Affirmed and Opinion filed February 17, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-98-00605-CR

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ROBERTO GONZALES, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 177th District Court
Harris County, Texas
Trial Court Cause No. 777,715

O P I N I O N

Over his plea of not guilty, a jury found appellant, Roberto Gonzales, guilty of murder. *See* TEX. PEN. CODE ANN. § 19.02 (Vernon 1994). The jury assessed punishment at life imprisonment in the Texas Department of Criminal Justice, Institutional Division and a $10,000.00 fine. Appellant seeks reversal of his conviction in two points of error. He alleges insufficient evidence to support the conviction and lack of corroborative accomplice testimony, and abuse of discretion by the trial court in limiting voir dire. We affirm.

FACTUAL BACKGROUND

One evening, appellant and several of his accomplices invaded Jose Villarreal's apartment looking for the complainant, Javier Quintanilla. Appellant was armed with an AK-47 assault rifle, while the others carried pistols and shotguns. They ordered Villarreal to tell them where they could find Quintanilla. When Villarreal asked what they wanted with Quintanilla, appellant replied that he was going to unload his weapon in Quintanilla's stomach. Unable to find Quintanilla in Villarreal's apartment, appellant and his cohorts drove off in a white Chevrolet Impala. Shortly thereafter, appellant shot Quintanilla multiple times outside his apartment that was less than a mile away from Villareal's apartment.

Clay Sullivan, appellant's accomplice who also entered Villarreal's apartment, testified at trial that appellant asked him to help him find Quintanilla. Sullivan went with appellant and the others to find Quintanilla, and drove with them to his apartment. He saw appellant shoot and kill Quintanilla with an AK-47 weapon.

DISCUSSION AND HOLDINGS

Corroboration of the Accomplice-Witness Testimony

In his first point of error, appellant argues that his conviction should be reversed because the State failed to present sufficient evidence to corroborate Sullivan's accomplice-witness testimony. We disagree.

The trial court charged the jury that Sullivan was an accomplice as a matter of fact[1], and as an accomplice, his testimony must be sufficiently corroborated. *See* TEX. CODE CRIM. PROC. ANN. art. 38.14 (Vernon Supp. 1999)[2]; *Adams v. State*, 685 S.W.2d 661 (Tex. Crim. App. 1985); *Mize v. State*, 915 S.W.2d 891, 896 (Tex. App.—Houston [1st Dist.] 1995, pet. ref'd). To determine whether the testimony has been sufficiently corroborated, we eliminate from consideration the testimony of the

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[1] Although the jury did not specifically find that Sullivan was an accomplice, for the purposes of this opinion, we will assume that it made such a finding.

[2] TEX. CODE CRIM. PROC. ANN. art. 38.14 (Vernon Supp. 1999) states:

> A conviction cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the defendant with the offense committed; and the corroboration is not sufficient if it merely shows the commission of the offense.

accomplice-witness and examine the testimony of the other witnesses. *See Adams*, 685 S.W.2d at 667-68; *Mitchell v. State*, 650 S.W.2d 801, 806 (Tex. Crim. App. 1983). From this testimony, we determine if evidence of an incriminating character tends to connect the defendant with the commission of the offense. *See Mitchell*, 650 S.W.2d at 806; *Mize*, 915 S.W.2d at 896.

Corroborative testimony need not directly link appellant to the crime, nor does it have to independently establish his guilt. *See Mize*, 915 S.W.2d at 896. It must corroborate a fact that tends to connect the defendant to the killing. *See Beathard v. State*, 767 S.W.2d 423, 428 (Tex. Crim. App. 1989). Normally, the corroborative evidence is sufficient if its cumulative weight tends to connect the appellant with the crime. *See Mize*, 915 S.W.2d at 896. In applying this test of sufficiency, the court must consider each case on its own facts and circumstances. *See Reed v. State*, 744 S.W.2d 112, 126 (Tex. Crim. App. 1988); *Ashford v. State*, 833 S.W.2d 660 (Tex. App.—Houston [1st Dist.] 1992, no pet.).

In this case, viewing the evidence as a whole and disregarding testimony from Sullivan, we find sufficient evidence to link appellant with the commission of the offense. At trial, Villarreal testified that appellant and several of his friends came to his apartment and knocked on his apartment door. He cracked his door and saw appellant in front of the group, in control and giving the orders to his cohorts. Villarreal asked appellant what he wanted, and appellant answered that he wanted Quintanilla. Villarreal asked appellant why, and appellant replied he was armed and that he was going to unload his weapon in Quintanilla's stomach. Appellant entered Villarreal's apartment, pointed his rifle at him, and asked for Quintanilla. After Villarreal failed to inform appellant of Quintanilla's whereabouts, appellant and his companions drove away. Villarreal recognized appellant's vehicle as a white Chevrolet Impala.

