Supreme Court of Louisiana

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FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the **29th day of January, 2020** are as follows:

PER CURIAM:

2019-K-00369 STATE OF LOUISIANA VS. CHARLES P. MAYEUX, JR. AKA CHARLES P. MAYEUX (Parish of Avoyelles)

We granted this application to consider whether the State's circumstantial case against the defendant is sufficient to support his conviction for second degree murder, La.R.S. 14:30.1. Finding the State presented sufficient evidence for the jury to rationally conclude that defendant killed his wife when he had the specific intent to kill or to inflict great bodily harm, we affirm.

AFFIRMED.

Retired Judge James H. Boddie, Jr., appointed Justice ad hoc, sitting for Justice Marcus R. Clark.

Johnson, C.J., additionally concurs and assigns reasons.
Genovese, J., dissents and assigns reasons.

01/29/20

SUPREME COURT OF LOUISIANA

No. 2019-K-00369

STATE OF LOUISIANA

versus

CHARLES P. MAYEUX, JR. AKA CHARLES P. MAYEUX

ON WRIT OF CERTIORARI TO THE THIRD CIRCUIT COURT OF APPEAL, PARISH OF AVOYELLES

PER CURIAM:*

We granted this application to consider whether the State's circumstantial case against the defendant is sufficient to support his conviction for second degree murder, La.R.S. 14:30.1. Finding the State presented sufficient evidence for the jury to rationally conclude that defendant killed his wife when he had the specific intent to kill or to inflict great bodily harm, we affirm.

In the early morning hours of March 21, 2015, defendant called 911 to report a fire at his home in Evergreen. When the fire was extinguished, the charred body of defendant's wife, Shelly Mayeux, was discovered. It is undisputed that Shelly died before the fire, as neither carbon monoxide nor soot were found in her lungs or airway. But no expert could determine the cause of her death. A fire investigator opined that the fire was intentionally set. Defendant and his wife were the only two people in the home when the fire started.

The State indicted defendant for second degree murder, alleging that he killed his wife and set his house on fire to conceal evidence of that crime. An Avoyelles Parish jury found defendant guilty as charged by a 10-2 verdict. The

* Retired Judge James Boddie Jr., appointed Justice ad hoc, sitting for Justice Marcus R. Clark.

court of appeal found the evidence sufficient to support the conviction. *State v. Mayeux*, 18-0097 (La. App. 3 Cir. 2/6/19), 265 So.3d 1096. After reviewing the record, the argument of the parties, and the law, we agree with the court below that the evidence sufficed to exclude every reasonable hypothesis of innocence and that the jury's verdict is not irrational.

"In reviewing the sufficiency of the evidence to support a conviction, an appellate court in Louisiana is controlled by the standard enunciated by the United States Supreme Court in *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979) . . . . [T]he appellate court must determine that the evidence, viewed in the light most favorable to the prosecution, was sufficient to convince a rational trier of fact that all of the elements of the crime had been proved beyond a reasonable doubt." *State v. Captville*, 448 So.2d 676, 678 (La. 1984). Where a conviction is based on circumstantial evidence, as is the case here, the evidence "must exclude every reasonable hypothesis of innocence." La.R.S. 15:438.

In addition, the *Jackson* standard of review does not allow a jury to speculate on the probabilities of guilt where rational jurors would necessarily entertain a reasonable doubt. *State v. Mussall*, 523 So.2d 1305, 1311 (La. 1988) (citing 2 C. Wright, *Federal Practice & Procedure, Criminal 2d*, § 467). The requirement that jurors reasonably reject the hypothesis of innocence advanced by the defendant in a case of circumstantial evidence presupposes that a rational rejection of that hypothesis is based on the evidence presented, not mere speculation. *See State v. Schwander*, 345 So.2d 1173, 1175 (La. 1978). Nonetheless, the *Jackson* standard "leaves juries broad discretion in deciding what inferences to draw from the evidence presented at trial, requiring only that jurors 'draw reasonable inferences from basic facts to ultimate facts.'" *Coleman v.*

Johnson, 566 U.S. 650, 655, 132 S.Ct. 2060, 2064, 182 L.Ed.2d 978 (2012).

