

**KARRIE LYNETTE GLENN**

**APPELLANT**

**VS.**

**NO. 2008-KA-1551**

**STATE OF MISSISSIPPI**

**APPELLEE**

**BRIEF FOR THE APPELLEE**

**APPELLEE DOES NOT REQUEST ORAL ARGUMENT**

**JIM HOOD, ATTORNEY GENERAL**

**BY: LAURA H. TEDDER  
SPECIAL ASSISTANT ATTORNEY GENERAL  
MISSISSIPPI BAR NO [REDACTED]**

**OFFICE OF THE ATTORNEY GENERAL  
POST OFFICE BOX 220  
JACKSON, MS 39205-0220  
TELEPHONE: (601) 359-3680**

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- I. The trial court did not err in refusing Defendant's Jury Instruction D-5.**
- II. The verdict was consistent with the overwhelming weight of the evidence and should be affirmed.**
- III. The assignments of error presented by Glenn are without merit and therefore there can be no cumulative error where no error at all is established.**

Officer Bryan Grady, a patrol captain for the Jackson County Sheriff's Department, testified that on July 27, 1998, at about 8:51 a.m. he received a call to respond to 9609 Martin Young Road for a medical emergency. He arrived at the Glenn home at 8:55. Tony Glenn's body was in the bedroom. He was at the foot of the bed, slumped over, with a gunshot wound. (Tr. 126)

Officer Dean Reiter testified that he was detective with the Jackson County Sheriff's Department at the time Tony Glenn was killed. (Tr. 143) Officer Reiter testified that officers were dispatched to the Glenn home at 8:51 a.m. on July 27, 1998. Officers arrived at 8:55. He testified that he was assigned as the investigator for the homicide. (Tr. 144) Officer Reiter testified that he arrived at the scene at about 9:15 a.m. He testified that Karrie Glenn arrived at about 10:50 a.m. Because there was no gun at the scene, the officers determined that the death was homicide rather than suicide. (Tr. 145)

Officer Reiter testified that they found marijuana in the home. They also found a black powder muzzle loader, a lever-action rifle and a bolt-action rifle. Officer Reiter identified blood splatters on the ceiling. (Tr. 153) Officer Reiter testified that they did not find the weapon at the scene that day and did not recover a weapon. (Tr. 156)

Officer Reiter testified that Karrie Glenn told officers that on Sunday, July 26, she and victim, Tony Glenn, had an argument concerning a key he had found in his pocket. She thought it was a hotel room key. The victim told her that it was a key to a bathroom. In her 1998 statement, Glenn told officers that after the argument, David Stokes drove her to her friend

also discussed the argument over the key. (Tr. 157) Glenn stated that she left Todd Johnson's house around 9:00 p.m on Sunday night. (Tr. 157) She stated that she and David Stokes drove back to her home on Martin Young Road. Glenn stated that she had sex with her husband, Tony Glenn, and then she went to bed. She stated that she got up at about 4:30 and took a pill for a toothache and then went back to sleep on the couch in the living room. (Tr. 158) She stated that David Stokes arrived at around 6:30 that morning and woke her up. Glenn told officers that she got ready for work. Glenn stated that she and Stokes were getting ready to leave the house around 6:45, and the victim had yelled out to David Stokes to come by later and they would ride jet skis. (Tr. 159) She told officers that she drove from there to Todd Johnson's parents' house where she dropped off both children. Then she stated that she went to see her first patient in Biloxi, arriving there at about 8:00 a.m. After that she stated that she went to her second patient and while she was there, she received a page from Rufus Young telling her that she needed to come home, something had happened to Tony. (Tr. 159)

In 1998, Glenn further told officers that she drove back home and paged David Stokes at that time. (Tr. 161) She denied having a sexual relationship with Stokes. (Tr. 161) Glenn told officers that she and David had received ten pounds of marijuana from Wayne Young to sell. It was fronted to them. They would pay for it once they had sold it. Stokes weighed it and it came up 14 ounces shy. (Tr. 161) Glenn stated that she and Stokes had sold the marijuana and that she handled the money and paid Wayne Young personally. Glenn stated that she owed Young \$3,000, but that she only paid him \$1,600 because it was 14 ounces shy. (Tr. 162) Glenn stated

