

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00260-CR

CHARLES RUSSELL STERLING, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
Jefferson County, Texas
Trial Cause No. 08-03532

MEMORANDUM OPINION

A jury convicted appellant Charles Russell Sterling of murder and assessed punishment at forty years of confinement and a \$5000 fine. Sterling then filed this appeal, in which he contends in a single issue that the evidence was legally and factually insufficient to support his conviction. We affirm the trial court's judgment.

The Evidence

On April 13, 2008, Officer Robert Rector of the Beaumont Police Department was dispatched to a residence "in reference to a possible deceased person." Upon entering the residence, Officer Rector noticed signs of a violent struggle, and saw a body lying on the

floor between the living room and the kitchen. The victim was identified as Sterling's wife. Officer Rector believed the victim had been struck on the top or forward part of her head, and he described the victim's death as extremely violent. Officer Rector also saw blood in the immediate area surrounding the body, as well as "on the walls, the floor, pieces of furniture." Officer Rector opined that the perpetrator would have gotten blood spatter on himself and on his clothing.

Officer Rector took Sterling, who was not yet a suspect, to a patrol car and invited Sterling to sit in the backseat as a courtesy. At that time, Sterling said he had arrived home and noticed that the car he and his wife shared was not at the residence, so he assumed his wife was not at home. Sterling indicated that he therefore assumed that the door was locked, so he sat on the porch for about forty-five minutes until a cat pushed the door open. Sterling told Officer Rector that he then entered the residence and discovered his wife's body. Detective Richard Boaz of the Beaumont Police Department testified that Sterling told him the same account concerning how he discovered the victim's body. Officer Rector testified that based on the information Sterling provided, the police believed "that possibly the residence had been burglarized and during the burglary, the suspects or suspect murdered the victim" and took the car.

Officer Charles Luce, who worked as a patrolman for the Beaumont Police Department during the time in question, testified that he was dispatched to a residence in reference to a deceased person. During the course of the investigation, Officer Luce

became aware that a red Ford Taurus belonging to the victim was missing from the residence. While Officer Luce and his partner were sitting at a stoplight later that morning, Officer Luce saw a car like the missing vehicle. Officer Luce testified that he “ran the [license] plate on our computer in our car; and it returned to the victim.” The officers pulled the vehicle over, and they saw two black males inside the car.

Officer Rector explained that the authorities ultimately found the car and cleared the two occupants of the car as suspects. According to Detective Boaz, when the officers located the vehicle, Detective Boaz told Sterling that there were two men in the vehicle, and he asked Sterling whether the men would give the same account that Sterling had given. Sterling responded that the occupants of the vehicle would say that he traded the car for crack cocaine. According to Detective Boaz, the occupants of the vehicle confirmed that Sterling had traded the car to them for crack cocaine. In a written statement to the police, Sterling confirmed that, as the police described it, he had “rented the car out” for crack cocaine. After police recovered the car, they located bloody clothing and a bloody hammer in the trunk, and they also found blood on the outside of the car, as well as inside the car on the driver’s side.

Dr. Tommy Brown, a forensic pathologist, testified that he counted ten blows to the victim’s head, and he also found defensive wounds on the victim’s body. According to Dr. Brown, a hammer could have caused the blunt force trauma. Dr. Brown explained

that the cause of the victim's death was "blunt force trauma of the head with craniocerebral injuries[,]" and the manner of death was homicide.

Detective Shawn Tolley of the Beaumont Police Department testified that during the course of assisting Detective Boaz with taking statements and doing follow-up work concerning the case, he encountered Sterling. Detective Tolley explained that while he was in the lobby of the criminal investigations division, Sterling asked Detective Tolley for a cigarette, so they went down the back steps of the police department to smoke. Detective Tolley testified that Sterling was not in custody at the time. Sterling told Detective Tolley "that he had a problem, an addiction to crack cocaine, and that had caused some strife" in his relationship with his wife. Sterling also told Detective Tolley that Sterling had argued with his wife about his drug addiction the previous night.

Sterling and Detective Tolley then walked to the "sally port," which Detective Tolley described as a sunken parking garage, to smoke another cigarette. When they reached the sally port, they observed that Sterling's wife's car, which the police had recovered, was parked there. According to Detective Tolley, Sterling "stopped in midstride, and his focus was locked on that car." Detective Tolley explained that Sterling "stopped in his tracks[,]" his eyes widened, he seemed startled, and Sterling did not move for about ten or fifteen seconds. Detective Tolley asked Sterling if he had anything to do with his wife's murder, and Sterling eventually denied any involvement after recapping "his entire story" for three to five minutes.

Sterling's drug dealer, Marqueisha Castille, told police that Sterling owed her money, and she recognized the clothes found in the trunk as the ones Sterling had been wearing. The authorities learned that Castille had previously been to Sterling's residence and had spoken to the victim about the money Sterling owed her. Detective Boaz testified that the authorities did not find any evidence linking Castille to the murder, and that all of the evidence pointed to Sterling.

Romeo Johnson testified that Sterling approached him in a Taurus and asked who wanted to trade the car for crack cocaine. Johnson testified that he told Sterling that he knew someone who would trade drugs for the car. According to Johnson, Sterling had dried blood on one side of his head, and was sweating. Johnson asked Sterling what happened to his head, and Sterling initially said that he got into a fight, but Sterling subsequently said he hit his head while trying to get into his car. Johnson and Sterling met a man nicknamed "Alabama," and Alabama gave Sterling three or four rocks of crack cocaine. According to Johnson, when Alabama was about to drive away in Sterling's car, Sterling asked Alabama if he could "grab something out [of] the trunk." Alabama refused, saying that he did not have time for Sterling to access the trunk, and Alabama drove away. After Johnson and Sterling smoked crack in the garage of Sterling's house, Sterling called Alabama several times in an attempt to get the car back so that he could trade it for more cocaine.

