

Opinion issued October 6, 2011.



**In The
Court of Appeals
For The
First District of Texas**

NO. 01-10-00905-CR

DEVAN CURTIS MEEKS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 344th District Court
Chambers County, Texas
Trial Court Cause No. 14969**

MEMORANDUM OPINION

A jury convicted Devan Curtis Meeks of murder, and the trial court

assessed his punishment at sixty years' confinement. *See* TEX. PENAL CODE ANN. § 19.02(b) (West 2003). On appeal, Meeks contends the evidence is insufficient to support his conviction. We affirm.

Background

In the summer of 2008, Meeks, then nineteen years old, was dating Melina Perry, then age sixteen. That summer, Perry moved into David Davis's house. Perry's father had died two years earlier, and Davis had been Perry's father's best friend. Davis had agreed to care for Perry because her grandmother could not control Perry's behavior. Meeks also lived at Davis's house for a period that summer, but Davis evicted him because Meeks refused to find a job. Davis believed that Perry was too young to date Meeks. He contemplated calling the police about their relationship. As a result, Davis and Meeks did not get along with each other. On numerous occasions, Meeks had threatened to kill Davis.

In a letter dated July 1, 2008, Perry wrote:

Can I live wit[h] this for the rest of my life?? Is [Meeks] the only one who knows about it, always going to stick wit[h] me and be [with] me forever? Should I have told him?? Can I just slit [Davis's] throat and walk away?? Yes to all of those. [H]onestly I am a cold hearted person. I think that I really can just walk up to him and slit his throat[,] watch him bleed to death[,] turn around and walk out of the house and run to my baby's arms and yeah I'll probably cry about it [for] a [little] while but hey life goes on right. [H]e deserves to die [Davis] is a horrible person[,] and he is trying to ruin

everything I have going [for] me and [Meeks]. [H]e is trying to put [statutory] rape charges on the person I want to spend [for]ever wit[h] So either tonight while he is [sitting] in his chair or tonight in his bed I will close his eyes [for] him for[ever]. RIP [D]avid [D]avis David [D]avis is a walking dead man.

Four days after Perry wrote the letter, Meeks attacked Davis and choked him. Meeks stopped when Perry fled the scene. Davis called the police from a neighbor's house. A friend then picked up Meeks and Perry and drove them to Meeks's grandfather's house. Once there, Meeks stole his grandfather's truck. According to the friend, Meeks took the truck because he and Perry intended to "get away from everyone."

In the early morning hours of the following day, Meeks and Perry drove to Davis's house. Perry entered the house and then returned outside to Meeks to tell him that Davis was awake. She told Meeks that it was time to kill Davis, and she urged him inside the house. But Davis then came outside, brandishing a hedge clipper. Meeks blocked it with the handle of a near-by shovel. Meeks and Davis exchanged punches on the steps to the house. According to Meeks, while he fought Davis, Perry repeatedly stabbed Davis in the back with a pocket knife. In an attempt to get away from Meeks and Perry, Davis stumbled into the house. Meeks admitted to the police that he then "knocked [Davis] out cold on the living room floor," but he later recanted stating that he did not knock Davis out, and only

knocked Davis backward when he approached him with the hedge clipper. According to Meeks, once Davis was inside the house, Perry retrieved a knife from the kitchen and cut Davis's throat. She also stabbed Davis countless times in the chest, including in the heart. The blade of the knife broke off inside of Davis's body. Meeks told police that Perry also hit Davis three times in the head with the hedge clipper.

Davis died. Meeks then collected all the weapons he could find, including the hedge clipper and some knives. He wrapped the weapons in a shirt and placed them in his truck, along with Perry's clothing. In addition, Meeks stole one of Davis's dresser drawers because it contained marijuana. According to Meeks, Perry grabbed a gas canister, splashed gasoline around the house, and started a fire with Meeks's lighter. Perry placed the gas canister in the back of the truck. Meeks and Perry fled to Meeks's father's house in Oklahoma. On the way, Meeks threw the weapons and shirt into the woods somewhere off the highway.

The police apprehended Perry and Meeks shortly after they arrived in Oklahoma. Upon his arrest, Meeks told Perry, "Baby, please don't say anything for me." He told the police that he never stabbed Davis, did not plan to kill Davis that night, and protested when Perry said it was time to kill him. The police found blood on the steering wheel of the truck, the driver's

seat, and the gas canister. The police also found a pocket knife on the front porch of Davis's house. The knife appeared to be one that Meeks had carried with him, but Meeks told the police that he had lost his knife before Davis's death at a friend's house.

Thomas Brown, a forensic pathologist, testified that Davis died from a stab wound to the chest. Davis suffered other non-lethal knife wounds to his chest, neck and back, as well as injuries to his head and cheek area. He had first, second, third degree burns on his body. Davis's body was badly burned after his death.

Discussion

Standard of Review

We review legal and factual sufficiency challenges using the same standard of review. *Ervin v. State*, 331 S.W.3d 49, 54 (Tex. App.—Houston [1st Dist.] 2010, pet. ref'd) (construing majority holding of *Brooks v. State*, 323 S.W.3d 893, 912, 926 (Tex. Crim. App. 2010)). Under this standard, the evidence is insufficient to support a conviction if, considering it in a light favorable to the verdict, no rational factfinder could have found the essential elements of the charged offense beyond a reasonable doubt. *See Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789 (1979); *In re Winship*, 397 U.S. 358, 361, 90 S. Ct. 1068, 1071 (1970); *Laster v. State*, 275 S.W.3d 512,

517 (Tex. Crim. App. 2009); *Williams v. State*, 235 S.W.3d 742, 750 (Tex. Crim. App. 2007). We presume that the factfinder resolved any conflicting inferences in favor of the verdict and defer to that resolution. *See Jackson*, 443 U.S. at 326, 99 S. Ct. at 2793; *Clayton*, 235 S.W.3d at 778. We defer to the factfinder's evaluation of the credibility and weight of the evidence. *See Williams*, 235 S.W.3d at 750.

