



NUMBER 13-16-00323-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

EVERETT JAMES MORRIS,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 93rd District Court of
Hidalgo County, Texas.**

MEMORANDUM OPINION

**Before Justices Contreras, Benavides and Longoria
Memorandum Opinion by Justice Longoria**

By a single issue, appellant Everett James Morris challenges the sufficiency of the evidence supporting his conviction for the murder of Jorge Olivarez. See TEX. PENAL CODE ANN. § 19.02(b)(1) (West, Westlaw through 2015 R.S.). We affirm.

I. BACKGROUND

The evidence and testimony at appellant's trial revealed the following regarding the circumstances surrounding Olivarez's death.

A. Discovery and Autopsy

Fred Schuster, a farmer, discovered Olivarez's body in one of his fields near the intersection of Cesar Chavez Road and Military Highway. The lower half of the body was wrapped in a blue-and-purple fitted bedsheet. Dr. Norma Jean Farley, a forensic pathologist, testified that she performed an autopsy on the body the same day. Her examination revealed an 18.8 centimeter "cutting wound across the front of the neck" which severed the carotid artery and both jugular veins. Dr. Farley also found evidence of extensive bruising on both sides of Olivarez's face as well as a fracture of the maxillary bone, indicating that Olivarez had been "beat[en] about the head." In her opinion, the cause of death was most likely loss of blood from the neck wound.

Dr. Farley explained that the wound in Olivarez's neck must have been made with a great deal of force because it went through the tough material of the thyroid cartilage all the way to the spine. In her opinion, the wound was unlikely to be the result of an accident. Dr. Farley also told the jury that the carotid artery "shoots" extensive amounts of blood out of the body when severed. Reasoning from this, she opined that Olivarez was likely not killed where his body was dumped because of the lack of blood spatter around the body.

B. Further Investigation

Deputies with the Hidalgo County Sherriff Department ("HCSD") discovered that Olivarez worked at the La Posada bar in Pharr. Glenda Chapa, the bar's manager,

testified that appellant was a regular customer at the bar. After the bar closed for the night, Chapa sometimes gave Olivarez a ride to a house which she identified as belonging to appellant. Chapa further testified that she saw appellant and Olivarez arguing one or two days before the murder but did not understand English well enough to know what they were arguing about.

Janie Morris, appellant's wife, gave HCSD Crime Scene Specialists Edward Aleman and Oscar Gonzalez permission to search the house. Appellant and Candice, his adult daughter, were not present. In a spare bedroom, Aleman and Gonzalez discovered a money bag that Olivarez had taken home from the bar with Chapa's permission and a black pouch containing baggies of cocaine. In other parts of the house, Aleman and Gonzalez recovered several knives, a machete, and a bed sheet with the same colors as that wrapped around the body. Both specialists testified the house smelled strongly of cleaning products.

Bertha Rodriguez of Burns Motors in McAllen testified that she contacted HCSD the next day to tell them that appellant and Janie Morris had brought their pickup truck there for repairs. According to Rodriguez, one of the truck's running boards was covered in blood and what appeared to be human hair. Aleman testified that he took custody of the running board and recovered samples of the blood and hair.

Carlos Martinez, a location manager for Hertz, testified that appellant and Janie rented a car from him because their truck had been in an accident. Senior HCSD Deputy Daniel Fuentes testified that he recovered the rental car with Hertz's help and had it processed. Specialist Gonzalez testified that he discovered reddish stains throughout the interior of the vehicle which tested positive for blood. Gonzalez also discovered what

appeared to be human hair. Gonzalez told the jury that the vehicle smelled strongly of cleaning products.

HCSD searched appellant's house again, this time pursuant to a search warrant. Aleman testified that he found extensive blood spatter in a bathroom located on the east side of the house between two bedrooms. Aleman also found and photographed evidence that the door to the southeast bedroom appeared to have been kicked in.

