

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-11-00243-CR**

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**CHRISTOPHER PIERRE THOMAS**  
**a/k/a CHRIS PIERRE THOMAS, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the Criminal District Court**  
**Jefferson County, Texas**  
**Trial Cause No. 10-08407**

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**MEMORANDUM OPINION**

A jury convicted appellant Christopher Pierre Thomas<sup>1</sup> of murder. *See* Tex. Penal Code Ann. § 19.02(b)(1) (West 2011). The jury assessed a punishment of 16 years imprisonment. On appeal, Thomas argues the evidence is legally insufficient to support his conviction. We find appellant's issue is without merit and affirm the trial court's judgment.

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<sup>1</sup> Appellant is also known as Chris Pierre Thomas.

## BACKGROUND

Appellant Christopher Pierre Thomas sold crack cocaine for a living. He regularly sold drugs to Percy Antoine and others that frequented Antoine's apartment. On December 22, 2009, appellant went to Antoine's apartment where he shot and killed Vincent Mullins.

Antoine testified that appellant, known to Antoine as "P.J.," regularly sold him crack cocaine. Antoine testified that he had invited Mullins to spend the night at his apartment the evening of December 22. Antoine recalled that around 9:30 p.m., Mullins left the apartment to go to the store and returned about an hour later. When he returned, Mullins told Antoine that if anyone called looking for him, Antoine should say Mullins was not there. Antoine testified that later that evening, appellant called Antoine looking for Mullins.

Antoine testified that he has a crack addiction and appellant came to his apartment that night to bring him crack cocaine. Antoine gave two conflicting accounts of how Thomas entered his home. First, Antoine testified that he opened the door for Thomas and then left to go to the back room in the apartment. Later Antoine testified that when Thomas arrived he was in the back room, but his front door was unlocked and Thomas let himself inside. Antoine testified that Mullins came from the back of the apartment, entering into the front carrying a knife. Antoine testified that appellant and Mullins then started to "squabble." While in the back room, Antoine heard two shots fired. Antoine came out and found that Mullins had been shot. Antoine called 911 and reported that,

“P.J. shot [Mullins].” Antoine admitted that before the shooting he had been smoking crack.

In response to the 911 call, Groves Police Department dispatched Detective Gary Davis to Antoine’s apartment. Upon arriving at the complex, Davis observed blood at the foot of the stairs, and more blood about halfway up the stairs on the concrete steps. As he approached Antoine’s front door he noted it was open. He observed more blood in the apartment entryway. On entering, Davis found Mullins on the floor with a bloody pocketknife in his hand. Davis testified the knife was of the type capable of causing serious bodily injury or even death.

After securing the residence, Davis began to question Antoine, but Davis noticed that Antoine appeared to be in shock. Eventually Antoine told him that he was in the back room when Mullins was shot and he did not know exactly what had happened. Davis testified that the crime scene suggested a struggle had occurred between two people.

Sergeant Timothy McCurley was dispatched to Antoine’s apartment to collect evidence. He received instructions to collect the blood evidence from inside the apartment. He testified that while he located blood on the stairs leading up to the apartment, neither he, nor anyone else took specimens of the blood on the stairs.

Sergeant John Rabalais was the detective on call the night of the shooting. He testified that he noticed blood on the stairs leading to Antoine’s apartment. Rabalais agreed that when he walked into the apartment it was obvious there had been a struggle and a fight. He instructed other officers to continue to secure the scene and he took

Antoine to the police station to interview him regarding the shooting. During the interview, Rabalais was concerned that Antoine was not completely forthcoming with him about the shooting. Rabalais took Antoine's first statement, which Rabalais later discovered contained information that contradicted with the information Antoine provided the 911 operator. Rabalais testified that during the 911 call, Antoine identified the shooter as "P.J." He further testified that Antoine told the operator that "P.J." entered the apartment and just started shooting. Rabalais testified that Antoine told him that P.J. provided him with crack cocaine on different occasions. Rabalais obtained Antoine's address book and located two phone numbers listed for "P.J." Rabalais obtained the cell phone records for the two numbers and one of the numbers returned as a match for appellant.

After Rabalais discovered the contradictions between the statement Antoine provided him and the account Antoine provided 911, he contacted Antoine to obtain another statement and to have Antoine view a lineup that included appellant. During his second statement, Antoine told Rabalais that appellant had possessed a firearm that resembled a revolver; that on the night of the shooting, appellant called him to see if Mullins was at the apartment and Antoine told appellant that Mullins was not there.

