



ORIGINAL

**IN THE COURT OF CRIMINAL APPEALS OF
THE STATE OF OKLAHOMA**

RANDALL LAMONT SANDERS,)

Appellant,) NOT FOR PUBLICATION

v.) Case No. F-2021-1331

THE STATE OF OKLAHOMA,)

Appellee.)

**FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA**

SUMMARY OPINION

MAY 25 2023

**JOHN D. HADDEN
CLERK**

MUSSEMAN, JUDGE:

Appellant, Randall Lamont Sanders, appeals his Judgment and Sentence from the District Court of Oklahoma County, Case No. CF-2020-1114, Count 1, Murder in the First Degree in violation of 21 O.S.Supp.2012, § 701.7.

The Honorable Susan C. Stallings, District Judge, presided over Sanders' jury trial. The jury found Appellant guilty and assessed punishment of life imprisonment with the possibility of parole.¹ Sanders appeals his judgment and sentence and raises the following issues:

¹ Appellant will be required to serve 85% of his sentence before becoming eligible for parole consideration. 21 O.S.Supp.2015, § 13.1.

- I. whether the prosecutor inappropriately bolstered the testimony of a witness, depriving Mr. Sanders of a fair trial;
- II. whether because the evidence was insufficient to support Mr. Sanders' conviction, due process requires that conviction to be reversed and remanded with instructions to dismiss; and
- III. whether trial errors, when considered in a cumulative fashion, warrant a new trial.

We affirm the Judgment and Sentence of the district court.

I.

Appellant claims in Proposition I that the prosecutor's statements during closing argument deprived him of a fair trial. Appellant specifically asserts that the prosecutor improperly bolstered witness testimony. Appellant admits that no objection was made at trial, waiving review for all but plain error. *Vance v. State*, 2022 OK CR 25, ¶ 12, 519 P.3d 526, 531. Plain error review requires the defendant to prove: 1) the existence of an actual error; 2) that the error is plain or obvious; and 3) that the error affected his substantial rights, meaning the error affected the outcome of the proceeding. *Hogan v. State*, 2006 OK CR 19, ¶ 38, 139 P.3d 907, 923. Even where this showing is made, this Court will correct plain error only where the error seriously affected the fairness, integrity, or public

reputation of the judicial proceedings or represented a miscarriage of justice. *Id.*

Claims of prosecutorial misconduct are evaluated “within the context of the entire trial, considering not only the propriety of the prosecutor’s actions, but also the strength of the evidence against the defendant and the corresponding arguments of defense counsel.” *Lee v. State*, 2018 OK CR 14, ¶ 6, 422 P.3d 782, 785. We have also held that the parties have wide latitude to argue the evidence and reasonable inferences from it in their closing arguments. *Lamar v. State*, 2018 OK CR 8, ¶ 54, 419 P.3d 283, 297. This Court in *Bramlett v. State*, 2018 OK CR 19, ¶ 36, 422 P.3d 788, 799-800, provided that “[i]t is the rare instance when a prosecutor’s misconduct during closing argument will be found so egregiously detrimental to a defendant’s right to a fair trial that reversal is required.” The prosecution may also properly respond to the defense theory or to the defense characterization of the State’s case. *Oliver v. State*, 2022 OK CR 15, ¶ 17, 516 P.3d 699, 707 (citing *Taylor v. State*, 2011 OK CR 8, ¶ 56, 248 P.3d 362, 379; *Browning v. State*, 2006 OK CR 8, ¶ 43, 134 P.3d 816, 841). “Vouching occurs when a prosecutor expresses

a personal belief in a witness's credibility, either through explicit assurances or by implying that other evidence, not presented to the jury, supports the witness's testimony." *Browning*, 2006 OK CR 8, ¶ 43, 134 P.3d at 841.

The closing argument was based upon the evidence presented during trial. The prosecutor did not vouch for the witness. There was no misconduct, so there was no error. Proposition I is denied.

II.

In Proposition II, Appellant claims that there was insufficient evidence to show Appellant caused the victim's death or that he had malice aforethought, as required to find a violation of Title 21, Section 701.7 of the Oklahoma Statutes as charged in Count 3.