Review under the *Jackson* due process standard encompasses all of the evidence, inadmissible as well as admissible, introduced at trial. *See State v. Hearold*, 603 So.2d 731, 734 (La. 1992) ("[W]hen the entirety of the evidence, both admissible and inadmissible, is sufficient to support the conviction, the accused is not entitled to an acquittal, and the reviewing court must then consider the assignments of trial error to determine whether the accused is entitled to a new trial.") (citing *Lockhart v. Nelson*, 488 U.S. 33, 109 S.Ct. 285, 102 L.Ed. 2d 265 (1988)). Defendant here contends evidence he abused and threatened his wife as well as previous romantic partners should have been excluded from trial. Whether correctly admitted or not, we consider this evidence when evaluating the sufficiency of the evidence to support the verdict.

The State's case against defendant here is entirely circumstantial, and the most significant piece of the puzzle—the victim's cause of death—remains unknown, but the circumstantial evidence as a whole is quite incriminating. While it is more thoroughly summarized by the court of appeal, we highlight just some of the circumstantial evidence here. First, we note that defendant was an assistant fire chief who had firefighting equipment available to him—both in his carport and at the fire station, which was short distance away. Nonetheless, he made no effort to aid the victim or fight the fire and simply called 911 and waited. Second, defendant and the victim had a volatile relationship marked by domestic abuse and his threats to kill her, and he had also similarly abused and threatened previous romantic partners. Third, defendant made statements that were demonstrably false, such as claiming his wife had just miscarried, and he alleged personal movements that did not match the movements of his cell phone. *See Captville*, 448 So.2d at 680 n.4

("[A] finding of purposeful misrepresentation reasonably raises the inference of a 'guilty mind,' just as in the case of . . . a material misrepresentation of facts by a defendant following an offense. 'Lying' has been recognized as indicative of an awareness of wrongdoing.") (internal citations omitted).

In addition, defendant exercised his right under the state and federal constitutions to testify on his own behalf. Interestingly, the United States Supreme Court did not explicitly find that a defendant in a criminal trial had a due process right to testify on his own behalf until *Rock v. Arkansas*, 483 U.S. 44, 107 S.Ct. 2704, 97 L.Ed.2d 37 (1987), although that right had been assumed much earlier. *See Nix v. Whiteside*, 475 U.S. 157, 164, 106 S.Ct. 988, 993, 89 L.Ed.2d 123 (1986) ("Although this Court has never explicitly held that a criminal defendant has a due process right to testify in his own behalf, cases in several Circuits have so held, and the right has long been assumed.").[1] The present Louisiana Constitution also guarantees that right. *See* La. Const. Art. I, § 16.[2] In exercising

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[1] The Supreme Court noted further that, before the right to testify on one's own behalf was recognized, defendants had in fact been disqualified from testifying under a theory of personal bias:

> The right of an accused to testify in his defense is of relatively recent origin. Until the latter part of the preceding century, criminal defendants in this country, as at common law, were considered to be disqualified from giving sworn testimony at their own trial by reason of their interest as a party to the case. *See, e.g., Ferguson v. Georgia*, 365 U.S. 570, 81 S.Ct. 756, 5 L.Ed.2d 783 (1961); R. Morris, *Studies in the History of American Law* 59–60 (2d ed. 1959). Iowa was among the states that adhered to this rule of disqualification. *State v. Laffer*, 38 Iowa 422 (1874).
>
> By the end of the 19th century, however, the disqualification was finally abolished by statute in most states and in the federal courts. Act of Mar. 16, 1878, ch. 37, 20 Stat. 30–31; *see* Thayer, *A Chapter of Legal History in Massachusetts*, 9 Harv.L.Rev. 1, 12 (1895).

Whiteside, 475 U.S. at 164, 106 S.Ct. at 992–993.

[2] Louisiana was, at one point, among the jurisdictions that disqualified a criminal defendant from testifying on his own behalf:

> . . . Finally, our lawmakers, in their wisdom, and realizing the fallacy of the

that right, defendant ran the risk that the jury would not believe him, as indeed the jury did here.

We have repeatedly cautioned that the *Jackson* due process standard does not permit a reviewing court to substitute its own appreciation of the evidence for that of the fact finder or to second guess the credibility determinations of the fact finder necessary to render an honest verdict. *See, e.g.*, *State ex rel. Graffagnino v. King*, 436 So.2d 559, 563 (La. 1983). A reviewing court may intrude on the plenary discretion of the fact finder "only to the extent necessary to guarantee the fundamental protection of due process of law." *Mussall*, 523 So.2d at 1310 (footnote and citation omitted). Thus, when a jury reasonably and rationally rejects the exculpatory hypothesis of innocence offered by a defendant's own testimony, an appellate court's task in reviewing the sufficiency of the evidence under the Due Process Clause is at an end unless an alternative hypothesis "is sufficiently reasonable that a rational juror could not 'have found proof of guilt beyond a reasonable doubt.'" *Captville*, 448 So.2d at 680 (quoting *Jackson*, 443 U.S. at 324, 99 S.Ct. at 2792). Here, the jury rejected the exculpatory hypothesis of innocence offered by defendant's own testimony, and there is no alternative hypothesis that is sufficiently reasonable so as to render the jury's determination irrational.

