

KARRIE LYNETTE GLENN

APPELLANT

VERSUS

STATE OF MISSISSIPPI

APPELLEE

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Justices of the Supreme Court and/or the Judges of the Court of Appeals may evaluate possible disqualification or recusal.

CIRCUIT JUDGE PRESIDING:

The Honorable Robert P. Krebs
Circuit Judge
Post Office Box 998
Pascagoula, MS 39568-0998

FOR THE APPELLANT:

Karrie Lynette Glenn,
Appellant
5203 Friar Tuck Avenue
Pascagoula, MS 39567

George S. Shaddock, Esq.
Trial and Appellate Counsel for the Appellant
Post Office Box 80
Pascagoula, MS 39568-0080

David Futch, Esq.
Co-Trail Counsel for the Appellant
235 Ratliff Street
Lucedale, MS 39452

Attorney General for the State of Mississippi
Post Office Box 220
Jackson, MS 39205-0220

The Honorable Anthony Lawrence, III, District Attorney
The Honorable Angel Myers – Assistant District Attorney
Post Office Box 1756
Pascagoula, MS 39568-1756

A handwritten signature in black ink, appearing to read "George S. Shaddock", written over a horizontal line.

GEORGE S. SHADDOCK

Attorney of Record for
the Appellant

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2. Whether the Verdict, (CP-73), in this case is contrary to law and against the overwhelming weight of the credible evidence adduced at trial.

3. Whether the cumulative errors in this trial resulted in a basically unfair trial of the Defendant.

STATEMENT OF THE CASE

PROCEDURAL HISTORY AND DISPOSITION IN THE COURT BELOW

It is to be remembered through this appeal, the trial of Karrie Lynette Glenn that commenced on August 11, 2008, was a retrial of May 19, 2008, that resulted in a mis-trial. As such, the record of this trial is somewhat abbreviated; however, much of the same discovery and exhibits at Round One were used in Round Two by the parties.

The State, prior to trial, filed several Motions, (CP-7, 10, 14 and 16), in an effort to clean up certain areas of the first trial's transcript for its use at the second trial. Glenn, to object to certain allegations on the part of the State, and to limit any use of any prior statement for impeachment purposes only in her Motion in Limine. (CP-18) After certain remedial discovery productions by the parties, the case was ready for trial.

Round Two in the State versus Glenn case commenced on August 11, 2008, with the trial court's consideration of the above Motions. The trial judge in total, limited use of the prior testimonies for impeachment purposes only. (T-29 and 30)

killer of Tony Glenn on July 27, 1998. After denial of her Motion for Judgement of Acquittal, Karrie Glenn called three witnesses, including herself, in her defense. There were no rebuttal witnesses for either Glenn or the State, The Jury then found Glenn guilty of murder, (CP-73), and the trial judge on August 15, sentenced Glenn to a Life term of incarceration on August 15, 2008.

Glenn timely filed her Motion for New Trial on August 22, 2008, (CP-75), and at the hearing on this Motion on September 4, 2008, the trial judge denied same. (CP-77) From these adverse decisions, Glenn timely perfected her appeal to this Court. (CP-78, 81 and 89). Glenn has been incarcerated since that time.

FACTUAL STATEMENT OF THE CASE:

Tony Glenn, Karrie's husband, was murdered by David Stokes sometime between 6:45 and 7:30 he morning of July 27, 1998 at the Glenn home on Martin Young Road near Moss Point, Mississippi. At this time, Tony and Karrie had been married approximately eight years, and were the parentsof two children, Samantha, 7 at the time of the murder, and her younger brother, Ryan, a toddler at this time. Tony Glenn was in the seafood business, both on the boats and as a driver, and Karrie was a home health nurse.

The couple liked to jet ski and party with local friends in their time off. Also, the couple were minor players in the drug business in Jackson County, primarily marijuana.

the couple would pick them up after jet-skiing for a bit after work.

