

IN THE COURT OF APPEALS 04/22/97
OF THE
STATE OF MISSISSIPPI
NO. 94-KA-00722 COA

WILLIE ROBINSON

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. KEITH STARRETT

COURT FROM WHICH APPEALED: COPIAH COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

M. A. BASS JR.

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL

BY: DEIRDRE MCCRORY

DISTRICT ATTORNEY: DUNN LAMPTON

NATURE OF THE CASE: MURDER

TRIAL COURT DISPOSITION: MURDER: SENTENCED TO SERVE LIFE IMPRISONMENT
IN THE CUSTODY OF MISSISSIPPI DEPARTMENT OF CORRECTIONS

BEFORE THOMAS, P.J., COLEMAN, AND KING, JJ.

THOMAS, P.J., FOR THE COURT:

Willie Robinson appeals his conviction of murder, raising the following issue as error:

I. WHETHER THE TRIAL COURT ERRED IN DENYING THE DEFENDANT'S RIGHT TO CONFRONTATION AND CROSS-EXAMINATION OF THE STATE'S WITNESS?

Finding no error, we affirm.

FACTS

On October 8, 1993, at approximately 8:00 P.M., Stephanie White (White) and Annette and Lewis Smith went to Shannon's Club in Hazlehurst, Mississippi. The club was closed so the three decided to sit on the club's porch and eat. White testified that she saw Willie Robinson (Robinson) drive up to the parking lot in a maroon Chevrolet. While she was watching, a man walked up to the driver's side of Robinson's car and talked with Robinson. White testified that she saw Robinson shoot this man, who was later identified as Jerome Baldwin (Baldwin). After the shooting, Robinson told Baldwin "don't do that shit no more man, don't ever do that shit no more." After Robinson shot Baldwin he sat there and looked at everyone that was on the porch and then slowly drove away.

Annette Smith corroborated White's testimony. Lewis Smith testified about the incident and identified Robinson in the courtroom as the man who had done the shooting. Shenedinn Mitchell (Mitchell) testified that he was at Mack's Store when he heard a gunshot. As he walked toward Shannon's, he saw Robinson, in a maroon Chevrolet, driving away from the club. Robinson passed Mitchell and traveled past Mack's Store. When Mitchell arrived at Shannon's, he saw Baldwin on the ground bleeding from the head.

The Hazlehurst Police Department received a call, around 8:00 P.M. on October 8, 1993, that there had been a shooting at Shannon's Club. When officers arrived Baldwin was found lying in the parking area bleeding from a head wound. Baldwin subsequently died two days later on October 10, 1993.

ANALYSIS

I.

WHETHER THE TRIAL COURT ERRED IN DENYING THE DEFENDANT'S RIGHT TO CONFRONTATION AND CROSS-EXAMINATION OF THE STATE'S WITNESS?

Robinson contends that the trial judge erred in denying him the opportunity to fully develop the decedent's character and reputation during the cross-examination of State's witness Mitchell. He complains that the court's failure to allow him to probe into Baldwin's possible involvement in drug trafficking in Copiah County prejudiced his defense and precluded his rights guaranteed under the Sixth and Fourteenth Amendments of the United States Constitution. The sole issue presented on this appeal deals with the following cross-examination of Mitchell:

Q. Do you know Jerome well?

A. I been knowing him ever since he got here.

Q. Jerome was in the drug business, wasn't he?

By Mr. Rushing: Objection, Your Honor.

By the Witness: I don't know.

By the Court: Just a minute. Is the objection as to relevance?

By Mr. Rushing: Yes, sir.

By the Court: How is this relevant, Mr. Bass?

By Mr. Bass: I will withdraw that question.

By the Court: Proceed, please.

By Mr. Rushing: Your Honor, I would also ask that if he has some evidence of that crime I would like to make a record on it outside the ---

By the Court: Are you asking that the jury be excused?

By Mr. Rushing: Yes, sir.

* * * *

By Mr. Bass: Your Honor, in my investigation of this case and in talking to different people, I had heard rumors that there may have been some drugs involved, and she has the right to answer yes or no, and that's all I was asking, whether she knew whether he was in the drug business. If she didn't know she could say so,---

By Mr. Rushing: ---Your Honor, it's the State's position he had not factual reason for asking that question, no factual basis for that, and the only reason the question was asked was to inflame the passion of the jury, and we ask that when the jury comes back in the jury be informed by the Court that there was no factual basis for that question to be asked---

By Mr. Bass: ---I think, Your Honor, -- I have recently done some investigation and I think there may be a possible connection. I haven't put my case on yet so I---

By Mr. Rushing: ---Your Honor, what he's attempting to do is place before the jury that this might be a person that sells drugs, and the implication to the jury, at least [sic] in my mind, may be that this person is not worth living. There is no factual basis of that, it's highly prejudicial, and it has no basis for being before this jury this morning, even the question being asked.

By the Court: Mr. Bass, have you anything other than heard that he might be a drug dealer?

By Mr. Bass: No, sir, I'm not going to put on any evidence to that effect.

By the Court: All right. I will instruct the jury, Mr. Rushing.

Robinson in his brief states that the fact that the decedent was "in the drug business" was relevant and would have opened an avenue of defense for him; however, he fails to assert what relevance Baldwin's drug dealing would have to this homicide and cross-examinations are not the place for a fishing expedition. The victim's involvement in drug trafficking, even if true, would not have provided any sort of justification for or mitigation of the shooting under these circumstances. "The homicide laws of this State protect all living beings within this jurisdiction, sinners as well as saints, drunks as well as deacons." *Dickerson v. State*, 441 So. 2d 536, 538 (Miss. 1983).

The right of a defendant to confront and cross-examine the witnesses against him is fundamental and cannot be substantially restricted, *Murphy v. State*, 453 So. 2d 1290, 1292 (Miss. 1984), but the right of confrontation is not without limits. Though the scope of cross-examination is ordinarily broad, it is within the sound discretion of the trial judge, who possesses the inherent power to limit cross-examination to relevant matters.

Hewlett v. State, 607 So. 2d 1097, 1100 (Miss. 1992) (citing *Sayles v. State*, 552 So. 2d 1383, 1386 (Miss. 1989); *Foster v. State*, 508 So. 2d 1111, 1114 (Miss. 1987); *Dozier v. State*, 257 So. 2d 857, 859 (Miss. 1972)). "[C]ross-examination on an irrelevant point is not permitted." *Pace v. State*, 473 So. 2d 167, 169 (Miss. 1985) (citing *Blair v. State*, 445 So. 2d 1373 (Miss. 1984)). The scope of cross-examination is within the discretion of the trial judge and the trial court has the inherent power to limit cross-examination to relevant matters. Cross-examination on a collateral matter that has no bearing on the guilt or innocence of the accused, and may inflame the jury's prejudice, is properly excluded as irrelevant. Accordingly, this issue has no merit.

THE JUDGMENT OF THE COPIAH COUNTY CIRCUIT COURT OF CONVICTION OF MURDER, SENTENCED TO SERVE LIFE IMPRISONMENT IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS AND MAKE RESTITUTION IS AFFIRMED. ALL COSTS ARE TAXED TO COPIAH COUNTY.