

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JANUARY 1995 SESSION

**FILED**

**September 27, 1995**

**Cecil Crowson, Jr.**  
Appellate Court Clerk

STATE OF TENNESSEE, \* C.C.A. # 01C01-9409-CR-00305  
APPELLEE, \* DAVIDSON COUNTY  
VS. \* Hon. J. Randall Wyatt, Jr., Judge  
TONY L. BOBO and \* (Voluntary Manslaughter)  
CECIL C. JOHNSON \*  
APPELLANTS. \*

For the Appellants:

For Defendant Bobo:  
Monte D. Watkins, Attorney  
176 Second Avenue North  
Suite 300  
Nashville, TN 37201

For Defendant Johnson:  
Jeffery A. Devasher  
Senior Asst. Public Defender  
and  
Michele S. Hall  
Asst. Public Defender  
(on appeal)

Ross Alderman  
Deputy Public Defender  
1202 Stahlman Building  
Nashville, TN 37201  
(at trial)

For the Appellee:

Charles W. Burson  
Attorney General and Reporter  
450 James Robertson Parkway  
Nashville, TN 37243-0493

Charlotte H. Rappuhn  
Assistant Attorney General  
Criminal Justice Division  
450 James Robertson Parkway  
Nashville, TN 37243-0493

Ronald Miller and Paul DeWitt  
Asst. District Attorneys General  
Washington Square, Suite 500  
222 Second Avenue South  
Nashville, TN 37201

OPINION FILED: \_\_\_\_\_

AFFIRMED

Gary R. Wade, Judge

**OPINION**

\_\_\_\_\_The defendants, Tony L. Bobo and Cecil C. Johnson, originally charged with murder in the first degree, were convicted of voluntary manslaughter.<sup>1</sup> The trial court imposed sentences of eight years for each defendant.

In this appeal of right, each of the defendants challenge the sufficiency of the evidence. Defendant Bobo also argues that the state should not have been permitted to use the term "death row" during the course of the trial.

We find no error and affirm the judgment of the trial court.

On July 7, 1985, the victim, Laron Williams, was killed in the enclosed, exercise yard in Unit Six ("Death Row") of the Tennessee State Penitentiary in Nashville. A scuffle had broken out among several inmates who had been playing cards. The victim was knocked to the ground, punched and kicked by several of the inmates. Corrections Officer Keith Graham observed the defendants repeatedly strike the victim about the head and chest area with dumbbells which were available to the inmates in the yard area for exercise. Medical evidence established that death had resulted from a blow to the top of the skull by a blunt instrument.

Leonard Smith, an inmate on death row, testified for

---

<sup>1</sup>The defendants were originally convicted of second degree murder in this case, but those convictions were reversed and remanded for a new trial by our supreme court in State v. Bobo, 814 S.W.2d 353 (Tenn. 1991).

the defense. He claimed that neither defendant was involved in the scuffle. Inmate Charles Edward Hartman testified that he had observed four officers carrying the victim on a stretcher just after the incident. Hartman claimed that one of the officers suffered a heart attack and dropped his end of the stretcher; when he did so, the victim fell to the ground, hitting his head on the concrete.

Defendant Bobo complains that inconsistencies in the state's evidence precluded a conviction. Defendant Johnson contends that he was inadequately identified by Officer Graham as the perpetrator. Defendant Johnson suggests that Officer Graham, who was perched directly above the exercise yard for the inmates, could not have sufficiently identified the defendants; he argues that Officer Graham had made inconsistent statements about the identity of the various inmates present and, therefore, gave unreliable testimony.

The law, however, is quite clear. A jury verdict, approved by the trial judge, accredits the testimony of the witnesses for the state and resolves all conflicts in favor of the theory of the state. State v. Hatchett, 560 S.W.2d 627, 630 (Tenn. 1978). On appeal, the state is entitled to the strongest legitimate view of the evidence and all reasonable or legitimate inferences which might be drawn therefrom. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978). The credibility of the witnesses, the weight to be given their testimony, and the reconciliation of conflicts in the evidence are matters entrusted exclusively to the jury as triers of

fact. Byrge v. State, 575 S.W.2d 292, 295 (Tenn. Crim. App. 1978). This court may not re-evaluate the evidence or substitute its inferences for those drawn by the trier of fact from the evidence. State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973); Farmer v. State, 574 S.W.2d 49, 51 (Tenn. Crim. App. 1978). A conviction may only be set aside when the reviewing court finds that the "evidence is insufficient to support the finding by the trier of fact of guilt beyond a reasonable doubt." Tenn. R. App. P. 13 (e).

Officer Graham testified that he had a clear view of the incident, which took place at about 4:15 P.M. He stated that "Mr. Johnson and Mr. Bobo picked up some weights and bashed ... Mr. Williams [approximately] four or five times." He described their weapons as "little dumbbells" weighing "about 35 pounds, 40 pounds." While Officer Graham had, in fact, made conflicting statements about the names of the participants in the card game, the record establishes that he had consistently identified the defendants as the perpetrators of the crime. It is the jury's duty to determine the credibility of the witnesses. Here, the jurors simply exercised that prerogative. Clearly, Officer Graham's testimony, standing alone, was sufficient to provide the essential elements of the crime of voluntary manslaughter. Thus, the evidence was sufficient as to each defendant.

Defendant Bobo complains that references to "death row" as the situs of the crime was unduly prejudicial. The record simply does not support that claim. Moreover, defense

counsel made no contemporaneous objection to the use of the term. The failure to object to the admission of evidence results in the waiver of an issue on appeal. Tenn. R. App. P. 36(a). That doctrine applies here.

Accordingly, the judgment is affirmed.

---

Gary R. Wade, Judge

CONCUR:

---

David H. Welles, Judge

---

William S. Russell, Special Judge