

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

DIONTE D. WILLIAMS

APPELLANT

VS.

NO. 2008-KA-0963-COA

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

APPELLEE DOES NOT REQUEST ORAL ARGUMENT

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STATEMENT OF THE CASE

The grand jury of Lauderdale County indicted defendant, Dionte D. Williams in a multi-court indictment for Burglary of a Dwelling and Armed Robbery violation of *Miss. Code Ann.* §§ 97-17-23 & 97-3-73. (Indictment, cp.2-4). After a trial by jury, Judge Lester R. Williamson, Jr., presiding, the jury found defendant guilty on both counts. (C.p.43-44). Defendant was sentenced to ten years on each count, consecutive to each other and consecutive to any previously imposed sentence or currently subject to at time of sentencing. (C.p 45-48).Life for the Murder, 15 years on two of the aggravated assaults 20 years on the other. The aggravated assault sentences run concurrent to each other and consecutive to the life sentence.

(Sentence order, cp. 50-52).

After denial of post-trial motions this instant appeal was timely noticed.

STATEMENT OF FACTS

Appellate counsel has provided an accurate and frightening factual statement of a home invasion by armed intruders, fully cited to the record that is adequate to decided the issue on appeal.

SUMMARY OF THE ARGUMENT

I.

THE TRIAL COURT WAS CORRECT IN DENYING THE MOTION FOR NEW TRIAL AS THERE WAS LEGALLY SUFFICIENT EVIDENCE OF AMPLE WEIGHT AND CREDIBILITY TO SUPPORT THE JURY VERDICTS OF GUILTY.

The victim identified defendant as a boy she knew from the neighborhood. Additionally, the victim repeated – and without equivocation – identified the defendant as the one that tried to stab and kill her. The jury reached a verdict as to both counts in less than 30 minutes. Guilty. Guilty.

ARGUMENT

I.

THE TRIAL COURT WAS CORRECT IN DENYING THE MOTION FOR NEW TRIAL AS THERE WAS LEGALLY SUFFICIENT EVIDENCE OF AMPLE WEIGHT AND CREDIBILITY TO SUPPORT THE JURY VERDICTS OF GUILTY.

Within this allegation of trial court error counsel for defendant cites an appropriate standard of appellate review for the denial of a motion for new trial. In this allegation of error defendant asserts the inconsistent descriptions of defendant, or absolute lack thereof, should garner defendant a new trial.

Counsel for defendant lays out the crux of the matter succinctly. After the home invasion by two perpetrators the victim could only identify one by name. The police arrested that 'named' individual and he implicated this defendant as the other home invader.

At trial Donovan Evans (the invader who was caught) did not testify, but the victim, Betty Evans, did – and very persuasively! The victim testified she knew both of the boys who came into her home, this defendant being armed with a knife. She was adamant in her identification. She repeatedly and spontaneously indicated the defendant was one of the two that tried to kill her. At one point, to clarify for defense counsel, she stated “And I'm looking at this boy, he maybe done cut his hair off, he's not wearing his hair the same way, but I know his face.” Tr.153

¶ 29. The facts in this case bear similarity to those in *Collins v. State*, 817 So.2d 644, 658 (¶¶ 44-46) (Miss.Ct.App.2002). In *Collins*, the two defendants were found guilty of armed robbing a bank. *Id.* at 649(¶ 6). Though several persons witnessed the robbery, ***only one eyewitness, a bank teller, stated that she “was almost certain” she had seen one robber with a gun.*** *Id.* at 658(¶ 44). At one point, the teller stated that she had been only “ ‘pretty sure there was a gun.’ ” *Id.* The videotape of the robbery did not show that the robber had a gun, and no gun was recovered during the police investigation. *Id.* This Court found that the teller's testimony was sufficient to establish the element of exhibition of a deadly weapon because ***“a guilty verdict may be based on the uncorroborated testimony of a single witness.”*** *Id.* at (¶ 46).

Clayton v. State, 946 So.2d 796, 805 (Miss.App. 2006)(***emphasis added***).

The testimony of the witness was corroborated by two other witnesses who came by the house and saw someone escaping out the window. It is the position of the State the victim's testimony is sufficient and of adequate weight and credibility to affirm the convictions.

Now, counsel for defendant has made much of the “inconsistent:” statement of the victim in that she at one point said she came home from Church to find the intruders or that she was sleeping and awakened by the intruders. Just to clarify, the victim NEVER said she was coming home from Church or came home unexpectedly to find the two young men in her home. Period. That supposed statement that she came home unexpectedly was inadvertently, mistakenly, inserted by a detective. It never came from the mouth of the victim. (Tr. 184).

There was absolutely no error on the part of the trial court in denying the

motion for new trial. Since the date of the crime the legislature has passed the popular bill known as the Castle Doctrine and I predict the victim would now react differently.

The State would ask that no relief be granted on this factually unsupported allegation of error.

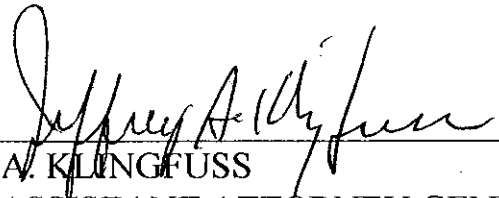
CONCLUSION

Based upon the arguments presented herein as supported by the record on appeal the State would ask this reviewing court to affirm the verdicts of the jury and the sentences of the trial court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

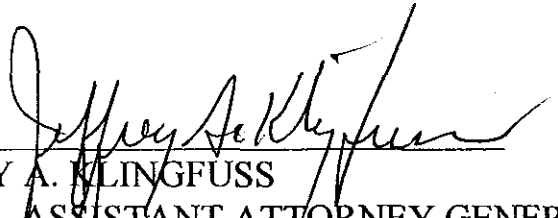
I, Jeffrey A. Klingfuss, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the above and foregoing **BRIEF FOR THE APPELLEE** to the following:

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This the 28th day of January, 2009



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