> reason for considering the accused to be incompetent to testify in his own defense-that he, being an interested party, would be incapable of answering truthfully-adopted laws relieving the accused of this incapacity.
>
> In Louisiana, the legislature of 1886 (then called the General Assembly), by its adoption of Act 29, declared that "the circumstance of the witness being a party accused, shall in no wise disqualify him from testifying; provided, that no one shall be compelled to give evidence against himself," and provided further, "that his failure to testify shall not be construed for or against him". While this act was amended in 1902 and 1904, Acts 185 and 41 respectively, no changes were made that are pertinent here until the last above quoted language was changed by Act 157 of 1916, LSA-RS 13:3665, to provide that the defendant's "neglect or refusal to testify shall not create any presumption against him."

State v. Bentley, 219 La. 893, 903, 54 So.2d 137, 140 (1951).

Finally, defendant contends the district court erred in admitting evidence he abused and threatened his wife as well as his previous romantic partners, which abuse included incidents of choking. The court of appeal thoroughly examined these claims and we have little to add to that court's analysis, other than to note that La.C.E. art. 412.4 also applies here. Article 412.4 provides:

> A. When an accused is charged with a crime involving abusive behavior against a family member, household member, or dating partner or with acts which constitute cruelty involving a victim who was under the age of seventeen at the time of the offense, evidence of the accused's commission of another crime, wrong, or act involving assaultive behavior against a family member, household member, or dating partner or acts which constitute cruelty involving a victim who was under the age of seventeen at the time of the offense, may be admissible and may be considered for its bearing on any matter to which it is relevant, subject to the balancing test provided in Article 403.
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> B. In a case in which the state intends to offer evidence under the provisions of this Article, the prosecution shall, upon request of the accused, provide reasonable notice in advance of trial of the nature of any such evidence it intends to introduce at trial for such purposes.
>
> C. This Article shall not be construed to limit the admissibility or consideration of evidence under any other rule.
>
> D. For purposes of this Article:
>
> (1) "Abusive behavior" means any behavior of the offender involving the use or threatened use of force against the person or property of a family member, household member, or dating partner of the alleged offender.
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> (2) "Dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.
>
> (3) "Family member" means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, and foster children.
>
> (4) "Household member" means any person having reached the age of

> majority presently or formerly living in the same residence with the offender as a spouse, whether married or not, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

This article was enacted by 2016 La. Acts 399, and amended to encompass abusive behavior against dating partners by 2017 La. Acts 84, which amendment became effective on August 1, 2017 (before defendant's trial began on August 28, 2017). While the State did not invoke Article 412.4 in the district court, it (as the prevailing party in the evidentiary rulings) is not precluded from doing so now, provided the State's new invocation of the article does not require going outside of the record. *See State v. Butler*, 12-2359 (La. 5/17/13), 117 So.3d 87, 89. Here, defendant's previous abuse, including choking, of his spouse and his dating partners was admissible under Article 412.4.

Accordingly, for the reasons above, we affirm defendant's conviction and sentence.

AFFIRMED

01/29/20

SUPREME COURT OF LOUISIANA

No. 2019-K-00369

STATE OF LOUISIANA

versus

CHARLES P. MAYEUX, JR. AKA CHARLES P. MAYEUX

ON WRIT OF CERTIORARI TO THE THIRD CIRCUIT COURT OF APPEAL, PARISH OF AVOYELLES

JOHNSON, C.J. additionally concurs and assigns reasons.

