

Affirmed and Memorandum Opinion filed February 15, 2018.



In The

Fourteenth Court of Appeals

NO. 14-17-00121-CR

ION STANCIU, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 176th District Court
Harris County, Texas
Trial Court Cause No. 1454476**

M E M O R A N D U M O P I N I O N

A jury found appellant Ion Stanciu guilty of murdering his wife and assessed his punishment at sixty years' imprisonment. The trial court sentenced appellant consistent with the jury's findings. In his sole issue, appellant challenges the sufficiency of the evidence supporting his conviction for murder. We affirm.

I. FACTUAL BACKGROUND

Around 10:00 or 11:00 a.m. on January 13, 2015, appellant's next-door neighbor heard banging noises coming from the kitchen window facing appellant's home. The neighbor went into the kitchen and saw appellant looking through the window. At first, the neighbor did not recognize appellant because he didn't look like himself; the neighbor thought appellant looked "very weary" and "like a crazy person."

The neighbor ran outside and saw appellant gasping and throwing up. She asked appellant what was wrong, and he showed her that something was around his neck. The neighbor explained the situation to a 9-1-1 operator on appellant's cell phone and then briefly left appellant to look for help from another neighbor, but no one was around. The neighbor did not hear anyone in appellant's house and did not see anyone leave the house after she went outside. Nor had she noticed anything out of the ordinary on her street when she returned home from an errand around 8:00 a.m. that day.

Paramedics soon arrived at the scene. A paramedic initially saw appellant, wearing nothing but underwear, lying face-down with his head in the doorway of his house. The paramedic and his partner rolled appellant over and saw that he had a zip tie around his neck. The paramedic cut the zip tie off appellant's neck so he could breathe. Appellant was taken by a Life Flight helicopter to a hospital.

After learning from neighbors that appellant had a wife and child, the paramedic went into the house to see if anyone else was inside. In an upstairs bedroom, the paramedic found the complainant, appellant's wife, dressed in business attire, lying face-up on the floor. The complainant was not breathing, had no vital signs, and had a zip tie around her neck that was similar to the one found on appellant's neck. Vomit and blood were coming from her mouth and nose.

Paramedics performed cardiopulmonary resuscitation (CPR) and other medical interventions to help her breathe, but they were unsuccessful. The complainant was taken to a hospital where she was pronounced dead.

Harris County Sheriff's Office deputies arrived and searched the house. They found blood and loose zip ties on the first floor and in the second floor master bedroom. The deputies looked for evidence of a home invasion or burglary, but found none. There were no signs of forced entry on the doors or windows, and nothing in the house appeared to be missing or out of place. Electronic items were in plain view and appeared undisturbed. Elsewhere in the house, deputies also saw a large floor safe, piano, computer, printer, and artwork that appeared undisturbed. Although deputies found nothing moved or out of place in the garage, they did find zip ties in the bottom drawer of a tool chest.¹

A homicide detective arrived and interviewed several witnesses. He learned that a child lived in the home, and eventually he located the Stancius' eleven-year-old daughter at school. Because the detective could not find any family members, Child Protective Services took the child into custody. The detective returned to the Stancius' home and entered with a search warrant. The detective saw that an altercation appeared to have occurred on the bed in the master bedroom where the complainant was found, because the bedding was tossed around and a woman's black boot and necklace were found on the bed. Items in the master bathroom and closet appeared undisturbed, however, including the complainant's jewelry hanging in the closet. The detective saw two other bedrooms upstairs, one a child's bedroom, and another that appeared to have someone living in it, because it had a bed and male clothing in the closet.

¹ At trial, a deputy explained that the zip ties found in the tool box were not the same as those recovered from appellant and the complainant because the markings on them were different and they were smaller.

The detective next went to examine the complainant's body at the hospital. After that, the detective went to a different hospital, where appellant was being treated, to get appellant's statement. The detective was not immediately able to speak with appellant, however, because appellant was intubated. The next day, appellant's intubation tube was removed and the detective was able to talk to him.

