



In The

Eleventh Court of Appeals

No. 11-14-00257-CR

TROY REAGAN DOUD, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 266th District Court
Erath County, Texas
Trial Court Cause No. CR13944**

MEMORANDUM OPINION

A jury found Troy Reagan Doud guilty of the murder of Jeffery Vegas Sewalt.¹ Appellant elected for the trial court to assess punishment; it assessed punishment at confinement for life and sentenced him. In a single issue on appeal, Appellant asserts that the State adduced insufficient evidence to convict him of the murder of Sewalt. We affirm.

¹TEX. PENAL CODE ANN. § 19.02(b)(1) (West 2011).

I. *The Charged Offense*

The grand jury alleged in the indictment that Appellant intentionally or knowingly caused the death of Sewalt when he shot Sewalt with a firearm. As charged in this case, a person commits the first-degree felony offense of murder if he intentionally or knowingly causes the death of an individual. PENAL § 19.02(b)(1),(c). Appellant pleaded not guilty to the offense of murder and proceeded to trial.

II. *Evidence At Trial*

A. *On February 1, 2013, Shannon Palmer discovered the victim's body at his home, and law enforcement investigated.*

Shannon Palmer, the victim's girlfriend, discovered his body at his home on Pigeon Road. After a call from the chief deputy of Erath County, Texas Ranger Danny Briley arrived at the victim's residence. He found that someone had shot the victim in the head. Ranger Briley did not see any signs of a forced entry or physical struggle, but he did notice a scuff mark on the breezeway door, which was the door closest to where the victim's body was found. He thought that the victim might have opened the door for the assailant who shot and killed him. While law enforcement was still at the victim's residence that day, Appellant appeared at the entry gate of that residence, spoke to police, appeared nervous, and then gave them his contact information and said something about a "foreign job." A few hours later, Ranger Briley contacted Appellant. Ranger Briley met Appellant at the sheriff's office at approximately 10:00 p.m. that night. Ranger Briley testified that Appellant said that he went to the Allsup's store located at Highway 108 and South Loop 377 that morning; then spoke to Luke Groth on the south side of Stephenville; then may have gone to Ace Hardware, also on the south side of town; went home; and possibly went to watch Martin Lucero with his horses. Later in the afternoon, Appellant picked up his daughter from school. Ranger Briley could not verify all this information, so he

investigated Appellant's whereabouts on the day of the murder and his relationship with the victim.

Ranger Briley discovered that Appellant spoke to the victim at about 9:28 a.m. on the morning of the murder. The last call made on the victim's phone occurred at 10:28 a.m.; an incoming call at 11:09 a.m. went unanswered. During the initial interview with law enforcement, Appellant explained that the victim had loaned him \$16,000 around Christmas and held the title to Appellant's Dodge pickup as collateral. Appellant reported that he had repaid the victim in the amounts of \$12,000, \$2,500, and \$3,500 for a total of \$18,000 dollars. On February 13, 2013, police searched Appellant's home and found the title to his Dodge pickup. Appellant claimed that he had repaid his loan and had gotten the title to the pickup back from the victim.

The victim's daughter, Jetonna Dee Gilliam, explained that Appellant had borrowed \$16,000 from her father, who ran a wholesale car dealership business, and that Appellant used his pickup title as collateral. Gilliam said that her father told her that Appellant had not repaid the loan, and that he still had the title to Appellant's pickup two days before the murder. Travis Saunders, a friend of the victim, explained that the day before the victim was murdered, he and the victim talked about Saunders buying Appellant's pickup. John Guest, the president and chief executive officer of Citizens National Bank, said that the victim had a "floor plan note" for financing vehicles and that Appellant's Dodge pickup, beginning on December 21, 2012, was part of that plan. Bank records did not reflect any payments for the loan of \$16,000 on that vehicle.

Ranger Briley questioned Palmer and the victim's friend, Curt Garrison, both of whom had been living at the victim's residence, about their whereabouts. On the day of the murder, Palmer went to Weatherford in the morning and returned to

Stephenville around 2:00 p.m. to find the victim's body at the residence. Ranger Briley was able to confirm both Palmer's and Garrison's alibis.

Palmer told law enforcement that she and the victim had planned to leave for a cruise on February 2. She also said that Appellant had come to the residence on January 28 looking for the victim; he left but later returned to talk to the victim. Melissa Koonsman corroborated Palmer's testimony about the planned cruise because the victim told her about the cruise the morning that he was murdered. She testified that the victim came to see her at Holland Chiropractic for an appointment that morning. Patsy Walker, a bookkeeper for Garrison, explained that she helped the victim with some of his business deals and said that he had come to the office that morning. She explained that the victim wanted to leave Appellant's pickup title with her and told her that, if Appellant paid her, then she could give the title back to Appellant. He put the title on her desk, but then took it back and said he would return it to her later that day. Also between 10:00 a.m. and 11:00 a.m. on the morning of the murder, the victim went to see Victor Wayne McKinley, who had a trailer repair business. The victim went to McKinley's residence and paid for repairs to two trailers, and he took one of the trailers with him. The victim said he would come back in the afternoon to get the second trailer.