Antoine told Rabalais that appellant had a previous run-in with Mullins. Antoine explained to Rabalais that prior to December 2009, he had called appellant to purchase crack, but when appellant arrived at his apartment and found Mullins there, appellant left. Rabalais testified that Antoine told him that appellant called him later and told him not to

call him again when Mullins was there because Mullins had robbed him in September at knifepoint, stealing his crack cocaine, money, and his girlfriend's car. During his investigation, Rabalais learned that Mullins was suspected in several robberies of drug dealers, which involved the use of a knife. Rabalais testified that when he spoke to appellant, appellant told him that Mullins had robbed him at knifepoint. Appellant told Rabalais that the robbery motivated him to purchase a gun in case he ran into Mullins again.

Appellant admitted to Rabalais that he shot Mullins on the night in question, but told him he was acting in self-defense. Appellant told Rabalais that he fired the gun until it would not fire anymore. Rabalais testified that firing five shots at Mullins would not be overkill and that it is common for something like that to happen because of stress, nerves, and adrenaline.

Rabalais testified that no one attempted to preserve the blood on the sidewalk or stairs. Rabalais testified that the blood specimens from these areas would have been something he would have wanted to test for his investigation. He testified that it was raining outside and since Mullins was dry, it was unlikely Mullins had gone outside. Rabalais agreed that it was safe to assume that the blood outside the apartment did not belong to Mullins.

In addition to the knife Davis removed from Mullins, Rabalais testified that a second knife was found in Mullins's pocket. The knife in Mullins's hand was opened and bloody, which led Rabalais to believe that Mullins had used the knife to cut someone.

Rabalais testified that he recovered appellant's cell phone number, cell phone, and cell phone history reflecting the calls made from the phone on December 22. The records indicate that there were several calls between appellant's number and Antoine's number, with both initiating calls to each other.

Dr. Tommy Brown, a forensic pathologist, testified he performed the autopsy on Mullins. He testified that Mullins had five entry gunshot wounds. Based on the location of the entrance of the gunshot wounds, Dr. Brown testified that Mullins was likely in front of the shooter, but was turning away from the shooter when he was shot. He concluded that Mullins died from multiple gunshot wounds.

Tanya Dean, a forensic scientist at the Texas Department of Public Safety Regional Crime Lab in Houston, testified that she tested the swabs from the knife blade and the knife handle for DNA. She testified that the swabs from both the handle and the blade were consistent with the DNA profile for Mullins. Dean also tested a swab that was taken from the interior doorframe of Antoine's house and found the DNA profile of this substance was consistent with the DNA profile of appellant.

Appellant testified on his own behalf. In September or October 2009, appellant met Mullins at a convenience store in Port Arthur. Appellant testified that Mullins wanted to buy "dope" from him, but he needed more money to make his desired purchase and asked appellant to give him a ride to another location where he could obtain additional funds. Appellant agreed and gave Mullins a ride. Appellant testified that when he stopped at a corner, Mullins pulled out a pocketknife and demanded appellant

give him his money. When appellant told Mullins that he did not have any money, Mullins threatened him with the knife to let him know he was serious. Mullins then demanded appellant to get out of the car. Appellant resisted and tried to take the knife from Mullins, but was unsuccessful, and Mullins forced him out of the car. During the struggle, Mullins stabbed appellant in the hand. Mullins drove off in the car. A couple of hours later, appellant found the car. The outside of the car was undamaged, but the inside was torn up, and the radio had been stolen.

Appellant testified that he did not see Mullins again until November when Antoine called him and told him that he had someone at his apartment that he wanted appellant to meet. Appellant testified that Antoine was one of appellant's regular customers, and that his apartment was a gathering place for people wanting to purchase drugs. Appellant testified when he arrived at Antoine's apartment, Mullins and Antoine were waiting. He testified that at the time, Mullins acted as if he did not know appellant, so he responded in kind to prevent an altercation. Appellant sold Antoine drugs and left. Appellant testified that he later called Antoine and told him about Mullins having robbed him, and told Antoine not to call him again because he was not sure what would happen. Thereafter when Antoine called appellant to come over, Mullins was not around, so appellant assumed that Antoine had kicked him out.

Appellant testified that he never looked for Mullins, but rather tried to avoid him. He was aware that someone was robbing local drug dealers. After Mullins had robbed him, he acquired a gun to protect himself.

