

Respondent's Appendix



No.

COURT OF APPEAL, THIRD CIRCUIT

STATE OF LOUISIANA
VOL NO 3 OF 3

Clerk

STATE OF LOUISIANA

Appellee and

VERSUS

CORLIOUS CORALL DYSON

Appellant and

APPEAL FROM

The 15th Judicial District Court from the Parish of Lafayette

No. **CR 140554**

HON EDWARD D. RUBIN, Judge DIV: D

CORLIOUS CORALL DYSON thru **CHAD M. IKERD**, Louisiana Appellate Project, P
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1 the opinion of your fellow jurors, or merely for the
2 purpose of returning a verdict.

3 Sentencing is not the function of the jury. It
4 is the duty and responsibility of the Court. When
5 you retire to deliberate, you must elect one of your
6 members to serve as the foreperson. Ten of the
7 twelve of you must agree in order to reach a verdict
8 in this case. When you have reached your verdict, the
9 foreperson must write the verdict on the list of
10 responsive verdict, he or she must sign the verdict
11 and deliver the verdict to me in open court.

12 When you have reached your verdict, simply knock
13 on the door and advise the bailiff and the Court will
14 reconvene to receive it. If you have a question
15 about the instructions I have given you, have that
16 foreperson write it down and give it to the bailiff.
17 Please be sure in doing so not to reflect your vote
18 or present thinking.

19 All right. I wish to thank -- and I'm gonna
20 excuse the alternate juror --

21 COURT: Ms. Shannon, who's that?

22 MADAME CLERK: Mr. Michael Huggins.

23 COURT: Mr. Huggins, you're excused.

24 Thank you so much. You're welcomed to
25 remain in the courtroom. Under our law,
26 the alternate could not participate in
27 deliberations, okay?

28 JUROR: Thank you, Your Honor.

29 COURT: Let him have a seat over here,
30 Ms. Peggy, or you can go if you want to.
31 Your presence was important though, sir.
32 We appreciate your service.

1 JUROR: Thank you, sir. It was an
2 honor serving in your court.
3 COURT: All right. Okay, the jury will
4 retire to the jury deliberation room.
5 BAILIFF: Stand for the jurors,
6 please.
7 [JURORS ESCORTED OUT OF THE COURTROOM]
8 COURT: Ms. Peggy.
9 BAILIFF: Twelve jurors all exited,
10 Judge.
11 COURT: All right. Any objection from
12 the State?
13 MS. SIMON: On the jury instructions,
14 Your Honor?
15 COURT: Yes.
16 MS. SIMON: No, Your Honor.
17 COURT: Defense?
18 MR. IKERD: No, Your Honor.
19 COURT: All right. Okay, we're gonna
20 file into the record then.
21 MR. IKERD: Thank you, Judge.
22 COURT: Thank you.
23 MR. IKERD: Will we have recess?
24 COURT: Yes, there will be a recess
25 until there's a verdict.
26 MR. IKERD: Thank you, Judge.
27 [RECESS]
28 COURT: Want to read it?
29 MADAME CLERK: The question is, "can
30 we see the lineups?"
31 MS. SIMON: We kinda talked about that
32 before, Your Honor. I think they definitely

1 What's my schedule like? When am I back in
2 Lafayette?

3 MADAME CLERK: December 14th and
4 December 17th. The week of December 14
5 you're back.

6 COURT: I'm back here? All right. And
7 December 14th, that's a Monday?

8 MADAME CLERK: That's a Monday, yes
9 sir.

10 COURT: All right. We're gonna set
11 sentencing for December 14th at 10:00 that
12 morning. All right. Bailiff, you may take
13 the -- the jury's excused. I want to thank
14 you for your services, and I think they may
15 have checks for you as you leave. Right,
16 Ms. Shannon? Everybody is to remain seated
17 until the jury is removed.