In this case, we have rightly held that rational jurors were convinced beyond a reasonable doubt that Mr. Mayeux, the chief of police and an assistant fire chief of the small town of Evergreen, murdered his wife and made clumsy efforts to conceal it. I write separately to point out that the record reflects that Mr. Mayeux was convicted by a jury vote of 10-2. As I noted in my dissent in *State v. Hodge*, 19-KA-0568 and 19-KA-0569 (La. 11/19/19), one of many problems with Louisiana's 120 year history of permitting non-unanimous jury verdicts is that, "jury deliberations tend to be less robust and shorter when non-unanimous verdict rules are in place. That is, once the minimum number of votes are achieved, deliberations end, regardless of the desire of the minority to continue deliberating." *Ramos v. Louisiana*, No. 18-5924, Joint Appendix, p. 25-83.[1] In some cases, the requirement of unanimity would have forced longer jury deliberations, which may have prevented an unjust conviction. In others, the requirement of unanimity may have simply extended the deliberations long enough that every juror's voice was heard and each agreed with the result. But in so many cases, for too long, neither happened.

[1] https://www.supremecourt.gov/DocketPDF/18/18-5924/102616/20190611121914120_18-5924%20Joint%20Appendix%20-%20Final.pdf; 2018 WL 8545357, *24-71, 53).

"Other than voting, serving on a jury is the most substantial opportunity that most citizens have to participate in the democratic process." *Flowers v. Mississippi*, 139 S. Ct. 2228, 2238 (2019). I believe this law, rooted in racism, has undermined confidence in our criminal legal system.

However in this case, the record reflects that Mr. Mayeux's counsel neither objected to this split jury verdict nor assigned it as error on appeal. Because the issue is not before the Court, I concur in the result reached today.

01/29/20

SUPREME COURT OF LOUISIANA

No. 2019-K-00369

STATE OF LOUISIANA

VS.

CHARLES P. MAYEUX, JR. AKA CHARLES P. MAYEUX

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
THIRD CIRCUIT, PARISH OF AVOYELLES**

GENOVESE, J., dissents and assigns the following reasons.

In 1970, the Supreme Court declared that the Due Process Clause "protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 1073, 25 L.Ed.2d 368 (1970). But long before *Winship*, the universal rule in this country was that the prosecution must prove guilt beyond a reasonable doubt. The majority in this case, however, finds a series of suspicious circumstances—falling far short of proof of every element of the crime beyond a reasonable doubt—sufficient to convict this defendant of second degree murder and imprison him for the rest of his life.

This is strictly a circumstantial evidence murder case. There is no direct evidence linking the defendant to a homicide or, arguably, even proof of a homicide at all. In a non-unanimous 10-2 verdict, a jury found the defendant guilty of second degree murder, and he was sentenced to life imprisonment at hard labor "without benefits." The state's case against the defendant was based solely on negative inferences, speculation, and circumstantial evidence.

Granted, there are considerable negative inferences in this case, but the "rule as to circumstantial evidence is: assuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of

innocence." La.R.S. 15:438. Here, the state failed to prove in any way, shape, or form how the victim died or how the fire started.[1] Even if one assumes that the state proved a "homicide" (as indicated on the amended autopsy report), there is a serious and troubling question as to whether the state proved the precise type of homicide, i.e., was it second degree murder, manslaughter, or negligent homicide. Second degree murder is, after all, a specific intent crime. Here, no evidence at all was presented as to defendant's mens rea, and thus there was no way for the jury to rationally determine whether this was a murder, a manslaughter, or a negligent homicide. Nonetheless, the end result was a murder conviction.

The record in this case does not contain any direct evidence that the victim was murdered, or that the defendant killed her, or that the defendant started the fire at issue. Because there was no evidence of a felony murder or of any illegal drug distribution activity, the state was required to prove that the defendant had the specific intent to kill. La.R.S. 14:30.1(A)(1). I see damaging inferences in the record, but I do not see any proof by the state that the defendant had the specific intent to kill. Therefore, there can be no murder conviction. As previously stated, there is no proof by the state that the defendant set the fire and no proof of the cause of the victim's death—only that the victim was dead before the fire started. Inferences may prove speculation, but neither inference nor speculation in this case excludes every reasonable hypothesis of innocence, which is required in a circumstantial evidence case. Thus, based on insufficiency of proof and evidence excluding every reasonable hypothesis of innocence as required by law, I dissent from the majority opinion in this case.

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[1] The expert medical testimony considered by the jury at trial failed to identify a precise mechanism of death and instead offered only speculation about various ways the victim *could* have died. The expert arson investigator could not state with any particularity what caused the fire to begin, and he was unable to find any evidence of an accelerant that might have been used to start the fire. His conclusion that the fire was incendiary rested entirely upon a circularity that the victim died as the result of a homicide.