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SJC-12585

SAYYID COGGINS vs. COMMONWEALTH.

October 15, 2019.

Homicide. Burning a Dwelling House. Constitutional Law, Double jeopardy. Practice, Criminal, Double jeopardy, Mistrial.

Sayyid Coggins appeals from a judgment of a single justice of this court denying his petition for relief under G. L. c. 211, § 3. Coggins has been indicted for murder in the first degree and arson in a dwelling, in connection with the death of his cousin, Justin Downey. Coggins's jury trial in the Superior Court ended in a mistrial after the jury deadlocked. Coggins subsequently moved to dismiss the indictments, arguing that his retrial was barred by principles of double jeopardy because the Commonwealth failed to present sufficient evidence at his first trial to warrant a conviction with respect to either charge. The judge who heard the motion to dismiss, who had presided at the first trial, denied the motion, and this G. L. c. 211, § 3, petition followed. We affirm.

Facts. Viewing the evidence in the light most favorable to the Commonwealth, see Commonwealth v. Latimore, 378 Mass. 671, 676-677 (1979), the jury could have found the following facts. Coggins had been assisting the victim with an unlawful marijuana growing operation being conducted out of the victim's house in New Bedford. At the time of the murder in April 2014, the victim had twenty-eight marijuana plants in his home. Twenty-five of the plants belonged to the victim, three to Coggins.

The previous month, the victim had lent Coggins \$15,000 to purchase heroin, with the understanding that Coggins would resell the heroin at a profit and return the money to the victim within three weeks. Coggins was unable to purchase the heroin,

and instead gambled away most of the money. During late March and early April, the victim began asking Coggins about the money, which annoyed Coggins. A series of messages on the social networking site Facebook reflected multiple requests by the victim for information about the money. These requests came at a time when Coggins was about \$80,000 in debt and owed child support in addition to that. In contrast, the victim had recently received a total of about \$115,000 from the proceeds of the sale of his great grandparents' home, and he had offered to give Coggins up to \$30,000 if Coggins thought he could make a significant profit on it. Coggins knew that the victim had a safe in his bedroom, in which he kept large sums of money, and possessed three vehicles, including a black Dodge Challenger that the victim refused to let Coggins drive.

At 8:30 A.M. on April 15, 2014, the victim was found murdered in his New Bedford home. Someone had intentionally set the house on fire. The victim had been badly beaten and burned, his wrists and ankles were bound with duct tape, and a rag had been stuffed down his throat. The cause of death was asphyxia due to smothering. The burns occurred after the victim's death.

The back door to the victim's home was found ajar. The fire was started in the victim's second-floor bedroom, near where the body was found; an accelerant was used. The two bedrooms in the rear of the second floor of the house, which were equipped to grow marijuana, were undamaged by the fire. In one of the rooms, the police found eleven marijuana plants in the early stages of growth, in potting soil and black canvas sacks. Seventeen marijuana plants were missing. Also missing were an expensive watch worn by the victim every day, a safe containing \$13,000, some marijuana seeds the victim kept in one of his safes, two cellular telephones, and the keys to the Dodge Challenger.

A home security system showed that the back door to the victim's house was opened three times between 11 P.M. and midnight on the night of the murder. A neighbor heard barking between 11 P.M. and 11:30 P.M., which was not "usual." The victim's two dogs were later found locked in the upstairs bathroom of the victim's house.

The door was opened two more times between 1:30 A.M. and 1:54 A.M. One of the victim's telephones was used to place several calls between 1:58 A.M. and 2:39 A.M. Two of these were to the victim's mother and to the victim's close friend, Kyle Pires. The victim's mother only heard a "snoring sound" on the

other end of the line. Pires could not hear anything, and when he called the victim back, the call went straight to voicemail. Global positioning system evidence showed that the Dodge Challenger was in New Bedford at 2 A.M. and in Providence, Rhode Island, at 2:41 A.M. After making several stops in Rhode Island, the Challenger traveled back to Massachusetts and came to a stop at 5:09 A.M. at the location in New Bedford where it was later found by police. The back door to the victim's home was opened twice more between 5:20 A.M. and 5:40 A.M., before finally being opened by a firefighter at 8:29 A.M.

In the months leading up to the murder, Coggins had been involved in another marijuana-growing operation at the Providence, Rhode Island, home of Brenda House, the mother of Coggins's longtime friend, William House.¹ The night before the murder, Coggins told William that he wanted to move "his half" of the marijuana plants out of the victim's house. Then, on the night of the murder, Coggins showed up at William's house in Providence alone, driving the victim's Dodge Challenger. Coggins was looking for a water pump to feed marijuana plants; William told him it was at William's mother's house. Coggins stopped by Brenda's house in the early morning hours of April 15 while she was asleep; she did not let him in. He showed up at her door again some time later with a small marijuana plant in a sack matching those found at the victim's house. In addition, although Coggins later told police that he only had a "dollar on [him]" the night of the murder, Coggins spent over two hours that night gambling at Twin Rivers Casino in Rhode Island and lost \$300. In the days after the murder, after learning that the police had searched Brenda's house, Coggins fled to Georgia in his girlfriend's car. After he was apprehended, he lied to police about his activities on the night of the murder.