18 BAILIFF: Rise for the jurors, please.
19 [JURY ESCORTED FROM THE COURTROOM]

20 BAILIFF: Twelve jurors all exited,
21 Judge.

22 COURT: All right. The jury is
23 removed. Yes sir?

24 MR. IKERD: Just one objection to the
25 less than unanimous verdict.

26 COURT: I'm sorry.

27 MR. IKERD: We would like to state our
28 objection to the less than unanimous
29 verdict.

30 COURT: All right. We'll note your
31 objection for the record.

32 MR. IKERD: Thank you.

1 OPEN COURT
2 HONORABLE EDWARD RUBIN, DISTRICT JUDGE
3 MONDAY, JUNE 13, 2016
4 SENTENCING
5 *****
6 COURT: Is that the Corlious Dyson?
7 MR. IKERD: That's motions, Your
8 Honor. That was the trial we had back in
9 November.
10 MS. SIMON: Motions and sentencing,
11 Your Honor.
12 COURT: That's his sentencing, huh?
13 MR. IKERD: Well, it's motions first.
14 Motions for new trial, motions for
15 acquittal, and also motion --
16 COURT: And what's the basis of the
17 motion for new trial?
18 MR. IKERD: Sure. Well, there's three
19 different motions, Your Honor. Actually,
20 the first would be -- can I take up a
21 proffer, Your Honor? During trial, there
22 were several things that Your Honor
23 limited with my questioning of the
24 detective specifically with regards to
25 other suspects that he had investigated
26 after the State had already opened the
27 door and talked about some other suspects.
28 We had a sidebar about that ---. The Court
29 ruled that I could not go into that in
30 front of the jury. Said I could proffer
31 it. I ask it in Court so that you --- a
32 post-trial motion offering what the

1 evidence was instead of having Detective
2 Sullivan on the stand under oath being
3 questioned by myself and Ms. Simon. So,
4 that is what I filed and as I said, it goes
5 into not just the other suspects, but also
6 hearsay objections as to what one of the
7 witnesses informed Detective Sullivan with
8 regards to the person he saw and spoke to
9 face to face, whether that person had a
10 tattoo on their face or not. Again, all
11 that's laid out in the proffer, and we
12 would as was the Court's wish, offer the
13 motion and the proffer into evidence for
14 the Court of Appeals to have in the record
15 so they can address it --- the Court's
16 ruling as proffer.

17 COURT: Alright. Ms. Simon.

18 MS. SIMON: Your Honor, we objected at
19 trial. I think we preserved any rights we
20 have at that time. So, this is just a
21 proffer and I think it will be appropriate
22 to make those arguments in front of the
23 Court of Appeal.

24 MR. IKERD: You had gotten the motion,
25 Your Honor?

26 COURT: No, I don't think I do.

27 MR. IKERD: (Inaudible) So, again,
28 Your Honor, that's just a proffer
29 (inaudible).

30 COURT: Alright. You're welcomed to
31 file into the record. You have it,
32 Shannon? Ms. Shannon?

1 COURT REPORTER: This is a proffer?

2 COURT: Yes, it's a proffer. Yes.

3 MR. IKERD: Yes. This was the motion
4 to allow defendant's proffer testimony
5 excluded during the trial that's already
6 been filed back in November when we first
7 (inaudible).

8 COURT: Alright.

9 MR. IKERD: The next one is the post-
10 verdict motion of acquittal. There were
11 several rule -- grounds in here regarding
12 insufficient evidence at trial --- to
13 identify Mr. Dyson as the perpetrator in
14 this case. Again, we believe that we laid
15 out exactly what our arguments were, what
16 the facts were at the trial and why we
17 believe those to be insufficient.

18 COURT: Ms. Simon.

19 MS. SIMON: Your Honor, the State
20 would object to this granting of this
21 post-verdict motion for acquittal. We had
22 a very thorough trial in this matter. The
23 jurors found Mr. Dyson guilty as charged,
24 and we see no reason why any of these
25 arguments should stand and we would argue
26 in additionally (sic) that if he believes
27 there was insufficient evidence or, you
28 know, any of his other arguments at this
29 point are it's more appropriate to go
30 before the Third Circuit Court of Appeal.