Pamela Pickney, who is related to the victim's sister, Joy, by marriage, testified that Joy informed Pickney that the victim had been murdered, so Pickney went to Joy's apartment. Pickney testified that Sterling came to Joy's apartment. According to Pickney, Sterling appeared "emotionless," and he asked Pickney to remove the rubber bands from his "little braids, plats." As Pickney removed the braids, she noticed that Sterling had dried blood in his hair. Pickney explained that when she asked Sterling where the dried blood came from, he told her that "when he found his wife, he embraced her." Pickney testified that she found Sterling's explanation strange because the blood was on both the front and back of Sterling's head, and was all over Sterling's braids. Pickney testified that Sterling told her how he discovered his wife's body, and Sterling "said that . . . it started in the kitchen – it was a fight – it started in the kitchen, went to the bedroom; and it looked as though she was on her way out of the door." Sterling also told Pickney that the victim "put up a fight, according to the amount of blood." Joy testified that when Bonnie mentioned that the victim was a strong person and would have fought and screamed, Sterling stated, "She was screaming." Joy testified that after she looked at Sterling in disbelief, Sterling then changed his statement and stated that "[s]he had to be screaming."

Pamela Mikulcik of the Texas Department of Public Safety Crime Lab in Houston testified that she works as a forensic DNA analyst. According to Mikulcik, the blood found on the door and running board of the car belonged to the victim, as did the blood

found on the head of the hammer. Mikulcik determined that blood stains on the pants and shirt found in the trunk contained DNA from both the victim and Sterling.

Castille testified that she sold drugs to Sterling, and that Sterling owed her money. Castille explained that the day before the victim was murdered, she had spoken to the victim and told the victim that Sterling owed her money. Castille explained that she overheard Sterling and the victim arguing about the money. Castille testified that she had told two people that Sterling had “beat up his wife . . . to get my money.” During her testimony, Castille identified the clothing Sterling was wearing.

Terrence Kelley testified that when he was in a vehicle with Castille, he heard Castille say “[t]hat she got rid of her clothes and she hit the woman in the head with a hammer.” Christopher Bushnell also testified that Castille said that she had robbed someone and beaten her with a hammer.

Sterling’s Issue

In his sole appellate issue, Sterling contends the evidence was legally and factually insufficient to support his conviction. In a legal sufficiency review, an appellate court considers all of the evidence in the light most favorable to the verdict to determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007) (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979)). The jury is the ultimate authority on the credibility of the witnesses and the weight to be

given their testimony. *Penagraph v. State*, 623 S.W.2d 341, 343 (Tex. Crim. App. 1981). We give deference to the jury's responsibility to fairly resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts. *Hooper*, 214 S.W.3d at 13. The Court of Criminal Appeals recently concluded that there is no meaningful distinction between a legal sufficiency review and a factual sufficiency review, and held as follows:

[T]he *Jackson v. Virginia* standard is the only standard that a reviewing court should apply in determining whether the evidence is sufficient to support each element of a criminal offense that the State is required to prove beyond a reasonable doubt. All other cases to the contrary, including *Clewis [v. State]*, 922 S.W.2d 126 (Tex. Crim. App. 1996)], are overruled.

Brooks v. State, No. PD-0210-09, 2010 WL 3894613, at *14 (Tex. Crim. App. Oct. 6, 2010) (not yet released for publication).

The jury heard evidence that the victim had been violently killed by blunt force trauma to the head, and that the murder scene was bloody. The jury also heard evidence that Sterling was addicted to crack cocaine, he owed his drug dealer money, and that on the night the murder occurred, Sterling rented the victim's car in exchange for crack. When Sterling rented the car for crack, he had dried blood on his head and was sweating. Before the person to whom Sterling rented the car drove away, Sterling expressed a desire to remove something from the trunk. When the police recovered the car after the murder, they looked in the trunk and found bloody clothing identified as Sterling's, as well as a bloody hammer. Blood was also found on both the interior and exterior of the

car. After the murder, Sterling asked someone to remove the braids from his hair, and his hair contained dried blood. DNA analysis revealed that the blood found on the outside of the car belonged to the victim, as did the blood found on the head of the hammer, and the blood stains on the clothing contained DNA from both the victim and Sterling. When describing what he saw upon discovering his wife's body, Sterling gave a detailed account of where he thought the fight started and how it progressed, and he said that the victim "was screaming." The jury also heard evidence from two witnesses who testified that Castille had said she committed the murder.

It was within the jury's province to weigh the testimony, to resolve conflicts, and to assess the witnesses' credibility. *See Hooper*, 214 S.W.3d at 13; *Penagraph*, 623 S.W.2d at 343. Viewing the evidence in the light most favorable to the jury's verdict, we conclude that a rational trier of fact could have found the essential elements of murder beyond a reasonable doubt. *See Hooper*, 214 S.W.3d at 13. Accordingly, we overrule Sterling's sole issue and affirm the trial court's judgment.

AFFIRMED.

STEVE McKEITHEN
Chief Justice

Submitted on November 12, 2010
Opinion Delivered November 24, 2010
Do Not Publish
Before McKeithen, C.J., Gaultney and Horton, JJ.