Appellant testified that on December 22, he received numerous missed calls from Antoine. Appellant assumed Antoine had someone at his house that wanted to purchase drugs, so he drove over to Antoine's apartment around 11 p.m. without calling. When he arrived, appellant walked up the stairs and knocked on Antoine's door. Antoine let him in the apartment. Appellant testified that he entered the apartment and noticed that it was unusually dark. He noticed the back room door was closed, but that its light was on. Appellant asked Antoine if he had someone in the back room that wanted to buy something. He told Antoine to go convince his visitor to spend money with appellant. Appellant proceeded to the back room and opened the door, but the room appeared empty. Appellant testified that Antoine started arguing with him because he had disrespected him by opening his bedroom door. While appellant and Antoine were arguing, Mullins stepped out of the closet. Appellant testified that Mullins was still partly hidden behind the closet door, which suggested to appellant that Mullins was hiding something in his hand. Concerned for his safety, appellant tried to back out of the room, but Mullins "charged" towards him with a raised knife. Appellant testified that he then ran for the front door, but when he reached the door, he found that it was locked. He testified that when he turned around, Mullins "stabbed" him in the face. Appellant testified he did not realize the cut was bad. Appellant did not seek medical attention for the cut. After getting cut, appellant grabbed for his gun, located in his waistband. Appellant testified that Mullins was "cocked back like he was fixing to hit me again with the knife." Appellant testified that in response, he just started shooting and continued



shooting until he emptied the pistol. Appellant realized he was dripping blood everywhere, so he grabbed the door and took off running.

During the struggle, appellant had his phone in his pocket. Appellant testified that he believes the numerous calls to Antoine's phone from his phone that night were "pocket calls," i.e. an unintentional call placed from a cellular phone stored in a pocket. Appellant denied Antoine's testimony that he called and asked if Mullins was at Antoine's apartment. Appellant testified that when he made it to the parking lot, his ride had left. He put the gun in his "hoodie" and started running. He testified that he did not know what happened to the gun, but it must have fallen out.

Appellant testified he used the gun to protect himself, and that he believed that if he would not have had the gun that night, he would be dead. Appellant testified that he had never before felt like he needed a gun when going over to Antoine's apartment, but this time he decided to carry it into the apartment.

Elreed Wilson, Jr. testified that he first met Mullins while locked up in the Jefferson County Jail. Wilson testified he has two convictions for felony possession of a controlled substance, felony possession of marijuana, and a misdemeanor conviction for assault family violence. He is currently serving time in TDC for a drug conviction.

Regarding Mullins, he testified that Mullins was "a pretty bad guy," "a certified jack artist." Wilson testified that Mullins had a bad reputation for stabbing and robbing drug dealers. He testified that sometime after both he and Mullins were released from jail, Mullins was homeless and Wilson gave him a place to stay in his garage. However,

after Mullins got into an argument with one of Wilson's guests, Wilson asked Mullins to leave his home fearing for the safety of himself, his fiancée, and his friend. Thereafter, Wilson would occasionally provide Mullins a ride. Wilson testified that he dropped Mullins off at Antoine's apartment on December 22, 2009, between 6 p.m. and 9 p.m.

Corey Williams testified that Mullins robbed him in October 2009. Williams testified that Mullins had a hundred dollars that he wanted to exchange for drugs, but Williams did not have enough drugs in his possession, so he drove Mullins to his home to pick up what he needed. After the drug transaction was complete, Mullins pulled out a knife and stabbed Williams in the chest. Williams testified that the stab was not bad enough to warrant going to the doctor. He testified that he later saw Mullins at a friend's house. He learned Mullins was staying in the friend's garage. Williams testified that he had a gun on his person that day, but that his friend asked him not to do anything in front of his house, so he let Mullins go.

Williams testified that he later ran into Mullins at the Jefferson County Jail when Williams was placed in the same dorm as Mullins. He testified that he was going to "talk it out" with Mullins, but that Mullins got "all crazy" and they ended up fighting.

Williams testified it was common knowledge that Mullins had robbed him. He also testified that appellant is not a violent person. On cross-examination, Williams denied that the business of dealing drugs often involves firearms. Williams testified that he never carried a gun, even though he previously testified that he did have a gun when he ran into Mullins at Wilson's house. Williams testified that he does not know people

who carry guns. He testified that the people he hangs around with do not carry guns; they just deal drugs. Williams testified that he is currently serving a four-year sentence for possession of a controlled substance.

Brittany Thomas, appellant's wife, testified that she knew appellant in the Fall 2009, when her car was stolen from appellant. She also testified that right before Christmas 2009, appellant had a cut on his face; however, she did not know how he received the cut.

#### SUFFICIENCY OF THE EVIDENCE

Appellant contends the evidence is legally insufficient to support his conviction for murder because the State did not disprove his assertions of self-defense beyond a reasonable doubt. In evaluating legal sufficiency of the evidence to prove the charged offense, the appellate court must review all of the evidence in the light most favorable to the verdict to determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979); *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007). Under the *Jackson* standard, the reviewing court gives full deference to the jury's responsibility to fairly resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts. *Hooper*, 214 S.W.3d at 13. The jury may accept or reject all or any part of any witness's testimony. *Sharp v. State*, 707 S.W.2d 611, 614 (Tex. Crim. App. 1986).

