

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALBERTO M. LAW,	§	
	§	No. 130, 2006
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr. I.D. No. 0412009863
Plaintiff Below,	§	
Appellee.	§	

Submitted: January 31, 2007
Decided: April 25, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 25th day of April, 2007, on consideration of the briefs of the parties, it appears to the Court that:

1) Alberto M. Law appeals from his convictions, following a jury trial, of second degree murder, three counts of possession of a firearm during the commission of a felony, and other related charges. He argues that all the convictions should be overturned because they were based on the uncorroborated testimony of his accomplice, James McDougal. In addition, Law contends that the trial court committed plain error when it instructed the jury on accomplice liability. We find no merit to these arguments, and affirm.

2) Charles Morris was shot multiple times and killed on December 8, 2004, as he was walking on the 2500 block of West Street, in Wilmington. At the time of the shooting, Solace Bradshaw happened to be sitting on the steps of her cousin's house at the corner of West and 25th Streets talking with friends. A few minutes before the shooting, she saw three people across the street walking at a fast pace, one behind the other. Bradshaw identified the first person as Morris, and the others as McDougal, someone she knew from high school, and McDougal's friend, who she did not know. About five minutes after seeing the three young men, Bradshaw heard two gun shots. She ducked, then got up and saw McDougal running around the corner. The person running behind McDougal was tucking a gun in his pants.

3) Detective Andrew Brock, of the Wilmington Police Department, interviewed Bradshaw within hours of the shooting. Based on her statement, the police brought McDougal into custody a few days later. McDougal implicated Law, his next door neighbor. After McDougal pled guilty to second degree murder and one count of possession of a firearm during the commission of a felony, he testified against Law. McDougal said that Law suggested that they rob someone, and that Law had a gun with him. They spotted Morris walking by and decided to follow him. According to McDougal, Law grabbed Morris from behind and started wrestling. Law got free and shot Morris twice. McDougal then ran down 25th Street.

4) At trial, Law gave a different account of the crimes. He admitted that he was the one who had the idea to rob someone, but testified that McDougal was the person who had a gun and who shot Morris. Law also said that he was the first person running down the street after the shooting. There was some support for Law's version from the fact that McDougal had been arrested for carrying a concealed deadly weapon approximately two months before the shooting. The State raised questions about Law's credibility, however, by getting him to admit that he gave two false stories to the police during his initial questioning.

5) Without citing any authorities, Law first argues that there was insufficient evidence to support his convictions. He says that McDougal's testimony was totally self-serving and that the only other witness, Bradshaw, did not actually see the shooting and had a grudge against Law.

6) There is sufficient evidence to support a conviction if, viewing the evidence in the light most favorable to the State, a rational juror could find all of the elements of the crime beyond a reasonable doubt.¹ It is the jury's function to resolve conflicts in the testimony and assess witness credibility;² and the conviction may be based on

¹*Poon v. State*, 880 A.2d 236 (Del. 2005).

²*Id.* at 238.

the uncorroborated testimony of an accomplice.³ Applying this settled law, we conclude that there was sufficient evidence to support Law's convictions. McDougal gave a full account of the crimes and, although he had reason to implicate Law, his testimony was largely corroborated by Bradshaw's less biased observations.

7) Law next argues, again without authority, that the trial court erred in giving an instruction on accomplice liability. After reviewing the trial court's jury instructions, we are satisfied that the court correctly instructed the jury. The trial court specifically instructed the jury that it could *not* find Law guilty as an accomplice on the murder charge or the weapons charge associated with that felony. The only counts for which Law could be found guilty as an accomplice were those charging him with felony murder, attempted robbery and possession of a firearm during the commission of each of those felonies.⁴

NOW, THEREFORE, IT IS ORDERED that the judgments of the Superior Court be, and the same hereby are, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

³*Tramill v. State*, 425 A.2d 142, 144 (Del. 1980).

⁴*Brooks v. State*, 367 A.2d 638 (Del. 1976).