Additionally, a firearms expert testified that bullet fragments were retrieved from Quintanilla's body, and shell casings were found at the scene. These bullets were fired from an AK-47 rifle, the type of weapon Villarreal saw appellant carrying into his apartment. The bullets and shell casings found at the scene were also fired from an AK-47 rifle.

This non-accomplice evidence, the testimony of Villarreal and the firearms expert, tends to connect appellant to Quintanilla's murder; it sufficiently corroborates Sullivan's testimony. Villarreal's testimony established that appellant was armed with an AK-47 rifle, threatening to shoot Quintanilla shortly before

the offense was committed. The firearms expert established that bullet fragments found in Quintanilla's body and at the scene were from an AK-47 rifle. "Proof that connects an accused to a weapon used in the offense is proper corroborative evidence." *Cockrum v. State*, 758 S.W.2d 577, 582 (Tex. Crim. App. 1988), *rev'd on other grounds*, *Cockrum v. Johnson*, 119 F.3d 297 (5th Cir. 1997). Thus, we find sufficient corroborative testimony and overrule appellant's first point of error.

Time Limitation on Voir Dire

In his second point of error, appellant argues that his conviction should be reversed because the court refused to allow him additional time for voir dire. He asserts that the trial court's action violated appellant's constitutional right to counsel because he was unable to intelligently exercise his peremptory challenges. *See* Tex. CONST. Art. I, §10. We disagree with appellant's conclusion, and after reviewing the facts, find that he failed to preserve error in the trial court on this point.

Before voir dire began, appellant's trial counsel asked the court for an hour and a half to conduct his voir dire because he believed his case was complex. The court informed the parties that each would have forty-five minutes for voir dire, and that appellant could make a proper motion for additional time if he used his time wisely and was not redundant or repetitive. When appellant's counsel began his voir dire, however, the court told him that he had forty-seven minutes. After this time had expired and the jury panel was dismissed, appellant's counsel approached the bench and requested additional time to voir dire the jury on punishment. He told the court that he needed this additional time since several of the panel members expressed negative opinions toward appellant. The trial court denied counsel's request, because he had been given two additional minutes that he exceeded and did not approach the bench for additional time before the court dismissed the jury.

We review appellant's claim that he was improperly restricted on voir dire under an abuse of discretion standard. *See Caldwell v. State*, 818 S.W.2d 790, 793 (Tex. Crim. App. 1991), *rev'd on other grounds*, *Castillo v. State*, 913 S.W.2d 529, 534 (Tex. Crim. App. 1996); *Godine v. State*, 874 S.W.2d 197, 199 (Tex. App.—Houston [14th Dist.] 1994, no pet.). To determine whether the trial court abused its discretion in disallowing appellant's voir dire request, we must first determine if appellant tendered proper questions. *See Caldwell*, 818 S.W.2d at 794. Proper questions seek a venireperson's

views on a relevant issue; they are not questions that are so broad in nature as to constitute a "global fishing expedition." *See id.*

Here, appellant asked to question the jury on the issue of punishment. Such a general request is not sufficient to preserve error. To preserve error concerning voir dire, appellant must present to the court specific questions in proper form that he seeks to ask, and he must obtain an adverse ruling from the court on the questions proffered. Because appellant's request was too broad, neither the trial judge nor this court can determine whether counsel would have asked proper questions. We find under the circumstances that the trial court was within its discretion in refusing appellant's request for additional time. *See Caldwell*, 818 S.W.2d at 794.

In sum, appellant's failure to present specific questions to obtain a ruling for the record did not preserve error on this matter. His request for additional time to voir dire on the broad subject of punishment was insufficient. Appellant's failure to properly preserve error presents nothing for review. *See* TEX. R. APP. P. 33.1(a); *Godine*, 874 S.W.2d at 200.

We overrule appellant's second point of error and affirm the judgment of the trial court.

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Joe L. Draughn
Justice

Judgment rendered and Opinion filed February 17, 2000.

Panel consists of Justices Yates, Frost, and Draughn.[***]

Do Not Publish — TEX. R. APP. P. 47.3(b).

[***] Senior Justice Joe L. Draughn sitting by assignment.