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ADVANCE SHEET HEADNOTE
February 17, 2026

2026 CO 10

No. 24SC117, *People v. Shockey* – Jury Verdicts – Mutually Exclusive Verdicts – Internal Inconsistency.

The supreme court granted certiorari to review whether a negative finding on a special interrogatory is legally and logically inconsistent with the jury's guilty verdict on the substantive offense.

The supreme court holds that the jury's finding that the defendant did not use a deadly weapon does not negate an element of his second degree murder conviction, and we can discern the jury's unambiguous intent. Hence, no legal or logical inconsistency renders the verdict infirm. Accordingly, we reverse the judgment of the court of appeals and remand the case back to that court for consideration of any unresolved issues remaining.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 10

Supreme Court Case No. 24SC117
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 21CA311

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Jacob Alexander Shockey.

Judgment Reversed

en banc

February 17, 2026

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JUSTICE BOATRIGHT delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE SAMOUR,** and **JUSTICE BERKENKOTTER** joined.

JUSTICE BOATRRIGHT delivered the Opinion of the Court.

¶1 Jacob Alexander Shockey and Parus Mayfield confronted victim T.D. outside a liquor store because they believed he owed one of them money. A surveillance camera recorded them all walking down an alley, reaching another alley out of the camera's view. After Shockey reemerged from the alley, there was a single flash of light, Mayfield ran, and T.D. was later found in the alley with multiple gunshot wounds that proved fatal. The People charged Shockey with first degree murder and two crime of violence sentence enhancers.

¶2 At trial and over defense counsel's objection, the court allowed the People to discuss the complicity theory of criminal liability during voir dire. However, the court later refused to instruct the jury on complicity, reasoning that the People had not provided sufficient evidence to warrant such an instruction. Because the People charged Shockey with sentence enhancers, the court gave the jury two interrogatories regarding whether the offense constituted a crime of violence.

¶3 Ultimately, the jury found Shockey guilty of the lesser included offense of second degree murder. As to the crime of violence interrogatories, the first asked whether "Shockey use[d], or possess[ed] and threaten[ed] the use of, a deadly weapon," and the jury answered "[n]o." The second interrogatory asked whether "Shockey cause[d] serious bodily injury or death," and the jury answered "[y]es."

¶4 Shockey appealed, arguing in part that the jury’s finding that he did not use a deadly weapon was logically and legally inconsistent with its guilty verdict for second degree murder. A split division of the court of appeals vacated Shockey’s second degree murder conviction, holding that the jury’s findings were inconsistent and negated the required elements of identity and causation. *People v. Shockey*, 2023 COA 121, ¶ 1, 545 P.3d 984, 986. We granted the People’s petition for certiorari.¹

¶5 We now hold that the jury’s finding that Shockey did not use a deadly weapon does not negate an element of his second degree murder conviction, and we can discern the jury’s unambiguous intent. Hence, no legal or logical inconsistency renders the verdict infirm. Accordingly, we reverse the judgment

¹ We granted certiorari to review the following three issues:

1. Whether any claim that the jury’s findings are inconsistent was waived where the findings were read aloud by the district court and the defendant did not object until after the jury was discharged.
2. Whether a finding on a special interrogatory that the prosecution had not proven beyond a reasonable doubt the defendant used, or possessed and threatened the use of, a deadly weapon is logically and legally inconsistent with a conviction for second degree murder or negates an element of that offense.
3. Whether the appropriate remedy for an inconsistent verdict and special interrogatory finding is vacation of the conviction and entry of a judgment of acquittal or reversal of the conviction and remand for a new trial.

of the court of appeals and remand the case back to that court for consideration of any unresolved issues remaining.