Glenn told officers that when she walked through the house later that afternoon, there was a shotgun missing from the gun rack she had purchased for Tony Glenn. Glenn told officer that it was a Turkey Gun. (Tr. 163) Officer Reiter testified that records from a firearms sale at City Pawn and Gun showed that Karrie Glenn had purchased a Mossberg shotgun on December 22 of 1997. A second receipt from City Pawn and Gun showed that Karrie Glenn also purchased ammunition for the gun. (Tr. 164) Officer Reiter testified that he did not find the Mossberg shotgun. (Tr. 165)

Officer Reiter testified that he also interviewed David Stokes girlfriend, Desiree Sessions and to other witnesses as well, but was not able to discover who committed the killing and did not charge anyone with the killing. He testified that he was not involved with the investigation of the case in 2007 other than some phone conversations with the investigator. Reiter testified that he used his handwritten notes and prepared typewritten notes for the investigator. (Tr. 166) Reiter testified that he did interview David Stokes in 1998 and Stokes denied killing Tony Glenn. He did not interview Stokes in 2007 and was not involved in the case in 2007. (Tr. 167)

Marjorie Glenn testified that she was Tony Glenn's mother. Mrs. Glenn testified that she usually kept Tony and Karrie's youngest child, Ryan, but that the oldest child, Samantha went to daycare of school. (Tr. 188) Mrs. Glenn testified that she kept Ryan almost every day that summer, but rarely kept Samantha. However, on July 27, 1998, she was scheduled to keep Ryan, but Karrie Glenn called her that morning at 6:00 a.m. and asked her to keep Samantha as well. She testified that Glenn brought both of the children to her at 6:30 a.m. She testified that she was

189) Mrs. Glenn testified that the children were dressed and Karrie Glenn was dressed for work. She did not look to see if anyone else was with Karrie. (Tr. 190) Mrs. Glenn testified that she received a call from Karrie Glenn at 9:30 that morning and that Karrie was crying and said, "They've killed Tony, they've killed Tony." She told Mrs. Glenn that the ambulance was there. (Tr. 191) Mrs. Glenn testified that she did not believe that Tony was dead. However, her son came later and confirmed that Tony was dead. (Tr. 191)

Brenda Carpenter testified that Tony Glenn was her nephew. (Tr. 192) She testified that she went to Tony's father's home on the day Tony died. Karrie Glenn arrived at the home later and did David Stokes. (Tr. 193) Carpenter testified that she saw David and Karrie together in a bedroom. They were sitting on the floor, Indian style, facing each other and were speaking to each other in hushed tones. They were not crying or upset. (Tr. 195)

Dr. Paul McGarry testified as an expert in forensic pathology. (Tr 199) Dr. McGarry testified that he conducted an autopsy on Tony Glenn. He testified that there were two gunshot wounds that went into the body. Wound A entered the front of the chin, with a heavily soot stained entry hole indicating that the end of the barrel of the shotgun was against the skin when the shot was fired. The wound went backward through the jaw, through the teeth, through the bones of the neck, through the spinal cord and came out the back of the neck creating a large exit wound. Along the track of the wound were shotgun pellets and a piece of shotgun wadding. (Tr. 203) Wound B went in the left upper back under the arm. Part of it broke up and came out in separate openings. Most of it came out the front of the arm pit. Once piece of the shotgun pellet



box spring to recover the lead ball. (Tr. 205)

Dr. McGarry testified that Tony Glen was first shot in the left upper back under the arm while he lay in bed. He would have felt the first shot, moved and got to the end of the bed. The second shot occurred while he was at the end of the bed and caused him to collapse. The first shot did not paralyze him and he was able to move. The second shot caused him to collapse because the wound hit his spinal cord very high in the neck which paralyzed his arms and legs. His whole body went limp and he collapsed where the shot occurred. (Tr. 208)

Dr. McGarry testified that the cause of death was determined to be a shotgun wound entering the chin, going through the mouth, the throat, the neck, and exiting the back of the neck, causing severe damage to internal tissues, including the spinal cord, with extensive bleeding. Large arteries were opened and blood came out of his body, and went into his throat and down his windpipe into his lungs. The first shot would not necessarily have been fatal if he had received treatment. Tony Glenn died within minutes of the second shot. (Tr. 209)

