Opinion issued November 20, 2008.

In The
Court of Appeals
For The
First District of Texas

NO. 01-08-00122-CR

DENNIS LAMONT EVANS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 338th District Court
Harris County, Texas
Trial Court Cause No. 1113874

MEMORANDUM OPINION

Appellant, Dennis Lamont Evans, appeals his conviction for felony murder on the ground that the evidence presented at trial was insufficient to embrace every essential element of the charged offense. Specifically, appellant complains that

running a stop sign while evading arrest, thereby causing a fatal traffic accident, cannot be deemed an act "clearly dangerous to human life" under the felony murder statute. We affirm.

Background

At approximately 10:00 am on April 24, 2007, police officers from the Houston Police Department observed appellant driving a car that had recently been reported stolen. When officers attempted to stop the car by blocking an intersection with their vehicles, appellant went around the blockade. Three police cars, lights flashing, chased after appellant in the stolen car. Appellant accelerated, evaded a second police blockade, and went into a residential neighborhood. These actions endangered several other vehicles and pedestrians. Appellant did not stop at any of the stop signs he approached. After a series of turns, appellant continued to increase his speed "tremendously." While speeding through another stop sign while going at least 65 miles an hour, appellant's car smashed into the driver's side door of a pick-up truck driven by Rikki Sanchez. A police officer who observed the collision testified that appellant did not appear to apply his brakes as he sped through the intersection. That officer also testified that Sanchez, who was wearing her seatbelt, had the right-of-way, and that appellant should have stopped at the stop sign. Sanchez died at the scene from her injuries, which included massive head trauma, brain hemorrhage, broken ribs and internal bleeding. After the accident, appellant attempted to run from

the scene on foot. Officers tackled appellant and were eventually forced to taser him before he yielded.

At trial, appellant pled guilty to felony murder before the jury and requested that the jury assess his punishment. During his testimony in the punishment phase, appellant admitted knowing that the car he was driving had been stolen, that he was going at least 45 miles an hour during the police chase, and that he accelerated through the intersection in which the accident occurred. Appellant also admitted that he was under the influence of cocaine at the time of the accident. Appellant contended, however, that he did not see the stop sign at the intersection, and that he did attempt to apply the brakes at some point but that they did not work. The jury assessed punishment for felony murder at 37 years' confinement.

Standard of Review

Appellant's complaint is that the evidence is insufficient to support his conviction for felony murder. Appellate standards of review for legal and factual sufficiency of the evidence do not apply to felony cases where a defendant enters a plea of guilty or nolo contendere. *See Ex parte Martin,* 747 S.W.2d 789, 791 (Tex. Crim. App.1988); *Ex parte Williams*, 703 S.W.2d 674, 682 (Tex. Crim. App.1986); *see also McGill v. State*, 200 S.W.3d 325, 329 (Tex. App.—Dallas 2006, no pet.). Under Texas law, when a criminal defendant waives a jury and pleads guilty or nolo contendere, the State is only required to introduce sufficient evidence to show the

defendant's guilt. *See* TEX. CODE CRIM. PROC. ANN. art. 1.15 (Vernon 2005). It need not introduce evidence to show the defendant's guilt beyond a reasonable doubt. *See Ex parte Martin*, 747 S.W.2d at 792–93. Evidence is sufficient to show guilt if it embraces every essential element of the offense charged. TEX. CODE CRIM. PROC. ANN. art. 1.15; *Stone v. State*, 919 S.W.2d 424, 427 (Tex. Crim. App.1996).

Article 1.15 does not apply, however, when a guilty plea is entered in the presence of the jury. *Williams v. State*, 674 S.W.2d 315, 319 (Tex. Crim. App.1984) (noting no evidence need be entered when appellant pleads guilty before jury; evidence necessary for guilty plea before court only; *Helton v. State*, 886 S.W.2d 465, 466 (Tex. App.—Houston [1st Dist.] 1994, pet. ref'd). The guilty plea is conclusive as to the defendant's guilt, and the sufficiency of the evidence may not be questioned on appeal. *See, e.g., Stahle v. State*, 970 S.W.2d 682, 688 (Tex. App.— Dallas 1998, pet. ref'd).

Discussion

Here, appellant pled guilty before the jury to the indictment of felony murder. The grand jury's felony murder indictment was read to appellant in the presence of the jury. When prompted for his response to the indictment, appellant stated, "Guilty, sir." The court accepted appellant's plea of guilty to the indictment. In pleading guilty to the indictment as read, appellant specifically admitted, in the presence of the jury, that he committed the felony of evading arrest by intentionally and knowingly

fleeing police officers who were attempting to lawfully detain him, that he used a motor vehicle to escape officers, and that in the course of fleeing from officers, he committed an act "clearly dangerous to human life" by speeding and running a stop sign, colliding with Sanchez's vehicle and thereby causing Sanchez's death.

A plea of guilty to a felony before a jury admits the existence of all incriminating facts necessary to establish guilt. *Wilkerson v. State*, 736 S.W.2d 656, 659 (Tex. Crim. App. 1987); *Ex parte Williams*, 703 S.W.2d 674, 678 (Tex. Crim. App. 1986); *Williams v. State*, 674 S.W.2d 315, 319 (Tex. Crim. App. 1984)**;** *Helton v. State*, 886 S.W.2d 465, 466 (Tex. App.—Houston [1st Dist.] 1994, pet. ref'd).

Appellant's guilty plea after the reading of the grand jury's indictment on felony murder, which included the allegation that he committed an act "clearly dangerous to human life," was made before the trial judge in open court with the jury seated. Accordingly, we overrule appellant's single point.

Conclusion

We affirm the judgment of the trial court.

George C. Hanks, Jr.
Justice

Panel consists of Justices Jennings, Hanks and Bland.

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