

Affirmed and Memorandum Opinion filed March 24, 2011.



In The

Fourteenth Court of Appeals

NO. 14-09-00945-CR

CHRISTOPHER KEITH JACKSON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 351st District Court
Harris County, Texas
Trial Court Cause No. 1173172**

MEMORANDUM OPINION

Appellant Christopher Keith Jackson was convicted of first degree murder. Punishment was assessed at fifty years' imprisonment. In his sole issue on appeal, he contends the evidence is factually insufficient to support his conviction. We affirm.

The complainant, Carlos Nash, was shot sometime after 11:00 a.m. on June 28, 2008. Earlier that morning, Carlos called his older brother, Eric Nash, alleging that appellant and his uncle attempted to run him over in their car. Eric knew of "a beef"

between appellant and his brother, but he said that he did not want to get involved in their dispute.

Later that day, Carlos and Eric drove to the Trinity Gardens subdivision on their way to work. Carlos stopped at a house on Lumber Lane to sell some drugs. Waiting in a car were Remone Jackson and two other friends of the Nash brothers. When Carlos finished his transaction, he and Eric returned to their vehicle, where they saw appellant appear from behind a tree with his hand behind his back. Carlos lifted his fists into a boxing stance, and Eric promptly restrained him, not wanting a fight to escalate. As they walked away, Eric testified that appellant raised his arm and then shot Carlos in the back. Carlos later died from his injuries.

Remone Jackson witnessed the confrontation. He initially told police that he did not know the shooter's identity, but he later testified that appellant was in fact the person who shot Carlos. Both Remone and Eric identified appellant in a six-person photo array. Eric specifically testified that he was "100 percent sure" that appellant was the shooter.

No physical evidence corroborating appellant's involvement in the murder was ever collected from the scene. Appellant called three witnesses—his uncle, cousin, and girlfriend—who each testified that he was in another part of the city around the time of the offense.

In his sole issue, appellant contends the evidence is factually insufficient to support his conviction because (1) the State could not produce any physical evidence connecting him to the murder; (2) the witness testimony against him was not credible; and (3) to the extent that the witness testimony was credible, it was outweighed by the preponderance of conflicting evidence supplied by his three alibi witnesses.

During the pendency of this appeal, the Texas Court of Criminal Appeals decided that only one standard should be used to evaluate the sufficiency of the evidence in a criminal case: legal sufficiency. *Brooks v. State*, 323 S.W.3d 893, 895 (Tex. Crim. App. 2010) (plurality opinion). Accordingly, we review appellant's argument under the standard announced in *Jackson v. Virginia*, 433 U.S. 307 (1979), asking only whether the evidence against him was legally sufficient to sustain a verdict beyond a reasonable doubt. *See Pomier v. State*, 326 S.W.3d 373, 378 (Tex. App.—Houston [14th Dist.] 2010, no pet.).

When reviewing the legal sufficiency of the evidence, we examine all of the evidence in the light most favorable to the verdict and determine whether a rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Jackson*, 433 U.S. at 319. Although we consider everything presented at trial, we do not reevaluate the weight and credibility of the evidence and substitute our judgment for that of the fact finder. *Williams v. State*, 235 S.W.3d 742, 750 (Tex. Crim. App. 2007). Because the jury is the sole judge of the credibility of witnesses and of the weight given to their testimony, any conflicts or inconsistencies in the evidence are resolved in favor of the verdict. *Wesbrook v. State*, 29 S.W.3d 103, 111 (Tex. Crim. App. 2000). Our review includes both properly and improperly admitted evidence. *Clayton v. State*, 235 S.W.3d 772, 778 (Tex. Crim. App. 2007). We also consider both direct and circumstantial evidence, as well as any reasonable inferences that may be drawn from the evidence. *Id.*

To obtain a conviction for murder, the State was required to prove that appellant (1) intentionally or knowingly caused the death of an individual; or (2) intended to cause serious bodily injury and committed an act clearly dangerous to human life that resulted in the death of an individual. Tex. Penal Code Ann. § 19.02(b)(1)–(2) (West 2010). Eric Nash testified that he saw appellant shoot his younger brother. Remone Jackson also testified that appellant shot the complainant. The jury was free to disbelieve the testimony of the alibi witnesses. Viewed in the light most favorable to the verdict, we conclude the

eyewitness testimony was sufficient for a rational juror to find every element of murder beyond a reasonable doubt.

The judgment of the trial court is therefore affirmed.

/s/ Tracy Christopher
Justice

Panel consists of Justices Seymore, Boyce, and Christopher.

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