William Leighton testified that he was employed as an emergency medical technician on July 27, 1998, and that he was called to the scene at 9609 Martin Young Road. (Tr. 212) Leighton testified that he arrived at the scene at 9:09 a.m. Leighton assessed the victim, Tony Glenn, found two gunshot wounds and found it to be fatal. (Tr. 213) Leighton pronounced Tony Glenn dead at 9:13 a.m. Leighton testified that he made patient contact at 9:09 a.m. (Tr. 215) Leighton testified that the records indicated that the run was complete he was available for another call at 9:53. (Tr. 215) Leighton testified that he remained at the scene about 25 minutes

1998, he was living on Martin Young Road. His neighbors were Tony and Karrie Glenn. (Tr. 222-223) Young testified that David Stokes would stay at the Glenn's house when Tony wasn't there. Young testified that on July 27, 1998, he got up around 4:30 in the morning to go to work. Young left around 6:00 to fish and started home around 8:30. Todd Johnson was the first person who told Young that something was wrong with Tony. The police pulled in at that time because Johnson had already called them. (Tr. 227) Young testified that he did not call Karrie that morning. He testified that there was no reason for David Stokes to be at his house on that day since he had previously fired Stokes. (Tr. 228) He testified that his wife paged Karrie to let her know that something was wrong. (Tr. 235)

Todd Johnson testified that when he was friends with Tony Glenn. He testified that he spent a lot of time with Tony and Karrie. Johnson testified that their daughter, Samantha, spent a lot of time with Tony and would go out on trips with him when he was trucking. He testified that he had never seen Tony act physically violent towards Karrie. (Tr. 243)

Johnson testified that he knew David Stokes. Stokes was seeing Karrie's niece. Stokes began staying with Tony and Karrie and Karrie's niece broke up with him. (Tr. 243) Johnson testified that he bought his marijuana from Karrie. He testified that Karie and David sold marijuana together. (Tr. 244) Johnson testified that Karrie and David came to his house on the evening of Sunday, July 26, 1998. (Tr. 245) Johnson's fiancé was also present. Karrie and David brought a joint for them to share and the two couples hung out and talked. (Tr. 245) Johnson testified that Karrie told them that Tony had a key that Karrie found. Tony said it was

in his big trailer than a hotel room. (Tr. 248) Tony testified that Karrie and David were in the house from 8:00 p.m. to 10:00 p.m. He testified that Tony called wanting to know if Karrie was there and that they told him she was. (Tr. 249) Tony told Heaven (Johnson's fiancé) "to get her ass home." (Tr. 250)

Johnson testified that he went to Tony and Karrie's house on July 27<sup>th</sup> of 1998 and that he arrived at about 8:30. Johnson testified that he called out, "Hey, Tony." Walked through the kitchen and through a window saw Tony on the floor a the foot of his bed. Johnson continued to try to get Tony to get up, but when he reached the bedroom discovered that Tony was dead. Johnson testified that he called 911 and told the operator. Johnson then ran to Rufus Young's house. Johnson went back to the Glenn's house after talking with Young. Tony's father came to the house. Karrie pulled up and Johnson had one of the police officers tell her what had happened. Karrie cried but didn't say anything. Mr. Glenn asked Johnson to take Karrie to his house. On the way, Karrie smoked part of a joint and told Johnson that she knew "I knew this was going to happen. I knew them mother fuckers were going to get him." (Tr. 256, 266) Johnson testified that while he was standing in the yard smoking a cigarette, David Stokes came to Mr. Glenn's house. He ran to Johnson and hugged him and said, "We're going to get them sons of bitches, we're going to get them." (Tr. 257) Johnson testified that he saw Karrie and David together in the bedroom. They were hugging and David was crying. (258) Johnson testified that David was supposed to be a pallbearer at the funeral and "spazzed out" and was unable to help with the casket. (Tr. 258) Johnson testified that Karrie consoled David at the funeral. (Tr. 259)

Douglas Wayne Young testified that he is a commercial fisherman. He testified that he lived on Martin Young Road. Young testified that Karrie and Tony rented their house from his uncle, Martin Young. He testified that he bought marijuana from Karrie Glenn. He testified that Samantha spent a lot of time with her father when she was not in daycare or school and that when Tony Glenn went on truck trips, Samantha would go with him. Young testified that he got ten pounds of marijuana for Karrie. She did not pay him for the whole ten pounds. The two had words and Young told her that he wanted his money. Karrie said it was short. (Tr. 274)