A person commits the offense of murder if he “intentionally or knowingly causes the death of an individual” or if he “intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual[.]” Tex. Penal Code Ann. § 19.02(b)(1)-(2) (West 2011). Appellant contends that the evidence is legally insufficient to show that he committed murder when the State presented no eyewitness to the alleged offense. However, “[c]ircumstantial evidence alone is sufficient to establish guilt.” *Guevara v. State*, 152 S.W.3d 45, 49 (Tex. Crim. App. 2004). “[E]yewitness identification is not necessary.” *Greene v. State*, 124 S.W.3d 789, 792 (Tex. App.—Houston [1st Dist.] 2003, pet. ref’d). Further “it is not necessary that every fact point directly and independently to the defendant’s guilt; it is enough if the conclusion is warranted by the combined and cumulative force of all the incriminating circumstances.” *Johnson v. State*, 871 S.W.2d 183, 186 (Tex. Crim. App. 1993).

Appellant next argues that all of the evidence shows that he acted in self-defense. A person is generally justified in using deadly force if he reasonably believes that deadly force is immediately necessary to protect himself against the other’s use or attempted use of unlawful force. Tex. Penal Code Ann. §§ 9.31, 9.32(a) (West 2011). The defendant has the burden of producing some evidence to support a claim of self-defense, including the justified use of deadly force. *See Zuliani v. State*, 97 S.W.3d 589, 594 (Tex. Crim. App. 2003). After the defendant has produced such evidence, the State then bears the burden of persuasion to disprove the raised defense. *Id.* In meeting its burden, the State is not required to produce evidence, rather, the State is only required to prove its case beyond a

reasonable doubt. *Id.* When the jury makes a determination of guilt, there is an implicit finding against the defensive theory. *Id.*

Appellant contends “[a]ll that is known is that the defendant was stabbed by the victim and the defendant in fear for his life shot the victim in self-defense.” However, the jury also heard testimony that Mullins had robbed appellant a few months prior to the shooting, and that in response to this robbery appellant had purchased a gun. Antoine testified that appellant called him the night of the shooting looking for Mullins. The jury heard testimony that when appellant arrived at Antoine’s house that night, appellant and Mullins got into an argument. The jury also heard evidence from appellant that while he normally did not carry his gun into Antoine’s apartment, he decided to carry it that night. Antoine left Mullins and appellant in the front room of the apartment. While in the back of the apartment, Antoine heard gunshots. When Antoine returned, appellant was gone and Mullins was lying in a pool of blood on the floor after having been shot. Antoine called 911 and told the operator that appellant shot Mullins. Appellant admitted to the jury that he shot Mullins multiple times. Dr. Brown, the State’s forensic pathologist, testified that the entrance wounds on Mullins’s body indicate that Mullins was likely turning away from appellant as he was shot.

Appellant claims that Mullins attacked him with a knife and that he was just defending himself. While appellant may have been cut during the altercation, as suggested by blood at the scene matching appellant’s DNA, that alone does not conclusively prove that appellant was not the aggressor. Moreover, the DNA profile from

both the handle and the blade of the knife found in Mullins's hand were consistent only with Mullins's DNA profile.

“Once a defendant has been found guilty of the crime charged, the factfinder's role as weigher of the evidence is preserved through a legal conclusion that upon judicial review *all of the evidence* is to be considered in the light most favorable to the prosecution.” *Jackson*, 443 U.S. at 319. “[A] court faced with a record of historical facts that supports conflicting inferences must presume—even if it does not affirmatively appear in the record—that the trier of fact resolved any such conflicts in favor of the prosecution, and must defer to that resolution.” *Id.* at 326; *see also Brooks v. State*, 323 S.W.3d 893, 895 (Tex. Crim. App. 2010) (The *Jackson v. Virginia* legal sufficiency standard is the applicable standard of review.). “[A] reviewing court is required to defer to the jury's credibility and weight determinations because the jury is the *sole* judge of the witnesses' credibility and the weight to be given their testimony.” *See Brooks*, 323 S.W.3d at 899. As the sole fact-finder and judge of witness credibility, the jury was well within its province to believe the portions of testimony refuting appellant's self-defense claim and disbelieve the contradictory testimony, thereby rationally determining that the use of deadly force was not immediately necessary. *See Sharp*, 707 S.W.2d at 614.

Viewing the evidence in the light most favorable to the jury's verdict, we conclude that a jury could have reasonably found against appellant on the issue of self-defense beyond a reasonable doubt. *See Jackson*, 443 U.S. at 318-19. Because the evidence is

sufficient to support appellant's conviction, we overrule appellant's sole issue and affirm the trial court's judgment.

AFFIRMED.

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CHARLES KREGER  
Justice

Submitted on November 8, 2011  
Opinion Delivered December 21, 2011  
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Before McKeithen, C.J., Kreger and Horton. JJ.