The ultimate question of sufficiency of the evidence should be resolved with deference to the fact finder and in a light most favorable to the State. *Dodd v. State*, 2004 OK CR 31, ¶ 80, 100 P.3d 1017, 1041; *see also Spuehler v. State*, 1985 OK CR 132, ¶ 7, 709 P.2d 202, 203-04 (finding that viewing evidence in light most favorable to the State, a verdict will not be overturned if any rational trier of fact could have found the elements of the crime to exist beyond a reasonable

doubt). We also accept all reasonable inferences and credibility choices that tend to support the verdict. *Coddington v. State*, 2006 OK CR 34, ¶ 70, 142 P.3d 437, 456.

In order to sustain a conviction for murder in the first degree as charged in Count 1, the State had to prove (1) the death of a human, (2) that the death was unlawful, (3) that Appellant caused the death, and (4) that the death was caused with malice aforethought. 21 O.S.Supp.2012, § 701.7(A); *see also* OUJI-CR(2d) 4-61. Malice aforethought is defined as the “deliberate intention to take away the life of a human being.” 21 O.S.Supp.2012, § 701.7(A); *see also* OUJI-CR(2d) 4-62. “A design to effect death [i.e., premeditation] is inferred from the fact of killing, unless the circumstances raise a reasonable doubt whether such design existed.” 21 O.S.2011, § 702. “Malice may be formed in the instant before the fatal act, and may be established from the fact of the killing alone.” *Robinson v. State*, 2011 OK CR 15, ¶ 18, 255 P.3d 425, 432. “Jurors may find intent to kill from circumstantial evidence.” *Id.* “The manner of killing and pattern of wounds may support a finding of intent to kill.” *Id.* “Pieces of evidence must be viewed not in isolation but in conjunction, and we must affirm

the conviction so long as, from the inferences reasonably drawn from the record as a whole, the jury might fairly have concluded the defendant was guilty beyond a reasonable doubt." *Matthews v. State*, 2002 OK CR 16, ¶ 35, 45 P.3d 907, 919-920.

Review of the entire record, viewed in the light most favorable to the State, shows that the jury was given sufficient information to find Appellant guilty. Proposition II is denied.

III.

In Proposition III, Appellant claims that cumulative error deprived him of a fair trial. "The cumulative error doctrine applies when several errors occurred at the trial court level, but none alone warrants reversal." *Tafolla v. State*, 2019 OK CR 15, ¶ 45, 446 P.3d 1248, 1263. Having found no errors, relief is not warranted. *Fuston v. State*, 2020 OK CR 4, ¶ 126, 470 P.3d 306, 333. Proposition III is denied.

DECISION

The Judgment and Sentence of the district court is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal*

— Appeals, Title 22, Ch. 18, App. (2023), the **MANDATE** is **ORDERED**—
issued upon delivery and filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF OKLAHOMA
COUNTY, THE HONORABLE SUSAN C. STALLINGS,
DISTRICT JUDGE**

APPEARANCES AT TRIAL

AMBER LEAL
ASSISTANT. PUBLIC DEFENDER
320 ROBERT S. KERR AVE.,
SUITE 400
OKLAHOMA CITY, OK 73102
COUNSEL FOR DEFENDANT

REBECCA BOYER
ASSISTANT DISTRICT ATTORNEY
320 ROBERT S. KERR AVE.,
SUITE 505
OKLAHOMA CITY, OK 73102
COUNSEL FOR STATE

APPEARANCES ON APPEAL

AMANDA HOLDEN
ASSISTANT PUBLIC
DEFENDER
320 ROBERT S. KERR AVE.,
SUITE 400
OKLAHOMA CITY, OK 73102
COUNSEL FOR APPELLANT

JOHN M. O'CONNOR
ATTORNEY GENERAL
OF OKLAHOMA
MICHEL A. TRAPASSO
ASSISTANT ATTORNEY
GENERAL
313 N.E. 21ST STREET
OKLAHOMA CITY, OK 73105
COUNSEL FOR APPELLEE

OPINION BY: MUSSEMAN, J.

ROWLAND, P.J.: Concur
HUDSON, V.P.J.: Concur
LUMPKIN, J.: Concur
LEWIS, J.: Concur