These plans were permanently destroyed when, at approximately 10:45 that morning, Karrie was paged at her patient appointment, and upon calling, found that something bad had happened to Tony. When arriving at her home from Biloxi, Karrie was not allowed in her home, but was informed that Tony had died from two gunshot wounds. Karrie then left to go to her mother-in-law's home and regroup herself.

Shortly after the murder, Karrie and the children, with the help of their entire Family, then moved to Friar Tuck Avenue in Pascagoula, never to return to Pecan Road.

The, after the arrest of David Stokes in South Carolina, a search warrant was served on Karrie Glenn at her home on Friar Tuck, and on October 2, 2007, Karrie was Indicted, (CP-367), for the murder of Tony Glenn under **Miss. Code 1972, Ann., Sec. 97-3-19(1)(a)**. After her initial trial ended in a mistrial , Karrie Glenn was re-tried in this instant action and found guilty of Tony's murder. David Stokes pled guilty prior to trail, and was sentenced under the manslaughter statute.

an individual in 2007 to contact David Stokes in South Carolina about the July, 1998 murder of Tony Glenn, this “cold case” was reopened. To their credit, the Jackson County authorities did follow up this tip and in August, 2007 confronted Stokes at his home in Charleston, South Carolina. Stokes broke down, confessed his guilt, and was returned to Mississippi for prosecution.

But Stokes need and out from his predicament and his out was Karrie Glenn, the widow of Tony Glenn. And from this came a bazzare tale of love affairs, drug dealing and abuse of Karrie on the part of Tony Glenn. There was a shotgun, money, drugs and insurance money in this tale. But none were found. No abuse was found. Ten years later, the tale was fabricated and supported only by Stokes and three other individuals in Stokes’ immediate circle.

Karrie Glenn was convicted of murder in a travesty of a prosecution. She and the two children of her marriage with Tony left the life-style of 1998 and moved on to a much better future for all. To take away this future on a fabricated conviction of Karrie would only compound this ten plus year tragedy.

In the argument and authorities to follow, Karrie Glenn requests this Court to Correct this injustice.

This issue is of fundamental importance to Glenn's defense. The proffered Jury Instruction D-5, was a merger of the **Mississippi Model Jury Instructions -- Criminal, Nos. 1:10 and 1:11**, on reasonable doubt with some expansion of the example of reasonable doubt, as in found in the Federal Model Instruction. The transcript of the record on the argument on jury instructions show the trial judge's reasoning that : "D-5 is set out in the Court's instruction C-1". (T-484) This is perhaps true in Paragraph 2 of C-1; however Glenn submits this did not go far enough for proper jury guidance on this critical issue.

Glenn submits that if ever there was reasonable doubt as to someone with a desire to murder her husband Tony, this is such a case. As will be argued in the issue with the "border-;line" lifestyle as lived by the Glenn's in the Summer of 1998, there would be numerous individuals who were possessed with means, opportunity and motive to do away with Tony Glenn. The brief marital spats between Tony and Karrie do not add up to predetermination to kill. In denying this Instruction, the trial court effectively denied Glenn the ability to present a critical issue underlying her defense.

STANDARD OF REVIEW

As a general standard, jury instructions should fairly state the law, be supported by the facts and other evidence at trial, and not be unnecessarily duplicative of each other. *Wells v. State*, 913 So.2d 1052 (Miss.App. 2005) The instructions should also be considered as a whole. A defendant is entitled to have proper jury instructions which

198 (Miss. 2005) Thus, when a defendant's instruction meets these requirement and presents his defense, the improper denial of the proffered instruction is reversible error. *Hester v. State*, 602 So.2d 869 (Miss. 1992)

