

Appendix 1

ORIGINAL



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

TROY LaFROST DECKER,)
)
 Appellant,)
)
 v.)
)
 THE STATE OF OKLAHOMA,)
)
 Appellee.)

NOT FOR PUBLICATION

Case No. F-2024-451

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

OCT 30 2025

SELDEN JONES
CLERK

OPINION

LEWIS, JUDGE:

Troy LaFrost Decker, Appellant, was convicted by jury of Count 1: first-degree malice murder, in violation of 21 O.S.2021, § 701.7 (A), and Count 2: unlawful possession of a controlled drug, in violation of 63 O.S.2021. § 2-402 (A)(1) in the District Court of Tulsa County, Case No. CF-2022-4515, before the Honorable Michelle Keely, District Judge. The jury set punishment at life without parole on Count 1, and one year in the county jail on Count 2. At the sentencing hearing, the trial court sentenced the Appellant in accordance with the jury's verdict, ordering that the sentences run consecutively with each other with credit for time served. Mr. Decker appeals in the following propositions of error:

1. The State's evidence was insufficient to prove the elements of malice aforethought murder; therefore, Mr. Decker was convicted and sentenced in violation of his due process rights under the Fourteenth Amendment to the United States Constitution and Article II, §§ 7 and 20 of the Oklahoma Constitution.
2. The District Court's failure to hold an immunity hearing as contemplated by 21 O.S. § 1289.25 violated Appellant's statutory and due process rights.
3. The District Court's failure to instruct the jury, *sua sponte*, on the lesser related offenses of Second-Degree Murder and Manslaughter deprived Appellant of his right to a fair trial in violation of the Fourteenth Amendment to the United States Constitution and Article II, §§ 7 and 20 of the Oklahoma Constitution.
4. Mr. Decker was deprived of the effective assistance of counsel in violation of the Sixth and Fourteenth Amendments to the United States Constitution and Article II §§ 7 and 20 of the Oklahoma Constitution.
5. Cumulative error rendered Appellant's conviction and sentence fundamentally unfair and unreliable in violation of the Fifth, Sixth, Eighth, and Fourteenth Amendments.

After thorough consideration of Appellant's propositions of error and the entire record before us on appeal, including the original record, transcripts, exhibits, and briefs, we have determined that the Judgment and Sentence shall be affirmed.

FACTS

It is undisputed that Appellant stabbed Raul Salgado one time in the chest causing his death. Appellant resided on the third floor of the Pioneer Plaza Apartments in Tulsa, Oklahoma. Although Salgado had been banned from the apartments, he was moving into an apartment next door to Appellant where Sarah Heiple resided. Salgado had apparently made several trips moving things into the apartment.

Appellant knocked on Heiple's door and told her to keep the "tall Mexican" (Salgado) away from his apartment. Salgado was away from the apartment at the time. Appellant threatened to kill all of them if they kept disturbing him. Apparently, someone kept knocking on Appellant's door, and he told his friend, Earnestine Mason, that he was tired of them coming to his door. Finally, while on the phone with Mason, there was another knock on the door, and Appellant left the phone. When he returned to the phone, he said he "just stabbed old boy."

Alicia Bray was at the Heiple apartment at the time of the stabbing. She testified that she heard Appellant screaming and yelling at Salgado in the hallway. Security video showed both men

He seems to argue that the State did not prove that he acted with malice aforethought or that the killing was unlawful.

We review a challenge to the sufficiency of the evidence to determine whether, in a light most favorable to the State, any rational trier of fact could have found the essential elements of the crime charged beyond a reasonable doubt. *Spuehler v. State*, 1985 OK CR 132, ¶ 7, 709 P.3d 202, 203-04; *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). This Court gives deference to the reasonable credibility choices and inferences that tend to support the verdict. *Baird v. State*, 2017 OK CR 16, ¶ 31, 400 P.3d 875, 885.

Here the State presented sufficient evidence to prove the essential elements of first-degree murder, which are:

1. The death of a human;
2. The death was unlawful;
3. The death was caused by the defendant;
4. The death was caused by malice aforethought.

The evidence showed that Appellant was upset with the victim who was trespassing at the apartments. The facts set forth above, however, provide ample proof, in a light most favorable to the State, that Appellant acted unlawfully, with malice aforethought when he

stabbed the victim in the chest. Appellant threatened to kill the occupants of the Heiple apartment. He backed the victim down the hall and stabbed him once in the chest, and he admitted the stabbing to his friend on the phone. The State's evidence was sufficient. Proposition one is denied.

In Proposition Two, Appellant claims that the trial court erred by failing to hold an immunity hearing pursuant to 21 O.S.2021, § 1289.25. Appellant filed *pro se* motions which were not presented by his attorney, nor did the trial court hold a hearing on the motions. Nothing in the record indicates that his attorney joined in urging the motions.

Appellant, at all times, was represented by counsel. As such, he was not entitled to have these *pro se* motions addressed by the trial court. A defendant may represent himself or he may be represented by counsel, but "he is not entitled to hybrid representation." *Brown v. State*, 1997 OK CR 1, ¶ 43, 933 P.2d 316, 326. We find that the trial court was not obligated to address these *pro se* motions.

