the interference with liberty was inherent in that offense; (4) whether the confinement prevented the victim from summoning help; (5) whether it reduced the risk of detection; and (6) whether it increased the victim’s risk of harm. *Id.* at 580-81. The sufficiency of a victim’s removal or confinement to support a separate conviction for kidnapping is a question of fact for the jury, which must receive a proper *White* instruction. *Id.* at 578-80; *State v. Cecil*, 409 S.W.3d 599, 613 (Tenn. 2013) (“[T]he question of whether the removal or confinement of the victim was essentially incidental to the accompanying offense of assault is one for the jury to decide as a matter of fact[.]”). Here, Defendant does not contest that the trial court instructed the jury properly; therefore, the appropriate analysis is under the sufficiency of the evidence standard. *State v. Martin*, No. M2024-00189-CCA-R3-CD, 2025 WL 1576144, at *7 (Tenn. Crim. App. June 4, 2025), *no perm. app. filed*; *State v. Macken*, No. M2022-01809-CCA-R3-CD, 2024 WL 3633844, at *7 (Tenn. Crim. App. Aug. 2, 2024), *perm. app. denied* (Tenn. Feb. 20, 2025); *State v. Stanton*, No. E2024-01801-CCA-R3-CD, 2025 WL 3159002, at *3-4 (Tenn. Crim. App. Nov. 12, 2025), *no perm. app. filed*.

Here, the accompanying offense is the reckless endangerment in Count 1. Count 1 alleged that Defendant endangered the victim by shooting him, and the jury convicted her of reckless endangerment as a lesser-included offense of that count. That offense was

when the accompanying offense was misdemeanor assault. *State v. Cecil*, 409 S.W.3d 599, 609-13 (Tenn. 2013) (reversing the defendant’s false imprisonment conviction because “the jury was not adequately charged on the question of whether the victim’s removal or confinement ... was essentially incidental to the assault”); *see also State v. Alston*, 465 S.W.3d 555, 562 (Tenn. 2015) (“We have also identified certain crimes—such as robbery, rape, and assault—that, when charged along with kidnapping, would warrant [a *White*] instruction.”). Neither party has addressed the propriety of the *White* instruction in this case.

complete when the pistol discharged, and nothing inherent in it required that the victim be confined afterward.

The jury heard Defendant's testimony where she admitted she shot and hit the victim, maintained possession of the gun, and confiscated the house phone and the victim's cell phone. The jury also heard the victim's testimony that Defendant shot him, hit him with a pistol, and then made him move from the recliner to the couch while she maintained possession of the gun and tried to shoot herself. When the victim asked to go to the hospital, Defendant told him no. The victim tried to get out through the basement door, but "before [he] could get away" Defendant returned to the basement. The victim explained that he could not leave because Defendant maintained "possession of the weapon" and he "didn't want to cause any more confrontation by wrestling" to gain control of it. The victim estimated he was in the basement for several hours. Defendant also took his cell phone and the house phone, preventing him from calling for help. By its verdict, the jury chose to accredit the victim's testimony, as was its prerogative. Moreover, this Court has held that aggravated kidnapping does not require a victim to be removed for a particular distance or any particular duration or place of confinement to establish substantial interference. *State v. Taylor*, 63 S.W.3d 400, 408 (Tenn. Crim. App. 2001) (citing *State v. Dixon*, 957 S.W.2d 532, 535 (Tenn. 1997) (overruled by *White*, 362 S.W.3d at 558)). A victim need not be confined to a single space or attempt to escape, so the fact that the victim went outside for a portion of time or went upstairs in the house before leaving has no effect on whether there was "substantial interference." See *State v. Scott*, No. E2011-00707-CCA-R3-CD, 2012 WL 5503951, at *2-4, *8 (Tenn. Crim. App. Nov. 14, 2012), *perm. app. denied* (Tenn. Mar. 5, 2013) (finding evidence sufficient to convict defendant of aggravated kidnapping when victim was free to move about several areas of the home and never attempted to escape for fear of leaving her children behind); *State v. Hamby*, No. M2014-00593-CCA-R3-CD, 2015 WL 1897334, at *4 (Tenn. Crim. App. Apr. 27, 2015), *perm. app. denied* (Tenn. Aug. 13, 2015) (determining victim was not required to attempt to escape and risk provoking the defendant in order to demonstrate her desire to leave). The evidence was sufficient to support the conviction. The jury was in the best position to evaluate and weigh the evidence presented, as well as consider all lesser included offenses to the charged crime, and we will not disturb the jury's verdict.

B. Especially Aggravated Robbery

With regard to the especially aggravated robbery conviction, Defendant argues that the evidence was insufficient to support the conviction because the State "failed to prove that she obtained any property from [the victim] through the use of violence or fear,"

specifically the SUV and the gun.⁶ At oral argument, counsel for Defendant argued that there was no proof the victim's cell phone was stolen. The State disagrees, noting that the proof established Defendant "robbed [the victim] by taking his cell phone," that the robbery was "accomplished with a firearm," and that the victim suffered serious bodily injury.

Especially aggravated robbery is robbery as defined in Tennessee Code Annotated section 39-13-401, "[a]ccomplished with a deadly weapon; and . . . [w]here the victim suffers serious bodily injury." *Id.* § -403. "Robbery is the intentional or knowing theft of property from the person of another by violence or by putting the person in fear." *Id.* § -401(a).

The indictment did not specify the property that Defendant was alleged to have stolen from the victim, and it was not required to do so. At the conclusion of the State's proof, counsel for Defendant made a motion for judgment of acquittal. Counsel argued "nothing was taken until after [the victim] had already left the house." The trial court denied the motion for judgment of acquittal.

Here, viewing the evidence in a light most favorable to the State, Defendant shot the victim in the head. Defendant then hit the victim with the gun and deprived the victim of his cell phone all while she maintained possession of the gun. The victim testified that Defendant had the house phone, his cell phone and the gun and that he did not want to "wrestle" her to try to gain possession of any of them. He tried to remain "calm" despite being shot in the head. The victim drove himself to the hospital where he was flown to Nashville and remained in the hospital for several days. The taking of the cell phone was sufficient to sustain the conviction. While Defendant testified it was an accident and that she "panicked," the jury heard Defendant's testimony as well as the victim's and chose to accredit the testimony of the victim. The evidence was sufficient to support the conviction for especially aggravated robbery, and we will not disturb the jury's verdict.

Conclusion

For the foregoing reasons, the judgments of the trial court are affirmed.

S/Timothy L. Easter

TIMOTHY L. EASTER, JUDGE

⁶ The indictment did not identify the property taken. Although the State emphasized the SUV at trial, it relies on the cell phone on appeal. Because the evidence is sufficient as to the cell phone, we need not address the SUV or the pistol.