Young testified that he would come to the house and that Karrie and David would wrestle together. He testified that he came to the house and knocked on the door and that after some shuffling, Karrie let him in. Karrie was in her nightgown and David was on the couch with a blanket covering him and he was sweating. On another occasion the same thing happened again. (Tr. 275) On one occasion Karrie flagged down Young and asked him to come and smoke a joint with her. Karrie told Young that she wanted to divorce Tony, but that she was afraid he would not let her have another man. (Tr. 276) She cried and told Young that the only way she would be rid of Tony is if he were dead. (Tr. 276) Young did not go back to their house after that conversation. This was 3 or 4 weeks before Tony's death. (Tr. 277)

On Sunday, July 26, at about 8:30 or 9:00 p.m., Young left to go commercial fishing. Prior to leaving, at about 7:00 or 7:30, he saw Karrie and David turning around in the parking lot. Johnson testified that when he left the fish house to walk to his truck to get clothes to go out on the boat with, he saw Karrie drive through the parking lot of Clark Seafood. Young did not tell

They told Young that Tony Glenn had been killed and that he was a suspect. (Tr. 282) The police came out to meet him in the water. They took him ashore, handcuffed him and took him to the police station.

James Mick Sears testified that he was the chief investigator for the Jackson County Sheriff's Department. Sears testified that he and two other officers took out a marine patrol boat to meet a butterfly boat that was coming in from the Gulf that had Wayne Young aboard it. (Tr. 292) Sears testified that he took Young off the boat. There was an outstanding indictment for sale of marijuana. Another officer questioned Young about the death of Tony Glenn. (Tr. 293)

David Stokes testified that he had been living in South Carolina when he was arrested on August 20, 2007 for the murder of Tony Glenn. (Tr. 296) After he was arrested he was brought back to Mississippi. Stokes was questioned by police and finally admitted that he had killed Tony Glenn. He was charged with murder and pled guilty to manslaughter on November 19, 2007. Stokes testified that he was caught with marijuana and was asked to set up two people, one of who was Wayne Young. He arranged for an officer to buy drugs from Wayne Young. He took the officer to Young's home and bought two ounces of dope from Young. Stokes testified that he did not know where Young got the marijuana. This occurred about two months before Tony Glenn's killing. (Tr. 299-300)

Stokes testified that he met Karrie through Tony's niece, whom Stokes dated. He became friends with Karrie and did not meet Tony for another three or four months. Stokes began living with Tony and Karrie when they moved to Martin Young Road. He also began selling marijuana

301) He bought and sold dope for her and drove her around to collect the money. Karrie was the boss of the operation and Stokes was the errand boy. (Tr. 301) Stokes testified that he had sex with Karrie hundreds of times, on the couch in the living room and all over Tony and Karrie's house. Stokes testified that Tony did not know about the relationship. Stokes testified that to his knowledge, no one knew about the relationship. (Tr. 302) He testified that Karrie and Tony were not separated during that time and that he spend the night at the house while Tony Glen was out driving the truck. (Tr. 302)

Stokes that Rufus and Wayne young lived in the trailer behind the house. Stokes testified that he was not working anywhere at that time and that he made money by helping Karrie sell drugs. He testified that he had a drug problem during that time and smoked marijuana and cocaine. (Tr. 303) Stokes testified that Tony and Karrie Glenn argued and fought a lot. When they fought, Stokes would leave the house. Tony's hobby was jet skiing and he wanted to get into the racing circuit. (Tr. 303-304)

Stokes testified that Tony and Wayne Young argued over the ten pounds of marijuana that was short. Karrie was involved and had made the deal with Wayne Young. Stokes testified that Karrie was the one who broke up the marijuana and that he helped her sell it. (Tr. 304) Stokes testified that he bought the marijuana off Karrie cheap and whatever he made off selling was what he made. Karrie did not pay him to drive her around, but gave him dope instead. (Tr. 305) Stokes testified that Samantha want on a trucking trip with her dad and that she did not regularly go to her Grandmother's house to stay. (Tr. 305)

murder he was not working for Rufus Young. (Tr. 306) Stokes testified that he went with Karrie Glenn to Todd Johnson's house and to Aunt Bonnie's house. Stokes testified that they went to get some money. (Tr. 307) Stokes went to Karrie Glenn's house. Tony was at the house when he arrived. He did not go with them. They took Karrie's car and Stokes drove. They went to Todd's house first. (Tr. 307)