B. Law enforcement reconstruct the victim's and Appellant's movements on the morning of the murder.

Law enforcement secured security-camera recordings from the courthouse and the hospital in Stephenville. Jeremy Woodruff, an investigator with the Erath County Sheriff's Office, reviewed those security-camera recordings to verify the victim's and Appellant's movements from 10:00 a.m. to noon on the morning of the murder. Investigator Woodruff determined that the victim drove his pickup and trailer² in a northerly direction past the front of the courthouse annex at 10:35 a.m.

²The pickup and trailer were found at the victim's residence that afternoon around 2:00 p.m.

Less than a minute later, Appellant's Dodge pickup appeared in the video traveling in the same direction as the victim. At 10:35 a.m., the hospital security-camera recordings showed the victim's pickup and trailer traveling in a northerly direction. Again, less than a minute later, Appellant's pickup appeared behind the victim traveling the same direction. At 11:11 a.m., the hospital's security-camera recorded Appellant's Dodge pickup traveling in a southerly direction. Based on his investigation, Investigator Woodruff thought the time of death for the victim was between 10:30 a.m. and 11:00 a.m.

Brian Tripp, a research specialist with the Texas Department of Public Safety, testified about the cell phone mapping that he had done in this case. Engineer Tripp explained the general location of Appellant's phone at around 10:30 a.m. on the morning of the murder, when it "pinged" cell towers. During this time, the phone pinged and started in the green sector and then moved through the blue sector to the purple or pink sectors near the victim's home, as shown on State's Exhibit No. 57. An hour later, at approximately 11:30 a.m., Appellant's phone pinged the towers in the green sector, which is near Appellant's home. Appellant's phone traveled from the green sector to the pink sector during the time period in which Investigator Woodruff thought the victim had been murdered.

Appellant never mentioned to Ranger Briley that he had gone north of Loop 377 on the day of the murder. Appellant never mentioned the post office, the hospital, the Pigeon Road Shooting Range, or the roller rink, which are all located north of Loop 377. Ranger Briley used video from surveillance cameras that showed Appellant was at or near two of these unmentioned locations on the day of the murder. Ranger Briley also used cell phone information to show that Appellant was north of Stephenville near the victim's house at around 11:00 a.m. that morning.

C. The medical examiner completed an autopsy of the victim, and a ballistics expert tested certain evidence for gunshot residue.

Dr. Jill Urban, a medical examiner, completed the autopsy of the victim. She found three gunshot wounds to the head—one to the left and right sides of the head and one to the back of the head—all three at close range, as evidenced by the “stippling” near the wounds. She recovered the bullets from the victim’s body and determined that the gunshot wounds, which were lethal, were not self-inflicted, and she ruled that his death was a homicide. David Spence, the trace evidence supervisor at the Southwestern Institute of Forensic Sciences in Dallas, testified that he tested ten samples collected from the orange pullover that belonged to Appellant, four of which tested positive for gunshot residue. Although Appellant owned a .22 pistol, which was tested, it did not match the ballistics for the bullets removed from the victim’s body.

III. Standard of Review

We review the sufficiency of the evidence to determine whether any rational jury could have found Appellant guilty beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Brooks v. State*, 323 S.W.3d 893, 912 (Tex. Crim. App. 2010); *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007). Following that standard, we review all the evidence in the light most favorable to the verdict and decide whether any rational jury could have found, based on the evidence or reasonable inferences from it, each element of the offense beyond a reasonable doubt. *Jackson*, 443 U.S. at 319; *Isassi v. State*, 330 S.W.3d 633, 638 (Tex. Crim. App. 2010). When we review the sufficiency of the evidence, we look at “events occurring before, during and after the commission of the offense and may rely on actions of the defendant which show an understanding and common design to do the prohibited act.” *Hooper*, 214 S.W.3d at 13 (quoting *Cordova v. State*, 698 S.W.2d 107, 111 (Tex. Crim. App. 1985)). The trier of fact is the sole judge of the

weight of the evidence and credibility of the witnesses, and may believe any portion of a witness's testimony. *Dewberry v. State*, 4 S.W.3d 735, 740 (Tex. Crim. App. 1999); *Sharp v. State*, 707 S.W.2d 611, 614 (Tex. Crim. App. 1986); *Isham v. State*, 258 S.W.3d 244, 248 (Tex. App.—Eastland 2008, pet. ref'd). We defer to the trier of fact's resolution of any conflicts in the evidence and presume that the trier of fact resolved such conflicts in favor of the verdict. *Jackson*, 443 U.S. at 326; *Brooks*, 323 S.W.3d at 899; *Clayton v. State*, 235 S.W.3d 772, 778 (Tex. Crim. App. 2007).