I. Facts and Procedural History

¶6 Shockey and Mayfield went to a liquor store on Colfax Avenue in Denver. While there, Shockey recognized T.D. outside, and they confronted him regarding an outstanding debt. T.D. explained he had just been released from jail and could not pay the debt. Surveillance footage then showed the three men walking to an alley and continuing further down until they turned out of the camera's view. Shockey reappeared less than a minute later and was seen walking away from where Mayfield and T.D. remained out of view. Approximately one and a half minutes after that, there was a single flash of light in the trees above the alley and Mayfield was seen running away. T.D. was later found in the alley with fatal gunshot wounds.²

¶7 The People charged Shockey with first degree murder and two crime of violence sentence enhancers.³ At trial, the People asserted that Shockey caused T.D.'s death as the shooter. During voir dire, the court allowed the People to

² The forensic pathologist who conducted T.D.'s autopsy testified that T.D. had five entrance gunshot wounds caused by three identified bullets. The gunshot wound to T.D.'s right chest ultimately caused his death.

³ Mayfield was also charged, but he accepted a plea agreement in exchange for testifying against Shockey.

discuss the complicity theory of criminal liability over Shockey's objection. At the close of the evidence, the People submitted a proposed jury instruction on complicity, but the trial court denied it, finding that the instruction was unsupported by the evidence.

¶8 The jury found Shockey guilty of the lesser included offense of second degree murder. As to the crime of violence interrogatories, the first asked whether "Shockey use[d], or possess[ed] and threaten[ed] the use of, a deadly weapon," and the jury answered "[n]o." The second interrogatory asked whether "Shockey cause[d] serious bodily injury or death," and the jury answered "[y]es." Subsequently, jury polling confirmed its verdict.

¶9 Shockey later filed a motion to vacate the verdict, arguing that the jury's answers to the interrogatories were logically and legally inconsistent with its guilty verdict. He reasoned that because the jury found he was not the shooter, it could only have found him guilty of murder based on complicity, yet the trial court refused to instruct the jury on that theory. The trial court denied the motion, finding that jurors "kind of operate with a theory of complicity in many situations in any event." The court noted that the use of a deadly weapon is not an element of second degree murder, meaning the verdict was not "logically or legally inconsistent."

¶10 Shockey appealed, and a split division of the court of appeals vacated the guilty verdict. *Shockey*, ¶ 1, 545 P.3d at 986. The majority held that without a complicity instruction, the special interrogatory response negated elements of second degree murder—namely, identity and causation—and the inconsistency rendered the jury’s verdict infirm. *Id.* The majority reasoned that because the People’s theory of the case was that Shockey was the shooter and T.D. died from gunshot wounds, the jury’s guilty verdict of second degree murder necessarily meant it found that Shockey caused T.D.’s death as the shooter. *Id.* at ¶ 49, 545 P.3d at 993. But because the jury also found that Shockey did not use a deadly weapon, the majority determined that the jury “inconsistently concluded that the prosecution had *not* proved that Shockey was the shooter.” *Id.*

¶11 Accordingly, the majority concluded that the inconsistent findings on identity and causation could only be reconciled by applying complicity, which was not available to the jury. *Id.* Relying on this court’s analysis in *Sanchez v. People*, 2014 CO 29, 325 P.3d 553, the majority found structural error and the attachment of double jeopardy, *Shockey*, ¶¶ 53–55, 545 P.3d at 994, requiring vacatur and reversal because “the jury made a factual determination that the prosecution did not prove all of the elements of the offense beyond a reasonable doubt,” *id.* at ¶ 51, 545 P.3d at 994.

¶12 Judge Richman, dissenting in part, argued that the special interrogatory did not negate any element of second degree murder because the elements, “that the defendant, in the State of Colorado, knowingly caused the death of the victim,” do not include the “use or possession of a deadly weapon.” *Id.* at ¶ 60, 545 P.3d at 995 (Richman, J., concurring in part and dissenting in part). Nevertheless, Judge Richman agreed that the conviction could not stand because the jury verdict was “logically inconsistent and mutually exclusive” absent a complicity instruction. *Id.* at ¶¶ 62–63, 545 P.3d at 995–96. He concluded that the proper remedy was to order a new trial. *Id.* at ¶ 85, 545 P.3d at 998.