Appellant told the detective that all he remembered about the morning of the 13th was waking up in bed, lying on his back with his hands tied behind his back and something tied around his legs and neck. Appellant said that he fell down the stairs, and then the tie around his hands came off. Appellant went to the kitchen and used a knife to cut off the tie around his legs, but he was unable to remove the tie around his neck. He called 911, but the operator could not understand him, so he went next door to get help from his neighbor. He then vomited and passed out.

Appellant also told the detective that he worked a night shift at a postal office and usually got home around 7:30 a.m., but he said that he could not remember what time he got home from work that morning. Appellant said that the complainant was the only person home when he arrived. Appellant thought he last saw the complainant in the kitchen, but he did not remember speaking to her. Appellant eventually acknowledged that a few days earlier the complainant had told appellant that she wanted a divorce. Appellant said he begged her not to leave him and tried to convince her to stay, but the complainant would not change her mind. Appellant did not remember having any conversation or altercation with the complainant on the morning of January 13.

The detective concluded that appellant's story was inconsistent with the evidence. After finishing his investigation, the detective gave the information he had to the district attorney's office. Appellant later was charged with the murder of the complainant by placing a zip tie around her neck.

At trial, the medical examiner testified that the cause of the complainant's death was ligature strangulation, and the manner of death was homicide. The medical examiner stated that the complainant also sustained rib fractures of a type that probably were not caused by CPR, but that possibly could have been caused by pressure being put on her back by a hand or knee, or by standing on her back. The complainant also had a fracture to her thyroid cartilage, which was a "very strong indication that there was significant force applied to the neck." A forensic anthropologist similarly concluded that the injury to the thyroid cartilage indicated that a "significant amount of force" was applied and that the injury occurred at or near the time of death, as there was no evidence of healing.

The daughter, now fourteen years old, testified that in the months preceding January 2015, the relationship between her parents had started to deteriorate. The daughter stated that appellant and the complainant argued almost every night, they did not spend much time with each other, and they did not sleep in the same room with each other. In July 2014, the complainant got a new job at National Oilwell Varco, and appellant became jealous of one of the complainant's male co-workers. Appellant would tell the complainant that she only got the job or wanted it "because of him" and "why not just go off with him instead." On the morning of January 13, 2015, the daughter recalled that when she awoke, her mother was downstairs making breakfast. When the daughter left to catch the bus around 7:00 a.m., her mother was upstairs and appellant had come home from work.

Zvetlana Solome, a friend of the complainant's, testified that she spoke with appellant two weeks before January 13, because "the situation start[ed] going too far." Solome then met with the complainant to give her the name and telephone number of a divorce attorney. The night before the complainant died, Solome was with the complainant when she called the divorce attorney around midnight.

About 7:42 a.m. the next day, the complainant called her supervisor, Juanita Kellstrom, to tell her that she was going to be twenty minutes late for work. The complainant had never before been late during the entire time she worked for National Oilwell Varco. A few minutes later, the complainant called Kellstrom again. During the call, the complainant did not respond to Kellstrom, but Kellstrom could hear the complainant in the background talking loudly and rapidly, and not in her usual tone of voice. Kellstrom also heard a male voice she did not recognize. The male was talking in a loud but calm voice. The complainant and the male were speaking Romanian, so Kellstrom could not understand most of what they were saying, but Kellstrom did hear the complainant say, “You’ve turned into a monster.”

Kellstrom hung up the phone, but then received a third call a few minutes later in which she could hear the complainant and the male continuing to talk in the same way. Kellstrom hung up after about a minute. A fourth call came in shortly after that, but Kellstrom had left her desk and missed it. Kellstrom tried several times to return the call, but she got only a busy signal. Kellstrom became concerned and contacted others to see if someone could go and check on the complainant. When Kellstrom got home from work, a police officer told her that the complainant had died.

II. ANALYSIS OF APPELLANT’S ISSUE

In a single issue, appellant contends that the evidence is insufficient to support his conviction because a rational fact finder could not have concluded that appellant committed the offense of murder.

A. Standard of Review

When evaluating the legal sufficiency of the evidence to support a criminal

conviction, we must view all the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Temple v. State*, 390 S.W.3d 341, 360 (Tex. Crim. App. 2013) (citing *Jackson v. Virginia*, 443 U.S. 307, 318–19 (1979)). Under this standard, evidence may be legally insufficient when the record contains either no evidence of an essential element, merely a modicum of evidence of one element, or if it conclusively establishes a reasonable doubt. *Britain v. State*, 412 S.W.3d 518, 520 (Tex. Crim. App. 2013).