Murder and Law of Parties

A person commits murder by intentionally or knowingly causing the death of an individual or by intending to cause serious bodily injury and committing an act clearly dangerous to human life that causes the death of an individual. *See* TEX. PENAL CODE ANN. § 19.02(b)(1)(2). Under the law of parties, a jury can find a defendant guilty of murder if it concludes that the defendant intentionally promoted or assisted in the commission of the offense, or that the defendant solicited, encouraged, directed, aided, or attempted to aid another person to commit the offense. *See* TEX. PENAL CODE ANN. § 7.02(a)(2) (West 2003). A reviewing court may consider events occurring before, during, and after the commission of the offense as evidence of criminal responsibility under the law of parties. *See Trenor v. State*, 333 S.W.3d 799, 809 (Tex. App.—Houston [1st Dist.] 2010, no pet.) (holding that evidence was sufficient to convict defendant under party-to-

the-offense theory because defendant assisted her husband in beating child, failed to seek medical attention for child, and assisted in hiding evidence of child's murder); *Ervin*, 333 S.W.3d at 201 (holding that evidence was sufficient to convict defendant for capital murder as co-conspirator when defendant knew of plan to commit robbery, knew accomplices had guns, watched them put on masks and hooded sweatshirts, and returned to pick them up after hearing gun shots).

Analysis

The trial court instructed the jury on two separate theories for murder—Meeks as a primary actor and as a party to the offense. We examine the evidence to determine whether it is sufficient to support Meeks's conviction as a party to the offense. If it is sufficient, we need not determine whether the evidence supports Meeks's conviction based on the other theory. *See Guevara v. State*, 152 S.W.3d 45, 49 (Tex. Crim. App. 2004) (holding that when court's charge authorizes jury to convict on more than one theory, verdict of guilty will be upheld if the evidence is sufficient on any one theory).

Meeks contends that the evidence is insufficient because he did not intend to promote or assist Perry in Davis's murder. We disagree. Meeks's participation in the events before, during, and after the offense supports the

element of intent. *See Trenor*, 333 S.W.3d at 809; *Ervin*, 333 S.W.3d at 201. Meeks had threatened to kill Davis. Hours before Davis's death, Meeks attacked Davis and choked him. He and Perry went back to Davis's house, where Perry told Meeks that it was time to kill Davis and urged him to participate. As Meeks exchanged punches with Davis, Perry began stabbing Davis in the back with a pocketknife. Once Davis retreated to the house, Meeks said that he knocked Davis out cold in his living room. Although Meeks later stated that he did not knock Davis out, we presume that the jury resolved any conflicting inferences in favor of the verdict and defer to that resolution. *See Jackson*, 443 U.S. at 326, 99 S. Ct. at 2793; *Clayton*, 235 S.W.3d at 778. Perry then repeatedly stabbed Davis, including the fatal stab wound to his aorta. Evidence thus exists that Meeks aided Perry by knocking Davis out so that she could deliver the fatal stab wound. *See Miller v. State*, 83 S.W.3d 308, 314 (Tex. App.—Austin 2002, pet. ref'd) (holding that some evidence existed that defendant aided his brother in murder of victim by positioning his car to facilitate his brother's shooting of victim). Meeks denied that he stabbed Davis, but he admitted that he watched Perry do it. After Davis died, Meeks gathered up the weapons he could find, helped pack Perry's clothes, and stole some of Davis's belongings. Davis and Meeks then fled to Oklahoma. Meeks hid the

weapons in the woods along the highway. Meeks's flight to Oklahoma after Davis's murder and his attempt to hide the weapons used in the attack is further circumstantial evidence of his guilt. *See Miller v. State*, 177 S.W.3d 177, 184 (Tex. App.—Houston [1st Dist.] 2005, pet. ref'd) (defendant's flight immediately after shooting and attempts to hide evidence is circumstantial evidence of guilt); *see also Wygal v. State*, 555 S.W.2d 465, 469 (Tex. Crim. App. 1977) (circumstantial evidence sufficient to show guilt as party).

Meeks further contends that the evidence is insufficient because only Perry stabbed Davis. Proof that the defendant caused the fatal injury is not necessary to support a murder conviction under the law of parties. *See McFarland v. State*, 928 S.W.2d 482, 496 (Tex. Crim. App. 1996) (“proof beyond a reasonable doubt that appellant fired the fatal shot is not necessary for a capital murder conviction where the jury is charged on the law of parties”), *abrogated in part on other grounds by Mosley v. State*, 983 S.W.2d 249 (Tex. Crim. App. 1998). “The mere fact that appellant did not inflict the most damaging blow to the victim does not relieve him of responsibility for the victim's murder.” *Umoja v. State*, 965 S.W.2d 3, 6 (Tex. App.—Fort Worth 1997, no pet.).

Viewing the evidence in a light favorable to the verdict, we conclude

that a rational jury could have found beyond a reasonable doubt that Meeks was a party to murder. *See* TEX. PENAL CODE ANN. § 7.02(a)(2). Accordingly, we hold that the evidence is sufficient to support the jury's conviction.

Conclusion

We hold that the evidence supports the jury's conviction. We therefore affirm the judgment of the trial court.

Jane Bland
Justice

Panel consists of Chief Justice Radack and Justices Bland and Huddle.

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