II. Analysis

¶13 We begin by establishing our standard of review.⁴ We then address general requirements for jury verdicts. Next, we consider when a jury verdict is mutually exclusive and legally inconsistent. After that, we review jury verdict issues arising from internal inconsistency—namely, between a general verdict and a related special interrogatory finding. We also explain how to address any remaining

⁴ In light of our holding, we decline to address whether Shockey waived his claims and whether the proper remedy for when an interrogatory finding negates an element of the offense is vacatur of the conviction and entry of a judgment of acquittal due to the attachment of double jeopardy or reversal of the conviction and remand for a new trial.

logical inconsistency. Finally, we evaluate the law as applied to the case presented here.

¶14 We hold that the jury’s finding that Shockey did not use a deadly weapon does not negate an element of his second degree murder conviction, and we can discern the jury’s unambiguous intent. Hence, no legal or logical inconsistency renders the verdict infirm. Accordingly, we reverse the judgment of the court of appeals and remand the case back to that court for consideration of any unresolved issues remaining.

A. Standard of Review

¶15 The question of whether jury verdicts are mutually exclusive is a question of law that we review de novo. *People v. Delgado*, 2019 CO 82, ¶ 13, 450 P.3d 703, 705; *People v. Riggsby*, 2020 CO 74, ¶ 11, 471 P.3d 1068, 1072.

B. Jury Verdicts and Inconsistency

¶16 The United States and Colorado constitutions require that the state prove every element of a charged offense to the jury to sustain a conviction. U.S. Const. art. III, § 2, cl. 3; U.S. Const. amend. VI; Colo. Const. art. II, §§ 16, 25; *Griego v. People*, 19 P.3d 1, 7 (Colo. 2001). Jury verdicts in criminal cases must be “certain and devoid of ambiguity.” *Yeager v. People*, 462 P.2d 487, 489 (Colo. 1969). An unambiguous jury verdict demonstrates the jury’s “meaning and intention” beyond a reasonable doubt. *Id.*

¶17 Nonetheless, inconsistency between verdicts is generally permissible. *People v. Frye*, 898 P.2d 559, 570–71 (Colo. 1995); *United States v. Powell*, 469 U.S. 57, 69 (1984). For example, inconsistencies between guilty and not guilty verdicts usually fall under the general rule permitting inconsistency. *Frye*, 898 P.2d at 568; *Rigsby*, ¶ 15, 471 P.3d at 1073. However, mutually exclusive *guilty* verdicts are invalid because elemental exclusivity—wherein an element of one verdict is incompatible with an element of another verdict—means each element of the crime was not proven beyond a reasonable doubt to support the conviction, and thus, the two guilty verdicts cannot be given full legal force together. *Delgado*, ¶ 23, 450 P.3d at 707; *Rigsby*, ¶ 18, 471 P.3d at 1073.

¶18 To determine if guilty verdicts are mutually exclusive, we have applied an elemental approach, finding infirm verdicts whose elements of one guilty crime directly negate an element of the other guilty crime. *Delgado*, ¶ 20, 450 P.3d at 707 (citing *Frye*, 898 P.2d at 569 n.13). In *Delgado*, we found that two guilty verdicts on both robbery and theft based on a single taking were logically and legally inconsistent because robbery requires taking with force, whereas theft requires taking *without* force, rendering the verdicts mutually exclusive. ¶¶ 3, 5, 450 P.3d at 704.