When the record presents conflicting inferences, a reviewing court presumes that the jury resolved the conflicts in favor of the verdict. *Temple*, 390 S.W.3d at 360. The jury, as the sole judge of the weight and credibility of the witnesses, is free to believe or disbelieve all or part of a witness's testimony. *Thomas v. State*, 444 S.W.3d 4, 10 (Tex. Crim. App. 2014).

The lack of direct evidence is not dispositive of the issue of a defendant's guilt. *Guevara v. State*, 152 S.W.3d 45, 49 (Tex. Crim. App. 2004). Circumstantial evidence is as probative as direct evidence in establishing the guilt of an actor, and circumstantial evidence alone can be sufficient to establish guilt. *Temple*, 390 S.W.3d at 359. The jury is not permitted to draw conclusions based on speculation, but may draw reasonable inferences from facts as long as each is supported by the evidence presented at trial. *Id.* at 360. The law does not require that each piece of evidence point directly and independently to the appellant's guilt, as long as the cumulative force of all the incriminating circumstances is sufficient to support the conviction. *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007); *Guevara*, 152 S.W.3d at 49.

B. Legal Sufficiency of the Evidence

Appellant contends that the evidence is legally insufficient for the jury to

have found that he committed murder because he was severely injured at the same time as the complainant, there was no DNA evidence linking appellant to a struggle with the complainant, and the complainant's injuries were consistent with a different type of strangulation. The gist of appellant's argument is that the jury's conclusions are based on speculation and factually unsupported inferences rather than reasonable inferences supported by evidence.

Appellant was charged with committing murder by (1) intentionally or knowingly causing the death of the complainant by placing a zip tie around her neck, or (2) intending to cause serious bodily injury by intentionally or knowingly committing an act clearly dangerous to human life that caused the death of the complainant, by placing a zip tie around her neck. *See* Tex. Penal Code § 19.02(b)(1)–(2). The court's charge tracked this language. When, as here, the trial court's charge authorizes the jury to convict on more than one theory, the verdict of guilt will be upheld if the evidence is sufficient on any of the theories. *See Guevara*, 152 S.W.3d at 49.

Appellant first argues that the verdict suggests the jury concluded that appellant killed the complainant by strangling her with a zip tie before applying a zip tie to his own neck, but the evidence showed that appellant was himself so severely injured that he had to be transported to the hospital by Life Flight. Appellant also argues that the jury must have concluded that appellant acquired just enough zip-ties to commit the murder because police did not find any additional zip ties in the house or at appellant's workplace.

We disagree that a rational jury could not have concluded beyond a reasonable doubt that appellant murdered the complainant based on the evidence admitted at trial. The evidence showed that appellant and the complainant were the only two people in their home immediately before the incident on the morning of

January 13, 2015. The home showed no signs of burglary or forced entry, and a neighbor saw no suspicious people or vehicles in the area that morning. The lack of evidence of a burglary or robbery suggests the crime was not the result of a burglary or robbery gone wrong. *See id.* at 51.

The jury also heard that in the months before the complainant's death, appellant had grown jealous of a male co-worker at the complainant's new job. The relationship between appellant and the complainant so deteriorated that the complainant had contacted an attorney about a divorce. On the morning the complainant was killed, she and a male were overheard arguing in Romanian, the native language of both the complainant and appellant. The complainant told the male "you've turned into a monster," implying that the complainant knew her attacker well enough to recognize a disturbing change in his personality or behavior. Although appellant said he could not remember any argument with the complainant that morning, he acknowledged that earlier he had begged and pleaded with the complainant not to leave him, indicating that he was opposed to the complainant's decision to seek a divorce.

"Motive is a significant circumstance indicating guilt." *Id.* at 50. The jury reasonably could have concluded from the evidence that appellant was motivated by anger and jealousy to strangle his wife on the morning of January 13, 2015. The record contains no evidence showing anyone else who would have wanted the complainant dead.