HCSD submitted swabs taken from the various blood stains to Bode Cellmark, a private laboratory, for comparison with Olivarez's DNA. Hope Parker, an analyst at Bode Cellmark, testified that Olivarez's DNA matched the samples taken from the running board of the truck, the bathroom, and the rental car.

C. Appellant's Arrest and Statement

Investigator Miguel Lopez testified that HCSD obtained an arrest warrant for appellant for murder. The United States Marshals eventually located appellant in Belize, arrested him, and transported him back to Hidalgo County. After his arrival, appellant gave a statement to Lopez. Lopez read the statement into the record during his testimony at trial.

Appellant recounted in his statement that he met Olivarez at La Posada. After discovering that Olivarez was effectively homeless, appellant invited Olivarez to live at his house in a spare bedroom. The two fell out after Olivarez asked Janie about the color of her underwear and twice attempted to force his way into Candice's room. Appellant and Janie gave Olivarez two weeks to find another place to live, but Olivarez remained in the house after that time elapsed. On the night of Olivarez's death, appellant came home and "heard a commotion" in Candice's room. Appellant went into her room and "saw that

Joe^[1] was on top of my daughter on her bed” and Candice was attempting to fight him off. Appellant grabbed Olivarez and pulled him over to the side of the bed. His next memory is of being “in Mexico walking in the rain surrounded by a lot of Hispanic people.” Appellant stated that he did not leave the country to run away but to get his daughter to safety.

D. Verdict

The jury found appellant guilty of murdering Olivarez. The trial court assessed his punishment at imprisonment for thirty-five years in the Institutional Division of the Texas Department of Criminal Justice and a \$10,000 fine. This appeal followed.

II. SUFFICIENCY OF THE EVIDENCE

Appellant argues in a single issue that the evidence is legally insufficient to support his conviction for murder because the State did not prove the corpus delicti of the offense.

A. Standard of Review and Applicable Law

When performing a sufficiency review, we consider all of the evidence admitted at trial in the light most favorable to the verdict to determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Griffin v. State*, 491 S.W.3d 771, 774 (Tex. Crim. App. 2016). This standard recognizes the role of the fact finder as the sole judge of the weight and credibility of the evidence after drawing reasonable inferences from it. *Griffin*, 491 S.W.3d at 774. If the record supports conflicting inferences, we must assume the jury resolved that conflict in favor of its verdict and defer to that determination. *McKay v. State*, 474 S.W.3d 266, 270 (Tex. Crim. App. 2015). Our role on appeal is limited to

¹ Olivarez was known to most of the people involved in this case, including appellant, as “Joe Solis.”

ensuring that the necessary inferences are reasonable based on the cumulative force of all of the evidence. *Griffin*, 491 S.W.3d at 774.

We measure the sufficiency of the evidence by reference to the hypothetically correct jury charge for the case. *Morgan v. State*, 501 S.W.3d 84, 89 (Tex. Crim. App. 2016). The hypothetically correct jury charge accurately “sets out the law, is authorized by the indictment, does not unnecessarily increase the State's burden of proof or unnecessarily restrict the State's theories of liability, and adequately describes the particular offense for which the defendant was tried.” *Id.* at 89–90 (quoting *Malik v. State*, 953 S.W.2d 234, 240 (Tex. Crim. App. 1997)). The hypothetically correct jury charge for this case would require the State to prove that appellant intentionally or knowingly caused the death of Jorge Olivarez by cutting him with a knife, cutting him with an unknown object, or striking him with or against an unknown object. See TEX. PENAL CODE ANN. § 19.02(b)(1).

