

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

FEBRUARY 1996 SESSION

STATE OF TENNESSEE,

Appellee,

VS.

ROBERT CAMPBELL,

Appellant.

\* C.C.A. # O2C01-9506-CC-00165

\* GIBSON COUNTY

\* Hon. Dick Jerman, Jr., Judge

\* (Felony Murder)

\*

**FILED**

**July 26, 1996**

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

For Appellant:

Mike Mosier  
Attorney  
and  
J. Colin Morris  
Attorney  
P.O. Box 1623  
204 West Baltimore  
Jackson, TN 38302-1623

For Appellee:

Charles W. Burson  
Attorney General & Reporter  
  
Sarah M. Branch  
Counsel for the State  
450 James Robertson Parkway  
Nashville, TN 37243-0493

Clayburn Peeples  
District Attorney General

Garry Brown  
Asst. District Attorney General  
109 E. First Street  
Trenton, TN 38382

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

AFFIRMED

GARY R. WADE, JUDGE

## OPINION

The defendant, Robert Campbell, was charged with premeditated murder, felony murder and aggravated robbery. The state sought the death penalty. The jury returned verdicts of guilt for felony murder and aggravated robbery. At the conclusion of the second phase of the trial, the jury returned a verdict of life imprisonment for the felony murder; the trial court imposed a concurrent nine-year sentence for the aggravated robbery.

The sole issue presented on appeal is whether the evidence is sufficient to support the conviction for felony murder. We affirm the judgment of the trial court.

On July 28, 1993, the defendant and Albert Warren robbed and murdered the eighty-six-year-old victim, Pearl Grissom. The defendant told police that he and Warren had gone to the victim's residence in an attempt to either borrow money or work for some money. He claimed that the victim refused and that Warren then pushed her to the floor. The defendant contended that Warren, fearing that the victim might later identify them, directed the defendant to take money from her purse and to hand him a vase so that he could kill her. The defendant told officers that he gave Warren the vase, left the room, and then heard several blows; when he returned, the victim was bleeding and lying still in the floor. Later, the defendant told officers that he handed Warren a towel, that Warren wiped off the vase, and that they left the residence.

TBI Agent and Forensic Scientist Robert McFadden identified the defendant's fingerprints on the vase. Forensic Pathologist Dr. Jerry Francisco, who performed the autopsy, testified that death had been caused by multiple blunt

injuries to the head.

Roger Collins, who testified for the state, contended that the defendant had told him a few days before the murder that he needed some money and would "knock [people] in the head" to get it; at the time, however, Collins thought the defendant was joking.

Joey Selph also testified for the state. He claimed that about the time of the murder, the defendant told him that he had a chance to kill an "old woman" but could not do it. Selph testified that the defendant explained that he needed money.

Jeanette Wicker, a neighbor to the defendant who had also taught him in school, testified for the defense. She remembered that she had seen the defendant near the victim's home at about 5:15 P.M. on the day of the murder and that he had not spoken to her like he usually did. She recalled that the defendant appeared to be fearful and upset.

On appeal, the state is entitled to the strongest legitimate view of the evidence and all reasonable 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 proof are matters entrusted to the jury as triers of fact. Byrge v. State, 575 S.W.2d 292, 295 (Tenn. Crim. App. 1978). When the sufficiency of the evidence is challenged, the relevant question is whether, after reviewing the evidence in the light most favorable to the state, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. State v. Williams, 657 S.W.2d 405, 410 (Tenn.

1983), cert. denied, 465 U.S. 1073 (1984); Tenn. R. App. P. 13(e).

The defendant asserts that the evidence establishes that the killing was collateral to rather than pursuant to the aggravated robbery. The state, of course, disagrees.

At the time of the offense, felony murder was defined as the "reckless killing of another committed in the perpetration of, or attempt to perpetrate any first degree murder, arson, rape, robbery, burglary, theft, kidnapping or aircraft piracy." Tenn. Code Ann. § 39-13-202. In order "to sustain a conviction of first-degree felony-murder, the killing must have been in pursuance of, rather than collateral to, the unlawful act described by the statute." State v. Severs, 759 S.W.2d 935, 938 (Tenn. Crim. App. 1988). The death of the victim "must have had an intimate relation and close connection with the felony, ... and not be separate, distinct, and independent from it..." State v. Farmer, 201 Tenn. 107, 116, 296 S.W.2d 879, 883 (1956). In State v. Brown, 756 S.W.2d 700, 703 (Tenn. Crim. App. 1988), the court stated that "[t]he fact that the murder occurred after the robbery was completed does not make the murder collateral to the robbery. The jury reasonably could conclude ... that the murder was accomplished in order to prevent identification of the defendants by the victim."

Here, the defendant's involvement in the robbery is clearly supported by the trial testimony. He acknowledged to police that the murder was an attempt to avoid being later identified by the victim. There was other, corroborative evidence. In our view, the evidence is clearly sufficient to support the verdict of felony murder.

Accordingly, the judgment is affirmed.

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Gary R. Wade, Judge

CONCUR:

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Joe B. Jones, Presiding Judge

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Jerry L. Smith, Judge