31 COURT: Alright. The Court will deny
32 your motion.

1 MR. IKERD: We would object for the
2 record.

3 COURT: We'll note your objection.
4 Alright. So, now we're ready for
5 sentencing, Ms. Simon?

6 MR. IKERD: One more, Your Honor.
7 That's the new trial which is more about
8 the weight of the evidence and not the
9 sufficiency of the evidence. In the new
10 trial, there are different arguments.
11 Again, the first one was about what we
12 addressed in the proffer which was the
13 limiting of my cross-examination into the
14 detective's investigation specifically
15 other suspects that he looked into and why
16 he discounted the suspects. That went to
17 specifically his credibility and our
18 defense and it presented us with giving a
19 full and fair defensive plea. Can you
20 hear me, Ms. Ella?

21 COURT REPORTER: (inaudible), please.

22 MR. IKERD: I'm sorry. There were
23 also two other incidents that we -- at
24 trial that we believe the Court
25 interjected itself in a way that was
26 prejudicial to Mr. Dyson. First, we both
27 were outside of the presence of the jury.
28 We understand that first was -- I believe
29 the first day of testimony where during
30 the objection to my questioning of
31 Detective Sullivan, the Court asked in
32 front of everyone that was still in the

1 courtroom including the press, and my
2 defendant, how I expected to win the case.
3 And there was an eyewitness testimony and
4 when there was DNA evidence. That -- we
5 felt that that was prejudicial. There was
6 no objection at the time because it was in
7 the presence of the jury. But, after the
8 second, we feel unfair prejudicial
9 objection by the Court during the
10 testimony of Ms. Sandra Harris to remove
11 the Court during the State's direct
12 examination of her -- questioning her. We
13 believe somewhat vigorously, and then --
14 and I believe the questioning at the time
15 was about her previous identification of
16 someone in a lineup when the State -- that
17 was the State's job to do and I believe
18 that the State was doing an okay job at
19 that point being able to refresh the
20 memory of her witness --- and she was not
21 going to testify in her favor to ---
22 impeach her and I don't believe that it
23 was the Court -- necessarily the Court's
24 responsibility to do that. We felt that
25 was prejudicial at the time. I made a
26 motion for a mistrial during the trial
27 based on this -. Part of the basis for our
28 motion for new trial here. There was also
29 an evidentiary rulings that again we
30 disagreed with with regards to one of the
31 witnesses, Mr. Craig George. It's the
32 same as to the detective because it was

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1 more about -- the line of questioning was
2 more about the impact that the statements
3 had on the detective's investigation ---
4 of what Mr. George had told the detective.
5 And I believe also there was an
6 evidentiary ruling about allowing Ms.
7 Claire Guidry with Acadiana Criminalistics
8 Laboratory to be qualified as an expert
9 (inaudible) she should have been qualified
10 as an expert and it could have prejudiced
11 the jury in this case. So, for those
12 reasons we believe that there was not --
13 the weight of the evidence in the case was
14 not sufficient to -- the position that a
15 new trial should be ordered.

16 COURT: Ms. Simon.

17 MS. SIMON: Yet again, the jury is the
18 trier of fact in this case. They did weigh
19 all of the evidence presented before them
20 and we believe they came back with a fair
21 and just verdict, Your Honor. With regard
22 to your -- the defense objecting to the
23 way they placed your interjection during
24 the trial. All of that happened outside
25 of the presence of the jury, so they were
26 not prejudiced by any of those statements
27 made by the Court. In addition, Your
28 Honor, Ms. Claire Guidry was thoroughly
29 bedded with regard to her qualifications,
30 experience, education at the time of the
31 trial, and you made a determination that
32 she was to be qualified as an expert which

1 she has been in many, many instances.
2 Therefore, we would indicate -- we would
3 argue that it was a proper finding of
4 declaring her as an expert at trial.
5 Therefore, there's no reason to grant a
6 new trial based on that either, and --
7 what was the other one, Chad? I'm sorry.
8 Oh yes, with regard too questioning, Your
9 Honor, of the detective, we objected at
10 trial to the irrelevance of the
11 questioning that Mr. Ikerd was going into
12 and you sustained that objection properly,
13 and we would argue that our opinion -- our
14 argument would not change that that was
15 irrelevant information at trial.