1. Internal Inconsistency Between a General Verdict and a Special Interrogatory

¶19 Apart from inconsistencies between multiple verdicts, internal inconsistency may arise in a single verdict. *Rail v. People*, 2019 CO 99, ¶¶ 26–27, 454 P.3d 1033, 1037–38; *People v. Brooks*, 2020 COA 25, ¶ 1, 471 P.3d 1170, 1172. Where special interrogatory responses appear inconsistent with a substantive general verdict, the question is whether the jury’s interrogatory responses “nullify its verdict.” *Rail*, ¶ 27, 454 P.3d at 1038; *see also Brooks*, ¶¶ 1, 16, 471 P.3d at 1172, 1174.

¶20 When reviewing for internal inconsistency between a verdict and special interrogatory responses, we have distinguished between guilty and not guilty verdicts on the substantive offense. *Rail*, ¶¶ 39–41, 454 P.3d at 1039–40. This is because a guilty verdict, unlike a not guilty verdict, “reflect[s] [the jury’s] finding that the People proved all the elements of that offense.” *Id.* at ¶ 42, 454 P.3d at 1040. In the alternative, where the jury returned a not guilty verdict, a special interrogatory response “signaling” guilt cannot yield an inferred judgment of conviction on the substantive offense. *Sanchez*, ¶ 17, 325 P.3d at 559.

2. Remaining Logical Inconsistency

¶21 Since inconsistency in jury verdicts is generally permissible, verdicts that appear logically inconsistent may still be upheld when there is no legal inconsistency rendering them mutually exclusive. *Rigsby*, ¶¶ 23, 26–27, 471 P.3d

at 1075–76. “Jury verdicts will not be reversed for inconsistency if a reading of the record reveals any basis for the verdicts.” *City of Aurora v. Loveless*, 639 P.2d 1061, 1063 (Colo. 1981); *see also Loos v. People*, 268 P. 536, 538 (Colo. 1928) (“If under any view of the evidence the verdicts are consistent, the presumption is that the jury took that view.”). Ultimate resolution thus hinges on discernability of the jury’s unambiguous intent. *Yeager*, 462 P.2d at 489; *Rail*, ¶ 44, 454 P.3d at 1040–41; *Brooks*, ¶ 25, 471 P.3d at 1175.

¶22 With these principles in mind, we now turn to the facts of this case.

C. Application

¶23 In determining whether Shockey’s jury verdict is infirm, we initially focus our analysis on legal inconsistency, asking whether the special interrogatory finding negates an element of the second degree murder conviction. Essentially, we ascertain whether each part of the verdict can be given full legal effect together or whether the interrogatory establishes that the People did not prove all the required elements beyond a reasonable doubt. Because we conclude that the verdict and interrogatory response are not mutually exclusive, we then evaluate any remaining logical inconsistency and determine whether the jury’s unambiguous intent can be discerned under any view of the evidence.

1. The Special Interrogatory Finding Did Not Negate an Element of Second Degree Murder

¶24 In Colorado, “[a] person commits the crime of murder in the second degree if: (a) [t]he person knowingly causes the death of a person.” § 18-3-103(1)(a), C.R.S. (2025). The first crime of violence special interrogatory, the one at issue here, asked the jury whether Shockey “[u]sed, or possessed and threatened the use of, a deadly weapon.” § 18-1.3-406(2)(a)(I)(A), C.R.S. (2025). The question is whether the jury’s finding that Shockey did not use a deadly weapon negated its finding that he knowingly caused T.D.’s death.

¶25 Shockey claims that *United States v. Randolph*, 794 F.3d 602, 607, 612 (6th Cir. 2015), is instructive as the Sixth Circuit held that a guilty verdict on a drug conspiracy could not stand when the jury simultaneously responded to an interrogatory that no amount of the drugs charged were involved. Shockey argues that the jury’s interrogatory response here reveals that the People did not prove the elements of identity and causation beyond a reasonable doubt since the only evidence and theory of guilt was that T.D. died from gunshot wounds. Shockey asserts that the jury’s interrogatory response that he did not use a deadly weapon is analogous to the interrogatory answer in *Randolph*.