The corpus delicti rule is one of evidentiary sufficiency that is applicable in cases where the defendant has made an extrajudicial confession. *Miller v. State*, 457 S.W.3d 919, 924 (Tex. Crim. App. 2015). The rule provides that when the burden of proof is “beyond a reasonable doubt,” a defendant’s extrajudicial confession does not constitute legally sufficient evidence of guilt “absent independent evidence of the corpus delicti.” *Id.*; *Hacker v. State*, 389 S.W.3d 860, 865 (Tex. Crim. App. 2013). The corpus delicti “of a crime—any crime—simply consists of the fact that the crime in question has been committed by someone.” *Fisher v. State*, 851 S.W.2d 298, 302 (Tex. Crim. App. 1993) (en banc). Evidence of the corpus delicti need not be sufficient by itself to prove the offense, but must only make the commission of the crime more probable than it would be

without the evidence. *Rocha v. State*, 16 S.W.3d 1, 4 (Tex. Crim. App. 2000). The corpus delicti of murder is proved if evidence independent of the extrajudicial confession shows: (1) the death of a human being; (2) caused by the criminal act of another. *Fisher*, 851 S.W.2d at 303; *Fountain v. State*, 401 S.W.3d 344, 352 (Tex. App.—Houston [14th Dist.] 2013, pet. ref'd).

B. Analysis

Appellant argues that his statement to Investigator Lopez was a confession and that the evidence independent of his confession could equally support a theory that Janie, Candice, or an unknown male allegedly present in the house at the time murdered Olivarez. The State replies that the evidence establishes that Olivarez died by the criminal act of another, which is all that is required to prove the corpus delicti.

We agree with the State.² To satisfy the corpus delicti rule, the State was required to produce evidence independent of appellant's statement that Olivarez died by the criminal act of another, not that appellant was the murderer. See *Salazar v. State*, 86 S.W.3d 640, 644 (Tex. Crim. App. 2002). Dr. Farley testified that Olivarez died as a result of a stab wound to his neck. In her opinion, the person who caused the wound used such a great deal of force that it was unlikely to be an accident. The absence of blood where Olivarez's body was found indicated that Olivarez was moved from the location where he suffered the stab wound. Dr. Farley further testified that Olivarez suffered blunt-force trauma to his head from an attack. The strong smell of cleaning products in the house

² Appellant did not explicitly confess to murdering Olivarez in his statement. We assume for purposes of this case that the corpus delicti rule is applicable in cases such as this, where the defendant admits to incriminating facts but stops short of a full confession. See *Carrizales v. State*, 414 S.W.3d 737, 743–44 (Tex. Crim. App. 2013) (holding the corpus delicti rule is not applicable in cases where there has been no extrajudicial confession).

and rental car permitted a reasonable inference that someone had made an effort to hide the extensive stains of Olivarez's blood. We conclude the State provided ample evidence independent of appellant's extrajudicial confession that Olivarez died by the criminal act of another. See *Fisher*, 851 S.W.2d at 303; *Fountain*, 401 S.W.3d at 352.

To the extent that appellant also generally challenges the sufficiency of the evidence to support his conviction, we conclude the evidence was legally sufficient. In addition to the evidence we set out above, the jury heard that appellant had attempted to evict Olivarez from his house and was seen by Chapa arguing with Olivarez shortly before Olivarez's death. Appellant insisted in his statement to Lopez that he did not remember what happened after pulling Olivarez off of Candice, but also said in his statement that: "[a]s far as Candice or my wife getting rid of Joe, none of them are capable of doing that. If anyone was going to do that, it was going to be me." Furthermore, appellant and Candice fled to Mexico shortly after Olivarez died. See *Clayton v. State*, 235 S.W.3d 772, 780 (Tex. Crim. App. 2007) (allowing the factfinder to draw an inference of guilt from the circumstances of flight). Based on the cumulative effect of all the evidence, we conclude a rational factfinder could conclude beyond a reasonable doubt that appellant murdered Olivarez. See *Griffin*, 491 S.W.3d at 774. We overrule appellant's sole issue.

III. CONCLUSION

We affirm the trial court's judgment.

NORA L. LONGORIA,
Justice

Do not publish.
TEX. R. APP. P. 47.2(b).

Delivered and filed the
25th day of May, 2017.