Stokes testified that when he arrived at the house, Karrie and Tony were arguing. They went to Todd's house and drank some wine coolers. They returned to Karrie's house at about dark. Stokes testified that Karrie asked him to make sure to come over and wake her up in the morning because she took a pain pill. (Tr. 309) Stokes left and went to his mother's house. He received two phone calls that night. Carrie called first to remind Stokes to make sure she got up in the morning and because she didn't want to be late for work. In the second phone call, Karrie said that Tony had hit her, slapped her around, and that they had been arguing about the hotel room key. Karrie told Stokes that she was tired of him hitting on her and she asked Stokes if he would kill Tony. Stokes said that he would. (Tr. 310) Stokes testified that he agreed to kill Tony because he was in love with Karrie Glenn. (Tr. 310)

Stokes testified that the next morning he got to the Glenn's house at about 6:00 in the morning. When he arrived, Karrie was already awake. She was getting the kids ready to go to Tony's grandma's house. Stokes testified that he was still there when she left to take the kids. They discussed the killing before she left. She told him to go across the street to the Oaks and wait. He waited there for 30 or 45 minutes. She called and told him to come on. He went back

him "well, then do it." Stokes testified that he took the shotgun and made sure it was loaded, walked in the bedroom and shot Tony Glenn twice and killed him. Karrie Glenn remained in the living room while her husband was killed. (Tr. 312.) Stokes testified that he did not get the shotgun off the gun rack and the Karrie Glenn took it off the couch and put it in his hands. (Tr. 313)

Stokes testified that Tony Glenn was asleep when he entered the bedroom. He testified that he hit Glenn underneath his arm with the first shot and in the chin on the second shot. Stokes testified that he had to pump the gun to get the first shell to go out and the second shell to go in. After he shot Glenn in the chin, he reached down and picked up the shotgun shell. Stokes testified that between the first shot and the second shot Tony Glenn looked at him and said "Oh, my God." He appear shocked. After the second shot hit him, Glenn fell at the end of the bed. He did not move or take any steps after that. Stokes then reached down and picked up the shell. (Tr. 316) Stokes took the shell and the shotgun unto the living room and handed them to Karrie Glenn. Karrie put the shotgun and shell in the trunk of her car. She told Stokes that they needed to get the dope and the money out of the laundry room. There were several pounds of marijuana and a few thousand dollars in the laundry room. They put the marijuana and the money in the back of Karrie's car. Stokes left and Karrie left after he did. Stokes stopped to get a drink at the Oaks and by the time he got back to the highway, Karrie was pulling out. The whole episode from the time Stokes entered the house to the time he left took 5 to 10 minutes. (Tr. 318)

Stokes went to his sister's house inorder to have an alibi. He arrived there at



Mobile.

Stokes testified that when Karrie Glenn left her house, she took a right onto Highway 90 and then took a left on Pecan Road. Stokes saw her at the trunk of her car with it open. When he was on the way to Mobile, she paged him. Karrie told him that Tony had been killed. She told him that she was at Tony's mom's. Stokes took his girlfriend home and then went to Tony's mom's house to see Karrie. Stokes testified that while he was there, he had a private conversation with Karrie Glenn and that she told him to deny their sexual relationship to the police. She told him to keep his mouth shut and not to tell the police anything. (Tr. 322)

Stokes testified that he was questioned by the police on May 27<sup>th</sup>, 28<sup>th</sup> and 29<sup>th</sup>, and that he told them that he thought that Wayne Young killed Tony Glenn. He did have an opportunity to tell Karrie Glenn what the police were asking him. He did not ever admit to the police that he had sex with Karrie. (Tr. 322) Stokes testified that it was Karrie Glenn's idea for him to serve as a pall bearer at Tony's funeral. (Tr. 328)

Officer Mike Ballard testified that he was employed with the Jackson County Sheriff's Department, Criminal Investigation Division since March of 2005. (Tr. 375) Ballard testified that he was not involved in the 1998 investigation of the murder of Tony Glenn. Ballard testified that he became involved in the investigation in August of 2007. Ballard testified that Stokes confessed the murder and implicated Karrie Glenn when he was interviewed in South Carolina. He was not offered or promised anything. (Tr. 377) When Ballard interviewed Karrie Glenn in 2007, she admitted having a sexual relationship with David Stokes. (Tr. 378)