¶26 In *Randolph*, the court concluded that one cannot be guilty of a drug conspiracy where no drugs were involved. 794 F.3d at 612. Hence, the interrogatory specifically negated an element of the offense. *Id.* But here, we note

that one can commit second degree murder without using a deadly weapon since the crime only requires knowingly causing a person's death. Therefore, unlike in *Randolph*, the interrogatory here did not negate an element of the offense.⁵ Both jury determinations can be given full legal effect, and thus, there is no legal inconsistency causing elemental exclusivity to render Shockey's verdict infirm. Accordingly, *Randolph* is distinguishable.

¶27 We also do not see any issue regarding identity or causation because the jury's interrogatory response does not speak to either element. The interrogatory's only use is for sentencing purposes based on whether a jury finds that the offense constituted a crime of violence. § 18-1.3-406(1)(a). By returning a guilty verdict on second degree murder, the jury expressly found that Shockey caused T.D.'s death. This finding satisfies identity and causation requirements. Since the special interrogatory finding says nothing regarding identity or causation and is only used for sentencing purposes, it does not negate that those elements were found proven beyond a reasonable doubt.

¶28 Next, Shockey relies on *Sanchez*. In *Sanchez*, the jury found the defendant not guilty of the class 4 felony of sexual assault on a child but also made two

⁵ We also distinguish the present case from *Brooks*, in which a jury convicted the defendant of first degree burglary but also found that he did not use a deadly weapon, because the use of a deadly weapon itself was an element of first degree burglary as charged in that case. ¶¶ 8, 23, 471 P.3d at 1173, 1175.

affirmative findings on a pattern of abuse interrogatory, which is used to elevate the offense to a class 3 felony. ¶¶ 8, 10, 325 P.3d at 556–57. The trial court then entered a conviction for the class 3 felony of sexual assault on a child – pattern of abuse. *Id.* We deemed this structural error because the verdict “failed to evidence a unanimous jury determination that the defendant committed all the elements and was guilty of a crime.” *Id.* at ¶ 15, 325 P.3d at 558. *Sanchez* thus demonstrates that a court may not disregard the jury’s *acquittal* on the substantive offense based on special interrogatory findings. *Id.* at ¶¶ 14, 17, 19, 325 P.3d at 558–60. Here, in contrast, the jury found Shockey *guilty* of the substantive offense.

¶29 Shockey’s case is more akin to *Rail*, in which we first addressed internal inconsistency arising from a special interrogatory arguably nullifying a verdict. There, the jury found the defendant guilty of the substantive offense but also returned inconsistent interrogatory responses. *Rail*, ¶¶ 11, 41, 454 P.3d at 1035, 1040. Specifically, the jury convicted Rail of sexual assault on a child and made affirmative findings of incidents on the pattern of abuse interrogatory, elevating the offense. *Id.* However, the jury further found that those incidents were “[n]ot [p]roved” on the unanimity interrogatory attached to a different acquitted charge but also applicable to the convicted elevated charge. *Id.* We recognized that “[u]nlike in *Sanchez*, the verdicts [in *Rail*] reflect a unanimous finding of guilt beyond a reasonable doubt,” most obviously because the jury “returned a *guilty*

verdict on the [substantive] charge.” *Id.* at ¶ 42, 454 P.3d at 1040. While we cannot infer a judgment of conviction from a verdict subject to other reasonable interpretations, *Sanchez*, ¶ 17, 325 P.3d at 559, we *can* uphold a guilty verdict when we are able to reconcile the inconsistency and discern the jury’s unambiguous intent, *Rail*, ¶ 43, 454 P.3d at 1040.

¶30 Accordingly, we conclude that the jury’s special interrogatory finding does not negate the elements of its guilty verdict for second degree murder. We thus turn to the question of remaining logical inconsistency and consider whether the record provides any basis for understanding the jury’s unambiguous intent.