Appellant emphasizes that he was also severely injured, implying that an alternate perpetrator was responsible for his injuries and the complainant's murder. But the jury could have rejected an alternate-perpetrator theory based on reasonable inferences from the evidence. Among other things, the medical examiner testified that it would take less than one minute to lose consciousness

from ligature strangulation. The jury reasonably could have concluded from this testimony that it was unlikely that an alternate perpetrator would have applied the zip tie to the complainant's neck with lethal force, but then applied the zip tie to appellant's neck with less-than-lethal force. Likewise, the jury reasonably could have concluded that if an alternate perpetrator placed the zip tie on appellant's neck with a lethal amount of force, appellant would not have had time to get down the stairs, cut off the tie around his legs, and go next door to a neighbor's house for help before collapsing.²

Further, the jury reasonably could have found it implausible that appellant could have slept through an attack on his wife and had no memory of what happened before he awoke to find himself bound with zip ties on his hands, legs, and neck. Based on the medical evidence, the jury reasonably could have concluded that appellant held the complainant down by pressing his hand or foot on her back while placing the zip tie around her neck and strangling her with it. When the record supports conflicting inferences, we are to presume that the jury resolved the conflicts in favor of the verdict and defer to that determination. *Merritt v. State*, 368 S.W.3d 516, 525–26 (Tex. Crim. App. 2012); *see also Ramsey v. State*, 473 S.W.3d 805, 808 (Tex. Crim. App. 2015) (“Beyond a reasonable doubt . . . does not require the State to disprove every conceivable alternative to a defendant's guilt.”).

Appellant next contends that the State presented no DNA evidence to prove that appellant had a struggle with the complainant. Appellant argues that the medical examiner testified that he did not observe any injury to the complainant's hands and her nails were intact. And, although the complainant's hands were

² Appellant also sustained injuries to his head and legs, but the jury reasonably could have concluded that these injuries were the result of appellant having fallen down the stairs, either intentionally or accidentally, shortly before finding the neighbor.

enclosed in paper bags to preserve evidence, the State did not present any scientific evidence linking appellant to a struggle with the complainant, and did not present any evidence of defensive wounds on either appellant or the complainant consistent with a struggle. But, the State is not required to present any specific type of direct physical evidence, as circumstantial evidence alone can be sufficient to establish guilt. *Temple*, 390 S.W.3d at 359; *Guevara*, 152 S.W.3d at 49. Even if positive DNA results linking appellant to the complainant's body had been presented to the jury, the fact that appellant and the complainant were husband and wife and shared a home likely would have limited the probative value of such evidence.

Finally, appellant complains that "the jury verdict suggests that the jury filled in the gaps in the testimony to find that Appellant applied the zip-ties to [the complainant's] neck" and that this conclusion is "inconsistent [with] the ligature strangulation being the only manner of [the] cause of death as the evidence suggest[s] that greater force than a zip-tie was applied to complainant's neck." In support of this assertion, appellant points to the medical examiner's testimony that the fractures to the thyroid cartilage caused by significant force applied to the complainant's neck could have been caused by ligature strangulation, but also could have been caused "a lot of other ways." Thus, appellant argues, only a modicum of probative evidence was presented that appellant caused the complainant's death.

We disagree that the jury reached a conclusion unsupported by the evidence. The medical examiner explained that "ligature strangulation," meant that the complainant's death was caused by "constriction of the neck" by "something being tied around the neck." The paramedic who discovered the complainant's body testified that the complainant had no vital signs and had a zip tie "similar to the one

on the [appellant's] neck" around her neck. The medical examiner confirmed that the fractures the complainant sustained were consistent with a strangulation by a zip tie. The medical examiner also testified that placing a zip tie around someone's neck and tightening it could cause serious bodily injury or death, and was an act that can be clearly dangerous to human life. The record contains no evidence to support any alternative theory as to the manner and means or cause of the complainant's death.

Viewing the evidence as a whole and in the light most favorable to the verdict, a rational jury reasonably could have concluded that appellant murdered the complainant by placing a zip tie around her neck. We therefore overrule appellant's issue.

III. CONCLUSION

We overrule appellant's issue and affirm the trial court's judgment.

/s/ Ken Wise
Justice

Panel consists of Chief Justice Frost and Justices Busby and Wise.
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