Affirmed and Opinion filed June 15, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-98-00359-CR

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JOHN HENRY ALIX, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 232nd District Court
Harris County, Texas
Trial Court Cause No. 753,461

O P I N I O N

A jury found John Henry Alix guilty of delivery of cocaine, weighing less than one gram. The trial court assessed punishment at 18 months' confinement in the State Jail. Alix argues in two points of error: (1) the trial judge erred by charging the jury on the law of the parties, and (2) the visiting trial judge was without authority to preside over his case. We affirm the trial court's judgment.

In his first point of error, Alix claims the trial court erred by charging the jury on the law of the parties. He argues there was no evidence to support his guilt as a party, and that the court expanded his liability by giving such an instruction.

When the evidence is sufficient to support both primary and party theories of liability, the trial court does not err in submitting an instruction on the law of the parties. *See Ransom v. State*, 920 S.W.2d 288, 302 (Tex. Crim. App. 1994). A jury charge on the law of the parties is appropriate when the evidence indicates a defendant encouraged, directed, or aided another in the commission of the offense. *See* TEX. PEN. CODE ANN. § 7.02(a)(2) (Vernon 1994); *Crank v. State*, 761 S.W.2d 328, 352 (Tex. Crim. App. 1988); *Bryant v. State*, 982 S.W.2d 46, 49 (Tex. App.–Houston [1st Dist.] 1998, pet. ref'd). To find a defendant was a party to the offense, the evidence must show the parties acted together at the time of the offense, each contributing to the execution of the offense. *See Ransom*, 920 S.W.2d at 302; *Bryant*, 982 S.W.2d at 49. In determining whether a defendant participated in an offense as a party, the court may examine the events occurring before, during, and after the commission of the offense. *See Ransom*, 920 S.W.2d at 302.

The evidence reveals Alix sold the cocaine. When the undercover officer told him he was looking for a "twenty," Alix called Anthony Foley over and asked him to "give one up." Foley handed Alix the cocaine, and Alix gave it to the officer. When the officer gave Alix $20 for the cocaine, Alix gave the money to Foley. Thus, because Alix gave the money to Foley after the transaction was completed, the jury could reasonably infer the cocaine either belonged only to Foley, or Alix and Foley, and that they were working together to sell it. This evidence proves Alix and Foley acted together in this delivery and each contributed to the execution of this offense. *See Bryant*, 982 S.W.2d at 49.

Thus, the law of the parties instruction was warranted and the trial court did not err in instructing the jury. Accordingly, we overrule Alix's first point of error.

In his second point of error, Alix argues the trial judge was not authorized to conduct the trial. We disagree.

The judge during the trial was Visiting Judge Allen L. Stilley. Judge Stilley was assigned by the presiding judge of the Second Administrative Judicial Region of Texas to the 232nd District Court of Harris County for a period of three days beginning on March 11, 1998,

and continuing "as may be necessary for the Assigned Judge to complete trial of any case begun during the period, and to pass on motions for new trial and all other matters growing out of cases tried by the Judge herein assigned during this period." Thus, Judge Stilley was authorized to preside over appellant's trial, which began on March 11, 1998, and concluded on March 12, 1998. Accordingly, appellant's second point of error is overruled.

Having overruled each of appellant's points of error, we affirm the trial court's judgment.

/s/ Ross A. Sears
Justice

Judgment rendered and Opinion filed June 15, 2000.

Panel consists of Justices Robertson, Sears, and Lee.*

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* Senior Justices Sam Robertson, Ross A. Sears, and Norman Lee sitting by assignment.