2. We Can Discern the Jury’s Intent

¶31 Shockey argues that his conviction cannot stand because the jury found that he was not the shooter and the trial court did not instruct the jury on complicity. Shockey relies on the proposition that “we cannot affirm a criminal conviction on the basis of a theory not presented to the jury.” *Chiarella v. United States*, 445 U.S. 222, 236 (1980).

¶32 But first, logically inconsistent verdicts are generally permissible. *Frye*, 898 P.2d at 570–71 (following the federal rule articulated in *Powell*). In *Frye*, the jury acquitted the defendant of sexual assault in the first degree, which requires applied physical force or threatened serious physical violence, but also found him guilty of menacing with a deadly weapon. *Id.* at 564. We noted that these findings

were inconsistent because the evidence showed that the defendant used a gun only during the sexual assault. *Id.* at 565–66. However, we concluded that consistency between verdicts is unnecessary. *Id.* at 571. We opted to follow *Powell*, which explained that “there is no reason to vacate [a defendant’s] conviction merely because the verdicts cannot rationally be reconciled.” *Powell*, 469 U.S. at 69. While *Frye* is factually distinguishable because it pertains to verdicts on different offenses, we find its logic persuasive based on the facts of this case. We now apply that reasoning to internal inconsistency between a substantive verdict and a special interrogatory.

¶33 Next, we find that *Chiarella* is distinguishable because here, Shockey was charged, the jury was instructed, and he was convicted of all the elements of the crime. In *Chiarella*, the “jury was not instructed on the nature or elements of a duty owed by petitioner,” which was necessary for his securities fraud conviction. 445 U.S. at 236. The Supreme Court reversed his conviction because the statute imposed no duty on him to disclose the information and no duty was instructed to the jury. *Id.* at 231. The Supreme Court declined to apply the government’s alternative duty offered on appeal since that was also not instructed to the jury. *Id.* at 235–36. Thus, a reviewing court cannot supplement an element after the conviction to sustain it. *Id.* at 236. Because complicity is a theory of criminal liability based on a certain factual scenario, it is dissimilar to an elemental duty

based on the legal theory of an offense. Evaluating whether we can discern the jury's unambiguous intent here does not include impermissibly supplementing an element required for the offense. Consequently, the jury's answer to the special interrogatory does not conflict with an element of second degree murder.

¶34 Finally, the verdict is "certain and devoid of ambiguity" because it "convey[s] beyond a reasonable doubt the meaning and intention of the jury." *Yeager*, 462 P.2d at 489. The People charged Shockey, and the court instructed the jury on all the elements of second degree murder, providing a basis in the record for the verdict. *City of Aurora*, 639 P.2d at 1063. No element requires a certain rationale or factual explanation, and Shockey is entitled to the benefit of the negative finding on the first sentence enhancer interrogatory without it affecting his conviction. *See Frye*, 898 P.2d at 566–67. Because the jury found Shockey guilty of second degree murder, it unambiguously established that the People proved each element beyond a reasonable doubt. The jury's finding on the second interrogatory that Shockey caused the death of T.D. supports this conclusion because that finding expressly speaks to identity and causation. The only impact of the jury's first interrogatory response was that the People did not prove beyond a reasonable doubt that Shockey used a gun as a crime of violence for sentencing purposes, and that is independent of the jury's elemental determinations for the offense. Further, jury polling subsequently confirmed the jury's unanimous

verdict of second degree murder. Thus, despite the jury's interrogatory response, the verdict can be viewed in a way to eliminate any ambiguity concerning the jury's intent, and any remaining inconsistency is not grounds to vacate the conviction.

III. Conclusion

¶35 We hold that the jury's finding that Shockey did not use a deadly weapon does not negate an element of his second degree murder conviction, and we can discern the jury's unambiguous intent. Hence, no legal or logical inconsistency renders the verdict infirm. Accordingly, we reverse the judgment of the court of appeals and remand the case back to that court for consideration of any unresolved issues remaining.