Potting soil consistent with that used for the marijuana plants on the second floor of the victim's house was found near the back door to the victim's home and in the Dodge Challenger. Deoxyribonucleic acid testing and fingerprint analysis were performed on various areas of and artifacts from the crime scene, but none of the analysis linked Coggins to the crime.

Discussion. The question for this court 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"

¹ For the sake of clarity, we hereinafter refer to Brenda and William by their first names.

(emphasis in original). Latimore, 378 Mass. at 677, quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979). If not, his retrial would be barred by principles of double jeopardy. See Kater v. Commonwealth, 421 Mass. 17, 19 (1995); Berry v. Commonwealth, 393 Mass. 793, 798-799 (1985).

In making this determination, we apply well-established legal principles regarding sufficiency of the evidence. "Circumstantial evidence may be sufficient to prove guilt beyond a reasonable doubt, . . . and the inferences drawn from such evidence need not be necessary and inescapable, only reasonable and possible" (citations and quotation omitted). Commonwealth v. Braune, 481 Mass. 304, 306-307 (2019). However, "[t]he question of guilt must not be left to conjecture or surmise." Commonwealth v. Maynard, 436 Mass. 558, 562 (2002), quoting Commonwealth v. Anderson, 396 Mass. 306, 312 (1985). "Mere opportunity to commit the crime or presence at the scene of the crime without other evidence is insufficient." Commonwealth v. Merola, 405 Mass. 529, 533 (1989). At the same time, it is not necessary for the Commonwealth "to prove that no one other than the accused could have performed the act." Pinney v. Commonwealth, 479 Mass. 1001, 1004 (2018), quoting Merola, supra. The prosecution "need not exclude every reasonable hypothesis of innocence, provided the record as a whole supports a conclusion of guilt beyond a reasonable doubt" (citation omitted). Merola, supra.

Here, after a review of the trial record, we agree with the single justice that the evidence was sufficient for a rational jury to convict Coggins of murder in the first degree -- under any of the three theories presented by the Commonwealth -- as well as arson in a dwelling.

More specifically, we reject Coggins's argument that the evidence was insufficient to show that he started the fire and caused the victim's death, while acting as a principal as opposed to a joint venturer. Without belaboring the point, the circumstantial evidence summarized supra showed that Coggins had a motive and the opportunity to commit the crime; that he was newly in possession of cash, possessed a marijuana plant in a black canvas sack consistent with those found at the victim's house, and drove the victim's car, by himself, on the night of the murder; and that he displayed consciousness of guilt.² Taken

² The single justice detailed the evidence against Coggins in a lengthy memorandum and decision, in which he aptly distilled the state of the evidence:

together, the Commonwealth's evidence permitted -- although it certainly did not compel -- a jury to find beyond a reasonable doubt that it was Coggins who killed the victim and set his house on fire.

Evidence presented by the defendant that another individual disliked the victim and had threatened to shoot him and burn down his house does not alter our conclusion. This evidence was for the jury to weigh, but in our review for evidentiary sufficiency we must draw all reasonable inferences in favor of the Commonwealth. See Pinney, 479 Mass. at 1004; Commonwealth v. Casale, 381 Mass. 167, 175-176 (1980). This is not a situation in which the evidence was in equipoise as to whether Coggins or an alleged third-party culprit committed the crime. See Commonwealth v. Morgan, 449 Mass. 343, 350-351 (2007) (affirming murder conviction where evidence "point[ed] more strongly in the direction of the defendant's culpability" rather than cohort's). Contrast Commonwealth v. Salemme, 395 Mass. 594, 601 (1985) (holding that evidence was insufficient to sustain murder conviction where defendant and another individual had "equal opportunity" to commit murder).

Finally, we reject Coggins's argument that there was insufficient evidence to support a conclusion that he committed armed robbery as the predicate offense for felony-murder. The evidence of the missing watch, safe, cash, cellular telephones, and marijuana plants, in conjunction with evidence that Coggins transported one of the marijuana plants from the victim's house in the victim's car and gambled away newly acquired cash on the night of the murder, would warrant a rational jury in concluding that Coggins committed armed robbery and murder "as part of one continuous transaction" (citation omitted). Commonwealth v. Morin, 478 Mass. 415, 422 (2017).

"Here, the Commonwealth presented evidence indicating that the petitioner was in need of money, that he disliked the victim, and that he knew that the victim had a large amount of cash. The Commonwealth also presented evidence indicating that the petitioner went to the victim's home on the night of the killing, that he drove the victim's vehicle after the victim was incapacitated or killed, and that after the murder he had in his possession a marijuana plant similar to the ones at the victim's home and cash that he did not have prior to the murder."

Conclusion. Because the evidence was sufficient to support convictions of murder in the first degree and arson in a dwelling, principles of double jeopardy do not bar Coggins's retrial. The single justice neither erred nor abused his discretion in denying relief.

Judgment affirmed.

Jennifer H. O'Brien for the petitioner.

Tara L. Johnston, Assistant District Attorney, for the Commonwealth.