Glenn case had become a cold case, but that he had been assigned lead investigator in April of 2005. (Tr. 383) McClenic went to arrest David Stokes in South Carolina based on the circumstantial case. When McClenic and other officers went to South Carolina to arrest Stokes, they did not know that he would implicate Karrie Glenn. They did not offer him anything in exchange for his statement. Stokes did implicate Karrie Glenn for the first time when he was interviewed in South Carolina. Officer McClenic then drove the route that Karrie Glenn stated she had taken on the morning of Tony Glenn's death. It took about 10 minutes each way to make the trip to Tony Glenn's grandmother's house where she dropped the children off that day. He then drove from Karrie Glenn's house to Division Street in Biloxi, which took 30 minutes. The total time of the trip was 50 minutes, driving the speed limit. (Tr. 386-387) Officer McClenic also testified that a spent 12 gauge slug was recovered out of the mattress of the bed Tony Glenn was found lying next to. (Tr. 387) Two live rounds of 12 gauge slug were recovered from the living room of Tony Glenn's home. Another live unspent 12 gauge slug was recovered from David Stokes bedroom at 4300 Cornwood Drive in Escatawpa. (Tr. 391) Officer McClenic testified that Karrie Glenn arrived on the scene that day at 10:50 a.m. Officer McClenic testified that all the shells would fit into a 12 gauge shotgun and a 12 gauge shotgun was missing from the house that day.

### **SUMMARY OF ARGUMENT**

Appellant Karrie Glenn did not object at trial to the denial of Instruction D-5 and has therefore waived the issue on appeal. Further, even if the issue were addressed on the merits, the

assignment of error is without merit.

The verdict is consistent with the overwhelming weight of the evidence. The testimony of David Stokes was consistent with the testimony of other prosecution witnesses and with the physical evidence. This case is not susceptible to cumulative-error analysis because we have determined that no errors occurred. *Ruffin v. State*, 992 So.2d 1165, 1179 (Miss.2008). Therefore, this issue is without merit.

### **ARGUMENT**

#### **I. The trial court did not err in refusing Defendant's Jury Instruction D-5.**

Counsel for Karrie Glenn offered the following jury instruction at trial:

The law presumes a Defendant to be innocent of the crime charged. Thus a Defendant, although accused, begins the trial with a "clean slate" – with no evidence against him. And the law permits nothing but legal evidence presented before the Jury to be considered in support of any charge against the accused. So the presumption of innocence alone is sufficient to acquit a Defendant, unless the Jurors are satisfied beyond a reasonable doubt of the Defendant's guilty after careful and impartial consideration of all the evidence in the case.

It is not required that the State prove guilt beyond all possible doubt. The test is one of reasonable doubt. A reasonable doubt is a doubt based upon reasonable and common sense, the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of her own affairs.

The Jury will remember that a Defendant is never to be convicted on mere suspicion or conjecture.

The burden is always on the State to prove guilt beyond reasonable doubt. The burden never shifts to a Defendant; for the law never imposes upon a Defendant in a criminal case the burden

Defendant is guilty of the charge, it must acquit. If the Jury views the evidence in the case as reasonably permitting either of two conclusions – the Jury should of course adopt the conclusion of innocence.

(C.P. 484)

At trial, the following colloquy took place:

The Court:               Refused. D-3?

Mr. Shaddock:        I believe you stated you were going to give 3 and 4.

The Court:               3 is the same. I'm going to refuse it; but I'm going to give 4. D-5  
is set out in Court's instruction C-1. Refused. D-6?

Mr. Lawrence:         No objection.

The Court:               I believe Mr. Shaddock clarifies even more the Court's instruction  
C-1, so I'll give that. D-7?

Mr. Lawrence:         I object to that, Your Honor. . . .

(Tr. 484)

The record reflects that Appellant Defense Counsel does not ever make an objection to the trial court's refusal of D-5. The Trial Court was never allowed the opportunity to pass on the assignment of error that is now presented at trial. Further, in the Motion for New Trial, the Appellant raised a suggestion of error in the refusal of Jury Instruction D-9. There is no mention of D-5.

This issue is therefore procedurally barred. “[F]ailure to make a contemporaneous

(Miss.Ct.App.2005) (quoting *Mitchell v. Gltmm*, 819 So.2d 548, 552 (Miss.Ct.App.2002)).