IV. Analysis

Appellant argues that the State failed to adduce sufficient evidence to convict him of the murder of Sewalt. The State asserts that it established each and every element of the offense beyond a reasonable doubt. As we explain below, we agree with the State that a rational jury could have found beyond a reasonable doubt that the evidence, or reasonable inferences from it, proved that Appellant intentionally or knowingly caused the death of Sewalt when he shot Sewalt with a firearm.

A. Law enforcement investigates the victim's murder.

While the police were still at the victim's residence investigating his murder, Appellant appeared at the entry gate, nervously spoke to police, and left his contact information. When questioned later in the evening by police, he explained that he had borrowed \$16,000 from the victim, who held the title to his Dodge pickup as collateral. He said that he repaid the victim with payments totaling \$18,000 dollars. However, bank records did not reflect any payments on the pickup, which was part of the victim's floor plan financing. On February 13, 2013, police found the title to the Dodge pickup at Appellant's home.

B. The day before and the day of the murder.

Saunders explained that, the day before the murder, he and the victim had discussed his purchase of Appellant's pickup for \$16,000. On the morning of the murder, the victim went to Garrison's office and told Walker that he planned to leave

the title to Appellant's pickup with her so that Appellant could pay Walker, but the victim took the title with him. Gilliam explained that she was to take the title to the bank if Appellant failed to pay the loan in full before her father let for his cruise.

On the evening of the murder, Ranger Briley interviewed Appellant, who claimed that, around 9:00 a.m. to 9:30 a.m. that morning, he went to the Allsup's store located at Highway 108 and South Loop 377. Afterward, he spoke to Luke Groth on the south side of town. He said that he may have gone to Ace Hardware on the south side of town and that he may also have gone to watch Lucero work with his horses. Around 3:00 p.m. that day, he picked up his daughter from school. Ranger Briley could not verify all of this information, so he worked to confirm Appellant's movements on the morning of the murder.

C. Law enforcement received security-camera recordings from the courthouse annex and hospital and cell phone records from Appellant and the victim.

During its investigation, law enforcement collected security-camera video recordings from locations in Stephenville and cell phone records from Appellant and the victim. From the videos, Investigator Woodruff determined that the victim drove his pickup and trailer in a northerly direction in front of the courthouse at 10:35 a.m. Less than a minute later, Appellant's Dodge pickup appeared in the same video traveling in the same direction. At 10:35 a.m., security camera footage from the hospital showed the victim's pickup and trailer traveling in a northerly direction. Again, less than a minute later, Appellant's pickup appeared behind the victim going in the same direction. At 11:11 a.m., the hospital security-camera footage showed Appellant's Dodge pickup traveling in a southerly direction. The victim's cell phone records indicated that Appellant spoke to the victim by phone at 9:28 a.m. on the day of the murder. The last call that the victim made was at 10:28 a.m.

D. Law enforcement analyzed and mapped Appellant's cell phone pings to towers.

At approximately 10:30 a.m. on the morning of the murder, Appellant's phone "pinged" towers in the green sector and then moved through the blue sector to the purple or pink sectors near the victim's home. An hour later at approximately 11:30 a.m., Appellant's phone pinged towers in the green sector where his home was located. Appellant's phone traveled from the green sector to the pink sector during the time-period in which Investigator Woodruff thought the victim had been murdered. Appellant never told police that he had gone north of Loop 377 that day or that he had traveled past the courthouse and hospital twice the morning of the murder.

E. The State adduced evidence of the victim's wounds and cause of death and evidence of gunshot residue on Appellant's orange pullover.

The victim had three close-range gunshot wounds to the head, which were lethal and not self-inflicted. Gunshot residue was found on Appellant's orange pullover. Ranger Briley interviewed Palmer and Garrison, both of whom had corroborated alibis.

V. Conclusion

When the jury deliberated on all of the evidence adduced by the State, the jury apparently chose to believe the witnesses presented by the State. The trier of fact is the sole judge of the weight of the evidence and credibility of the witnesses, and it may believe any portion of a witness's testimony. *Dewberry*, 4 S.W.3d at 740; *Sharp*, 707 S.W.2d at 614; *Isham*, 258 S.W.3d at 248. We defer to the jury because it had the responsibility "to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts." *Jackson*, 443 U.S. at 319. "Each fact need not point directly and independently to the guilt of the appellant, as long as the cumulative force of all the incriminating circumstances is

sufficient to support the conviction.” *Hooper*, 214 S.W.3d at 13 (citing *Johnson v. State*, 871 S.W.2d 183, 186 (Tex. Crim. App. 1993)). After a review of the record, we hold that the jury had sufficient evidence to find beyond a reasonable doubt that Appellant murdered Sewalt. We overrule Appellant’s sole issue.

VI. *This Court’s Ruling*

We affirm the judgment of the trial court.

MIKE WILLSON
JUSTICE

March 23, 2017

Do not publish. *See* TEX. R. APP. P. 47.2(b).

Panel consists of: Wright, C.J.,
Willson, J., and Bailey, J.