16 COURT: You know, it's just stuff
17 getting old. I don't have any independent
18 recollection of what you're talking about.
19 At any rate, we'll note your objection for
20 the record and I'm gonna deny same. Okay?

21 MR. IKERD: We would object, Your
22 Honor, to your ruling for the record. I
23 understand that normally the Code would
24 require a three day delay now in
25 sentencing, but at this time, I talked to
26 Mr. Dyson and he will waive that delay and
27 we can go ahead with the sentencing at
28 this time.

29 COURT: Alright. Mr. Dyson?

30 MR. DYSON: Yes sir.

31 COURT: It is the sentencing of this
32 Court that --

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MS. SIMON: Your Honor, we don't -- the State doesn't have any witnesses, but -- I'm sorry to interrupt, but I would just like to make you aware that the victim's family is all in court today, family and friends.

COURT: Okay.

MS. SIMON: We -- it's a mandatory life sentence and that's what the State would request.

COURT: Right. No victim impact statement?

MS. SIMON: No victim impact statement, Your Honor.

COURT: Okay. Alright. It's the sentence of this Court that you'll be punished by life imprisonment and hard labor without the benefit of parole, probation or suspension of sentence. Good luck to you, sir.

(COURT ADJOURNED)

In order to convict the defendant of the offense charged, you must find beyond a reasonable doubt that the state proved every element of the offense of second degree murder.

Thus if you are convinced beyond a reasonable doubt that the defendant is guilty of second degree murder, your verdict should be "guilty."

If you are not convinced that the defendant is guilty of second degree murder, but you are convinced beyond a reasonable doubt that the defendant is guilty of manslaughter, the form of your verdict should be "guilty of manslaughter."

If you are not convinced that the defendant is guilty of second degree murder, but you are convinced beyond a reasonable doubt that the defendant is guilty of negligent homicide, the form of your verdict should be "guilty of negligent homicide."

If the state has failed to prove beyond a reasonable doubt that the defendant is guilty of either the offense charged or of a lesser responsive offense, the form of your verdict should be "not guilty."

DUTY TO DELIBERATE WITH VIEW TOWARD REACHING A VERDICT

The verdict which you return in this case must represent the considered judgment of each individual juror. In order to render any of the responsive verdicts permissible under this charge, it is necessary that at least ten (10) of you must agree to the verdict. It is your duty as jurors to consult with one another and deliberate with the view of reaching a just verdict, that is, if you can do so without violating your own individual judgment. Each of you must decide the question of guilt or innocence for yourself; but you are to do so only after an impartial consideration of the evidence with your fellow jurors. You are not advocates for one side or the other. In the course of your deliberations, do not hesitate to re-examine your views or change your opinions; that is, if you are convinced they are wrong. But, you are not to surrender your honest belief as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or merely for the purpose of returning a verdict.

SENTENCING

Sentencing is not the function of the jury. It is the duty and responsibility of the court.

DUTIES OF JURY FOREMAN AND JURY'S VERDICT

When you retire to deliberate, you must elect one of your members to serve as the foreperson. Ten (10) of the twelve (12) of you must agree in order to reach a verdict in this case.

When you reach a verdict, the foreperson must write the verdict on the list of responsive verdicts. He or she must sign the verdict and deliver the verdict to me in Open Court.

When you have reached your verdict, simply knock on the door and advise the bailiff and the Court will reconvene to receive it.

If you have a question about the instructions I have given you, have the Foreperson write it down and give it to the bailiff. Please be sure in doing so not to reflect your vote or present thinking.

If you wish to have any instructions repeated, you may request it in this fashion and I will repeat such instructions as you have indicated.

I wish to thank and excuse the alternate juror. Louisiana law does not permit you to participate in the deliberations. Your presence, however, was important for the trial of this case.

Court will be in recess until a verdict is reached.