Furthermore, “an objection on one or more specific grounds constitutes a waiver of all other grounds.” *Burns v. State*, 729 So.2d 203, 219 (Miss.1998). By failing to object at trial, Glenn has waived her right to raise this issue on appeal. Accordingly, this assignment of error is without merit and the jury’s verdict and the ruling of the trial court should be affirmed.

Further, assuming *arguendo* that this issue is not barred, regarding jury instructions, the trial court possesses considerable discretion. *Bickham v. Grant*, 861 So.2d 299, 301 (Miss.2003) citing *Southland Enters. v. Newton County*, 838 So.2d 286, 289 (Miss.2003) (citing *Splain v. Hines*, 609 So.2d 1234, 1239 (Miss.1992)). A party is entitled to a jury instruction if it concerns a genuine issue of material fact and there is credible evidence to support the instruction. *Mariner Health Care, Inc. v. Estate of Edwards*, 964 So.2d 1138, 1156 (Miss.2007) (citing *DeLaughter v. Lawrence County Hosp.*, 601 So.2d 818, 824 (Miss.1992)). While a party is entitled to jury instructions that present his theory of the case, this entitlement is limited; the trial court may refuse an instruction which incorrectly states the law, is covered fairly elsewhere in the instructions, or is without foundation in the evidence. *Ford v. State*, 975 So.2d 859, 863 (Miss.2008) (citing *Howell v. State*, 860 So.2d 704, 745 (Miss.2003)). “On the other hand, it would be error to grant an instruction which is likely to mislead or confuse the jury as to the principles of the law applicable to the facts in evidence.” *Southland Enters.*, 838 So.2d at 289 (citing *McCary v. Caperton*, 601 So.2d 866, 869 (Miss.1992)).

On appellate review of the trial court's grant or denial of a proposed jury instruction, an

v. *Lott*, 566 So.2d 1266, 1269 (Miss.1990)). The reviewing court asks whether the instruction at issue contained a correct statement of law and was warranted by the evidence. *Beverly Enters. v. Reed*, 961 So.2d 40, 43-44 (Miss.2007) (citing *Hill v. Dunaway*, 487 So.2d 807, 809 (Miss.1986)). Reviewing courts will reverse based on the denial of an instruction upon a showing that the granted instructions, taken as a whole, do not fairly present the applicable law. *Mariner Health Care*, 964 So.2d at 1156 (citing *Whitten v. Cox*, 799 So.2d 1, 16 (Miss.2000)). Thus, “[i]f other instructions granted adequately instruct the jury, a party may not complain of a refused instruction on appeal.” *Southland Enters.*, 838 So.2d at 289 (citing *Purina Mills, Inc. v. Moak*, 575 So.2d 993, 996 (Miss.1990)). In analyzing the aggregate jury instructions, “[d]efects in specific instructions will not mandate reversal when all of the instructions, taken as a whole fairly-although not perfectly-announce the applicable primary rules of law.” *Beverly Enters.*, 961 So.2d at 43 (citing *Burton v. Barnett*, 615 So.2d 580, 583 (Miss.1993)).

As the trial court noted, Instruction C-1 clearly covered the requirements of proof beyond a reasonable doubt. (Tr. 490-491) The trial court was well within its discretion to refuse Jury Instruction D-5 as it was adequately covered elsewhere in the instructions given by the court and the instructions as a whole fairly announce the applicable primary rules of law. This issue is without merit and the jury’s verdict and the rulings of the trial court should be affirmed.

**II. The verdict was consistent with the overwhelming weight of the evidence and should be affirmed.**

Glenn argues that the trial court erred by denying his motion for new trial. A motion for

discretion standard of review. *Id.* On appeal, the court views the evidence in the light most favorable to the verdict and will not reverse unless “it is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice.” *Bush v. State*, 895 So.2d 836, 844 (Miss.2005).