LEGAL PRINCIPLES

The murder of Tony Glenn was the tragic result of living on the edge with some less than "model citizens." When it comes to drugs and "easy" money, violence often is common ending to any dispute. When this question is posed as to Karrie Glenn, other than the rare, minor spats between herself and Tony and the two-time "cheating" sexually with David Stokes a year prior to the murder, (T-428), there is nothing in the record of this case to suggest a continuing amis on the part of Karrie to Tony. There is no credible evidence of deliberate design on the part of Karrie. As such, the requirements of *Worthan v. State*, 883 So.2d 599 (Miss.App. 2004), are not met to support the trial court's denial of D-5. In addition to outlining the elements of the case from the evidence adduced at trial, D-5, also gave the Jury empaneled a "cautionary flag" that could give rise to a reasonable doubt as to murder. *Moore v. State*, 787 So.2d 1282 (Miss. 2001)

Standing alone, the concept of reasonable doubt is not an affirmative defense that would sustain a not guilty verdict; however, when coupled with undisputed evidence that would create a reasonable doubt regarding guilt, the instruction should be granted. *United States v. John*, 309 F.3d 298 (5th Cir., Miss. 2002) This was not covered fully by any other instruction that did properly explain reasonable doubt, and

2. Whether the Verdict, (CP-73), in this case is contrary to law and against the overwhelming weight of the credible evidence adduced at trial.

At the close of the State's case-in-chief, Glenn timely made her Motion for Judgement of Acquittal, (T-403), and at the close of the entire testimony at trial, renewed this Motion. (T-482) Both Motions were denied by the trial court. But for the "bought and paid for" testimony of David Stokes, there was no indirect or direct evidence linking Glenn to this tragedy.

The contrast between Stokes and Glenn is striking. Stokes, at the time of the murder, had already served as an informant for Jackson County authorities in a drug transaction in exchange for leniency in his sentence. (T-333) In spite of his professed love for Karrie, (T-335), he left for Charleston, South Carolina with his girlfriend within a week of the murder of Tony. (T-335). And, when brought into Court to testify against Karrie, the State had to request to remove his arm shackles. (T-295)

Karrie in contrast, after leaving the Martin Young Road property, settled in Pascagoula with her children, never remarried, and continued her progress in her nursing career. A very good and unremarkable life until late Summer, 2007, when the nightmare of her prosecution began.

It is equally instructive that of the fact witness called by the State, three, Rufus Young, Todd Johnson and Wayne Young, had a rather checkered past with Jackson County authorities. Add to this: (1) no gun, (2) no money, (3) no drugs, and (4) no

STANDARD OF REVIEW

It is well established that matters regarding the weight and credibility accorded to evidence are to be resolved by the jury. *McIntosh v. State*, 917 So.2d 78 (Miss. 2005) Further, when considering a questioned jury verdict, the appellate court will not reverse a jury verdict unless failure to do so would sanction as unconscionable injustice. *Swan v. State*, 806 So.2d 1111 (Miss. 2002) Finally, when the legal sufficiency of the evidence is challenged on appeal, the appellate court's review authority is limited. *Manning v. State*, 783 So.2d 516 (Miss. 1990), other citations omitted.

In spite of this extremely high burden of persuasion, Karrie Glenn submits her case is one that requires this review, In the argument below, she will discuss two main areas in the course of her trial that demonstrate her assertion that the Jury in her case was guided more by its instincts and passion than reason.

LEGAL PRINCIPLES

When one objectively looks at the issue of any intent and/or deliberate design on the part of Karrie Glenn of either murder or cause the murder of her husband, there is absolutely no hard proof of such intent in this trial. Excepting only the occasional marital spats between the two, and underlying aura of the Glenns' minor participation in drug trafficking, there is no credible proof of anything else. Other than the technical testimony of the State's experts and officers, and the family testimony of Marjorie Glenn and Brenda Carpenter, there were the four felons. And, but for Stokes' testimony

3. Whether the cumulative error in this trial resulted in a basically unfair trial of the Defendant.

To be sure, this is a judgement call, and one of perception. As a rule, of it appears to a reasonable person that the accused at trial did not have a real defense to his charges, and the conduct of the trial was such to demonstrate this, the question of fairness is raised. An examination of the entire record in Karrie Glenn's trial show a classic example of overkill.