Even if we were to address the merits of this claim, we would find that the failure to address the motions was harmless as Appellant has not shown, in fact, that he was entitled to "stand your

ground” immunity. He cannot show, by any standard, that the force he used against Salgado was legally justified. Moreover, Appellant was in possession of cocaine in his apartment when he used deadly force against Salgado, thus he is not entitled to stand your ground protection. *See Dawkins v. State*, 2011 OK CR 1, ¶¶ 9-11, 252 P.3d 214, 218 (holding that the legislature intended to exclude persons who are actively committing a crime, such as possession of illegal drugs, from the benefit of the statute); 21 O.S.2021, §§ 1289.25 (C)(3), (D). Proposition Two is denied.

In Proposition Three, Appellant argues that the trial court erred in failing to instruct the jury, *sua sponte*, on lesser included offenses. As no lesser included instructions were requested, we review for plain error only. Under plain error review, an appellant has the burden to show an actual error which is plain and obvious which 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 so, this Court will only grant relief “if the error ‘seriously affects the fairness, integrity or public reputation of the judicial proceedings’ or otherwise represents a ‘miscarriage of justice.’” *Id.* (quoting *Simpson v. State*, 1994 OK CR 40, ¶ 30, 876 P.2d 690, 701).

Here, Appellant claims the trial court should have instructed on first-degree manslaughter and second-degree murder. In reviewing the evidence, we find that *prima facie* evidence of the lesser included offenses, *i.e.*, that evidence which would allow a jury rationally to find the accused guilty of the lesser offense and acquit him of the greater, did not exist. See *Bland v. State*, 2000 OK CR 11, ¶ 56, 4 P.3d 702, 719-20. See also *Ball v. State*, 2007 OK CR 42, ¶ 32, 173 P.3d 81, 90. *Eizember v. State*, 2007 OK CR 29, ¶ 111, 164 P.3d 208, 236 (citing *Hogan v. Gibson*, 197 F.3d 1297, 1305 (10th Cir. 1999)). Therefore, the error is not plain or obvious. Proposition three is denied.

In Proposition Four, Appellant claims that trial counsel was ineffective in failing to request lesser included offense instructions as indicated in Proposition Three and in failing to pursue a stand your ground defense as detailed in Proposition Two.

This Court reviews ineffective assistance claims to determine whether counsel's performance was unreasonably deficient under prevailing professional norms; and, if so, whether that performance deprived Appellant of a fair trial with a reliable result. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). To prove that trial counsel

was ineffective, an appellant must show that counsel's conduct was "outside the wide range of professionally competent assistance." *Id.* at 690. An appellant must also show that he was prejudiced by showing that there is a "reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine the confidence in the outcome." *Id.* at 694.

In *Strickland*, the Court went on to say that there is a strong presumption that counsel's conduct falls within the wide range of reasonable professional conduct, *i.e.*, an appellant must overcome the presumption that, under the circumstances, counsel's conduct constituted sound trial strategy. *Id.* at 689.

In resolving the substantive claims in Propositions Two and Three we determined that Appellant was not entitled to the protection of the stand your ground law, nor was he entitled to lesser included offense instructions. Trial counsel's performance, therefore, did not fall below objective standards of reasonableness. Proposition Four is denied.

In Proposition Five, Appellant raises a cumulative error claim. Appellant claims that the accumulation of error deprived him of due

process of law and a reliable sentencing hearing. Even when we view these alleged errors in a cumulative fashion, we find that no relief is required, thus Appellant's cumulative error claim must fail. *Woods v. State*, 1984 OK CR 24, ¶ 10, 674 P.2d 1150, 1154.

DECISION

The Judgment and Sentence is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2025), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY, THE HONORABLE MICHELLE KEELY, DISTRICT JUDGE

APPEARANCES AT TRIAL

MARK HAMILTON
BRIAN RAYL
ASSISTANT PUBLIC DEFENDERS
200 SOUTH DENVER, SUITE 300
TULSA, OK 74103
ATTORNEYS FOR DEFENDANT

MORGAN MEDDERS
ASSISTANT DISTRICT ATTORNEY
500 SOUTH DENVER, SUITE 900
TULSA, OK 74103
ATTORNEY FOR THE STATE

APPEARANCES ON APPEAL

BRIAN JONES
ASSISTANT PUBLIC DEFENDER
500 SOUTH DENVER, SUITE 300
TULSA, OK 74103
ATTORNEY FOR APPELLANT

GENTNER F. DRUMMOND
ATTORNEY GENERAL
S. GRACE SLAFF
ASST. ATTORNEY GENERAL
313 N.E. 21ST STREET
OKLAHOMA CITY, OK 73105
ATTORNEYS FOR APPELLEE

OPINION BY LEWIS, J.

LUMPKIN, P.J.: Concur

MUSSEMAN, V.P.J.: Concur

HUDSON, J.: Concur

ROWLAND, J.: Concur