The standard of review of a denial of a motion for new trial has recently been stated as such:

[w]hen reviewing a denial of a motion for a new trial based on an objection to the weight of the evidence, we will only disturb a verdict when it is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice. We have stated that on a motion for new trial, the court sits as a thirteenth juror. The motion, however, is addressed to the discretion of the court, which should be exercised with caution, and the power to grant a new trial should be invoked only in exceptional cases in which the evidence preponderates heavily against the verdict. However, the evidence should be weighed in the light most favorable to the verdict. A reversal on the grounds that the verdict was against the overwhelming weight of the evidence, “unlike a reversal based on insufficient evidence, does not mean that acquittal was the only proper verdict.” Rather, as the “thirteenth juror,” the court simply disagrees with the jury's resolution of the conflicting testimony. This difference of opinion does not signify acquittal any more than a disagreement among the jurors themselves. Instead, the proper remedy is to grant a new trial.

*Jones v. State*, 962 So.2d 1263, 1277 (Miss.2007) (quoting *Bush v. State*, 895 So.2d 836, 844 (Miss.2005)) (internal citations omitted).

Ample evidence was presented at trial to support Glenn’s conviction. The testimony of David Stokes is compelling. He was 17 years old and was in a sexual relationship with a woman

driving her around in exchange for dope, living in her home with her when her boyfriend was not present. The evidence further established that Karrie Glenn was unhappy in her marriage and that she did not want the trouble of dealing with an ex-husband. There was testimony that Karrie Glenn stated that the only way she could avoid that problem was to ensure that her husband was dead. Stokes' testimony establishes that Karrie Glenn took advantage of his dependence on her and asked him to kill her husband for love. She played on his weakness by telling him that her husband had hit her in order to induce him to kill Tony Glenn for her. The evidence established that she gave him the gun, a gun which she had purchased as a present for her husband. The evidence established that she gave the loaded gun to Stokes, asked him if he loved her, and upon his reply of yes, told him "Then go and do it."

Evidence established that she attempted to frame her neighbor Wayne Young for the murder, but didn't know that Young had an alibi - he was out in the Gulf butterfishing at the time of the murder. Evidence established that Karrie Glenn made sure her child was out of the house on a day when she normally would have stayed home with her father. Officer McClenin's testimony established that she had ample time to take her children to their grandmother's house and make it back to the house on Martin Young Road to give Stokes the gun and the final emotional push to kill her husband for her.

Based on the foregoing, the jury's verdict was supported by the overwhelming weight of the evidence and the Trial Court correctly denied Glenn's Motion for a New Trial.

**III. The assignments of error presented by Glenn are without merit and therefore there**



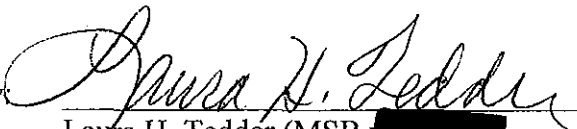
assignments of error have been set out by the Appellant. *Ruffin v. State*, 992 So.2d 1165, 1179 (Miss.2008). Therefore, this issue is without merit.

### **CONCLUSION**

The assignments of error presented by the Appellant, Karrie Glenn, are without merit and the jury's verdict and the rulings of the trial court should be affirmed.

Respectfully submitted,

JIM HOOD, ATTORNEY GENERAL  
STATE OF MISSISSIPPI

By   
Laura H. Tedder (MSB [REDACTED])  
Special Assistant Attorney General

OFFICE OF THE ATTORNEY GENERAL  
POST OFFICE BOX 220  
JACKSON, MISSISSIPPI 39205-0220  
TELEPHONE: (601) 359-3680

**CERTIFICATE OF SERVICE**

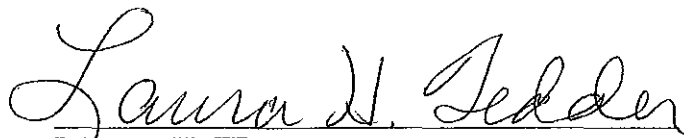
and foregoing **BRIEF FOR THE APPELLEE** to the following:

Honorable Robert P. Krebs  
Circuit Court Judge  
P. O. Box 998  
Pascagoula, MS 39568-1959

Honorable Anthony Lawrence, III  
District Attorney  
P. O. Box 1756  
Pascagoula, MS 39568-1756

George S. Shaddock, Esquire  
Attorney At Law  
P. O. Box 80  
Pascagoula, MS 39568-0080

This the 2 day of July, 2009.

  
LAURA H. TEDDER  
SPECIAL ASSISTANT ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
POST OFFICE BOX 220  
JACKSON, MISSISSIPPI 39205-0220  
TELEPHONE: (601) 359-3680