STANDARD OF REVIEW

A defendant cannot expect a perfect trial, but she is guaranteed a fair and impartial trial. These guarantees have long been established. The trial requires fair, impartial jurors who are willing to be guided by the testimony and other evidence as presented at trial, together with the law as announced by the court. It also requires that the defendant be tried in an atmosphere that is free from bias, hatred or prejudice against the defendant and her theory of defense, if reasonable. *Seals v. State*, 44 So.2d 61 (Miss. 1950); *U.S.C., Const. Amend. 6; Const. 1890, Sec. 26*.

LEGAL PRINCIPLES

This cannot be said about Karrie Glenn's prosecution and trial. Once David Stokes was confronted by Jackson County authorities in the revival of the murder of Tony Glenn nine years earlier, his mind set was purely and simply to get his best

unstoppable. ***United States v. Jennings***, 491 F.Supp 2d 1072 (M.D. Ala. 2007)

This pattern continued pre-trial when the State attempted to sanitize the previous trial's record, and the background of some of Karrie's accusers. To be sure, the trial judge showed great discretion in his rulings on these motions, (T-28 to 31), but there were enough scraps of garbage left on the ground to prejudice Glenn. In allowing the trash to testify without fear on the part of her accusers, a fair trial went out the window. ***Kelly v. State***, 735 So.2d 1071 (Miss.App. 1999)

The above, coupled with the insufficient jury instructions presented to the Jury, ***Edwards v. State***, 755 So.2d 443 (Miss.App. 1999), left a jury making its decision guided only by its instincts, passion and prejudice. The State was given an open road to convict Karrie Glenn of murder. ***Griffin v. State***, 557 So.2d 542 (Miss. 1990)

When the sum of these errors and near error are totaled, Karrie Glenn submits a reasonable person would conclude that she was denied a fair and impartial trial. ***McGee v. State***, 820 So.2d 700 (Miss.App. 2000); accord ***Ross***, Ante. Karrie Glenn should be entitled to a reversal and rendering of the Jury Verdict, (CP-73), of the Circuit Court of Jackson County, or in the alternative, a reversal and remand for a new trial.

had changed her playground and playmates for something far better for herself and her children. Her four main accusers, even ten years later, had not. This just doesn't pass the smell factor.

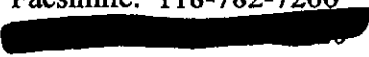
Karrie Glenn submits that in the argument above, together with the facts and circumstances of this case, she has presented abundant grounds for this Court's reversal of the Jury Verdict and Sentence of the Circuit Court of Jackson County. She respectfully requests this Court's decision to that effect.

Respectfully submitted this, the 1st day of April, 2009.

KARRIE LYNETTE GLENN,
Appellant

By: 

GEORGE S. SHADDOCK
Attorney of Record for
the Appellant

GEORGE S. SHADDOCK
Post Office Box 80
704 Watts Avenue
Pascagoula, MS 39568-0080
Telephone: 228-762-7188
Facsimile: 118-782-7266


Glenn, do hereby certify that I have this day filed the original and three (3) true and correct copies of the above and foregoing Brief of Appellant with the Honorable Betty W. Sephton, Clerk of the Supreme Court and Court of Appeals of the State of Mississippi at Jackson, Mississippi.

I further certify that I have mailed a true and correct copy thereof by United States Mail, postage prepaid, to the following listed persons:

The Honorable Jim Hood,
Attorney General of the State of Mississippi
Post Office Box 220
Jackson, MS 39205-0220

The Honorable Robert P. Krebs,
Circuit Court Judge
Post Office Box 998
Pascagoula, MS 39568-0998

The Honorable Anthony Lawrence, III, District Attorney
The Honorable Angel Myers, Assistant District Attorney
Post Office Box 1756
Pascagoula, MS 39568-1756

CERTIFIED this, the 15th day of April, 2009.



GEORGE S. SHADDOCK