



**In The  
Court of Appeals  
Sixth Appellate District of Texas at Texarkana**

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No. 06-09-00240-CR

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QUINCY WELLINGTON JACKSON, Appellant

V.

THE STATE OF TEXAS, Appellee

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On Appeal from the 188th Judicial District Court  
Gregg County, Texas  
Trial Court No. 37,054-A

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Before Morriss, C.J., Carter and Moseley, JJ.  
Memorandum Opinion by Justice Carter

## MEMORANDUM OPINION

After a guilty plea, Quincy Wellington Jackson was convicted of robbery and sentenced to forty years' imprisonment.<sup>1</sup> Prior to his plea, a jury found that Jackson was competent to stand trial. Jackson's sole point of error on appeal argues that evidence to support the jury's verdict at the competency hearing was factually insufficient. We affirm the trial court's judgment.

"A competency hearing is civil in nature, so we apply the civil test and weigh all the evidence to determine if the jury finding was so against the great weight and preponderance of the evidence as to be manifestly unjust." *Parker v. State*, 667 S.W.2d 185, 187 (Tex. App.—Texarkana 1983, pet. ref'd) (citing *Ex parte Watson*, 606 S.W.2d 902 (Tex. Crim. App. 1980)). Because an accused is "presumed competent to stand trial," a defendant must prove by a preponderance of the evidence that he or she does not have "sufficient present ability to consult with" his or her attorney "with a reasonable degree of rational understanding," or that the defendant does not have a "rational as well as factual understanding of the proceedings against the person." TEX. CODE CRIM. PROC. ANN. art. 46B.003 (Vernon 2006); *see also Meraz v. State*, 785 S.W.2d 146, 154–55 (Tex. Crim. App. 1990); *Parker*, 667 S.W.2d at 187. Because the jury is the sole judge of the credibility of the witnesses at the competency hearing, and weight given to their

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<sup>1</sup>Originally appealed to the Twelfth Court of Appeals, this case was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. *See* TEX. GOV'T CODE ANN. § 73.001 (Vernon 2005). We are unaware of any conflict between precedent of the Twelfth Court of Appeals and that of this Court on any relevant issue. *See* TEX. R. APP. P. 41.3.

testimony, it may accept or reject all or any of a witness' testimony. *Parker*, 667 S.W.2d at 187; *Wesbrook v. State*, 29 S.W.3d 103, 111 (Tex. Crim. App. 2000).

The evidence presented at trial was conflicting. Psychiatrist Frank Stewart Murphy interviewed Jackson for two hours. He noticed that Jackson had “speech latency,” he took a long time to answer questions, and did not demonstrate an understanding of the criminal charges against him. Although he “didn’t witness any interactions between [Jackson] and his defense counsel,” it did not appear to Murphy that Jackson was “usefully helping his attorneys defend him.” Murphy found that Jackson was not competent to stand trial. He concluded Jackson suffered “severe mental illness” in the form of “personality disorder,” but revealed his belief that Jackson “may have been exaggerating some of his symptoms.”

This exaggeration was noted by another expert witness. Psychologist Thomas Allen testified Jackson could not understand the purpose of the examination and limits of confidentiality during the initial interview. Allen described Jackson as a “reluctant historian” during the one hour and fifteen minute examination, leading to the conclusion that “cooperation was an issue,” a trait not typically seen in people exhibiting mental illness. Whereas persons with mental illnesses would respond in some fashion, Jackson could not “interact in even a minimal sense.” Allen “couldn’t get him to subtract 3 from 100, . . . [or] count to 5.”<sup>2</sup> This prompted Allen to question jailer Daryl McClinton, who “had a lot of contact” with Jackson and said, “No, he doesn’t act that

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<sup>2</sup>Allen clarified that Jackson’s “interactions with arresting” and “interviewing officers, certainly didn’t speak to mental retardation; didn’t speak to psychotic thought disorder, either.”

way. I talk to him all the time. He interacts with other inmates. He plays basketball.” After this conversation raising “inconsistency of behavior in an exam against behavior outside of that exam,” Allen became convinced that Jackson was feigning his symptoms. He testified “[i]t appeared to me that he was trying to convey an image of someone who suffered from schizophrenia. So he was giving me his ideas of what he thought that looked like.” Allen found Jackson competent to stand trial.

Jailers and others interacting with Jackson did not see reason for Murphy’s concerns. McClinton clarified for the jury that Jackson would follow his commands and could carry on conversations “about God, about his past experience in prison,” and would read and discuss scripture without evidence of any speech latency. From June 2008, Jackson would report to Scott Finley of the Texas Department of Criminal Justice “parole division” every month. Finley testified that Jackson was able to understand interview questions and could respond adequately. He did not witness any “speech latency” and described Jackson’s responses as “rapid fire.” Finley visited with Jackson the day before trial and handed him forms, one of which Jackson refused to sign “because my attorney told me not to.” Jail supervisor, Deputy Clifford Powell, witnessed an argument Jackson had with a jailer, described his words as “rapid fire,” testified that he did not witness any speech impediment, and stated that Jackson could follow his directions. Jailers December Gray and Reagan Revellette also testified Jackson would comply with their commands and could carry on a normal conversation with them and with others without delay.

Although Jackson was capable of logical conversation, his wife, Sara Armstrong, testified he would “continuously repeat[] himself” during jailhouse visits and acted as if he did not fully comprehend their conversations. The jury later heard several telephone conversations Jackson had with her which confirmed the suspicion that Jackson’s presentation to the examiners was greatly exaggerated. On the telephone, Jackson showed a remarkable ability to speak clearly at an accelerated pace. He carried on fairly intelligent conversations, did not repeat himself, asked typical questions of Armstrong, gave her advice, and was able to express his emotions and situation clearly. He discussed his desire to obtain medical and prison records and inquired as to whether his wife had contacted his parole officer. The telephone conversations did not reveal characteristics that would support Murphy’s evaluation. The difference was so marked that a reasonable juror could have concluded that his appearance before the medical examiners was concocted to give the appearance of incompetency.

While Murphy only spoke with Jackson, Allen also interviewed McClinton, whose statements about Jackson’s demeanor and understanding were confirmed by other jailers. The jury could determine Allen’s assessment, which considered Jackson’s behavior outside of a competency interview, proved more accurate. Finley’s testimony regarding Jackson’s ability to follow counsel’s instructions in refusing to sign certain documents indicated he could have “sufficient present ability to consult with” his attorney “with a reasonable degree of rational understanding.” TEX. CODE CRIM. PROC. ANN. art. 46B.003. The jury, as sole judges of

credibility, could have rationally formulated a conclusion that Jackson was malingering, especially after reviewing Jackson's telephone conversations with Armstrong. This type of behavior could justify a finding that Jackson had a "rational as well as factual understanding of the proceedings against the person." Because Jackson was "presumed competent to stand trial" unless he proved otherwise, we find the evidence factually sufficient to support the jury's determination. Jackson's sole point of error is overruled.

We affirm the trial court's judgment.

Jack Carter  
Justice

Date Submitted: August 26, 2010  
Date Decided: September 2, 2010

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