

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NUMBER 2008 KA 1292**

**STATE OF LOUISIANA**

**VERSUS**

**CORI C. WILLIAMS**

**Judgment Rendered: February 13, 2009**

**Appealed from the  
Nineteenth Judicial District Court  
in and for the Parish of East Baton Rouge, State of Louisiana  
Trial Court Number 09-06-0475**

**Honorable Todd Hernandez, Judge Presiding**

\*\*\*\*\*

**Doug Moreau  
Baton Rouge, LA**

**Attorneys for Appellee,  
State of Louisiana**

**William Morris  
Allison Miller Rutzen  
Baton Rouge, LA**

**J. David Bourland  
Baton Rouge, LA**

**Attorney for Defendant/Appellant,  
Cori C. Williams**

\*\*\*\*\*

**BEFORE: CARTER, C.J., WHIPPLE, AND DOWNING, JJ.**

*Downing, J. dissents.*

## **WHIPPLE, J.**

The defendant, Cori Williams, was charged by grand jury indictment with one count of second degree murder (count 1), a violation of LSA-R.S. 14:30.1, and one count of attempted second degree murder (count 2), a violation of LSA-R.S. 14:30.1 and 14:27. He pled not guilty, and after a trial by jury was found guilty as charged. The defendant filed a “Motion for Post Verdict Judgment to a Lesser Included Responsive Offense.” The trial court denied the motion. Subsequently, the defendant was sentenced to life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence on count 1 and twenty-five years imprisonment at hard labor on count 2.

The defendant now appeals, urging as his sole assignment of error that the trial court erred in denying his motion for post verdict judgment of acquittal, contending that the evidence presented by the state at trial supported only the conviction of the responsive offenses of manslaughter and attempted manslaughter. Finding the evidence sufficient to support the second degree murder and attempted second degree murder convictions, we affirm the defendant's convictions and sentences.

### **FACTS**

Shortly after 2:00 a.m. on July 21, 2006, the defendant fired approximately seventeen shots from a Glock 9mm handgun into a vehicle occupied by Raymond Jones and his brother, Ulysses Jones. The shooting occurred in the parking lot of Ragusa's Meat Market in Baton Rouge. The defendant and his friend, Berman Hudson, had just been involved in verbal and physical altercations with the Jones brothers (during which Raymond bit off a piece of the defendant's ear) at the same location. Raymond sustained gunshot wounds to his right thigh, right calf, and back. The bullet that entered Raymond's back pierced his left lung. Raymond died as a result of these injuries. Ulysses Jones was not wounded by the gunfire.

## ASSIGNMENT OF ERROR

In his sole assignment of error, the defendant submits that the evidence presented at trial warranted only convictions of the responsive offenses of manslaughter and attempted manslaughter. Thus, he argues, the trial court erred in denying his motion for post verdict judgment of acquittal. The state contends the verdicts were rational and the evidence presented at defendant's trial sufficiently supports the second degree murder and attempted second degree murder convictions.

The standard of review for the sufficiency of the evidence to uphold a conviction is whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could conclude that the State proved the essential elements of the crime beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789, 61 L. Ed. 2d 560 (1979). See also LSA-Cr.P. art. 821(B); State v. Mussall, 523 So. 2d 1305, 1308-09 (La. 1988).

When analyzing circumstantial evidence, LSA-R.S. 15:438 provides, "assuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence." This statutory test is not a purely separate one from the Jackson constitutional sufficiency standard. Ultimately, all evidence, both direct and circumstantial, must be sufficient under Jackson to satisfy a rational juror that the defendant is guilty beyond a reasonable doubt. State v. Shanks, 97-1885, pp. 3-4 (La. App. 1st Cir. 6/29/98), 715 So. 2d 157, 159.

Louisiana Revised Statute 14:30.1(A)(1) defines second degree murder as follows:

A. Second degree murder is the killing of a human being:

(1) When the offender has a specific intent to kill or to inflict great bodily harm[.]

Thus, to support the conviction for second degree murder the state was required to show: (1) the killing of a human being; and (2) that the defendant had the specific intent to kill or inflict great bodily harm. State v. Morris, 99-3075, p. 13 (La. App. 1st Cir. 11/3/00), 770 So. 2d 908, 918, writ denied, 2000-3293 (La. 10/12/01), 799 So. 2d 496, cert. denied, 535 U.S. 934, 122 S. Ct. 1311, 152 L. Ed. 2d 220 (2002).

Under LSA-R.S. 14:27(A), a person is guilty of an attempt to commit an offense when he has a specific intent to commit a crime and “does or omits an act for the purpose of and tending directly toward the accomplishing of his object[.]”

The gravamen of the crime of attempted murder, whether first or second degree, is the specific intent to kill and the commission of an overt act tending toward the accomplishment of that goal. State v. Huizar, 414 So. 2d 741, 746 (La. 1982). Although specific intent to inflict great bodily harm may support a conviction for murder, such intent is insufficient to support a conviction for attempted murder. See State v. Hongo, 96-2060, pp. 2-3 (La. 12/2/97), 706 So. 2d 419, 420.

Specific criminal intent is that state of mind which exists when the circumstances indicate that the offender actively desired the prescribed criminal consequences to follow his act or failure to act. LSA-R.S. 14:10(1). Specific intent may be proved by direct evidence, such as statements by a defendant, or by inference from circumstantial evidence, such as defendant's actions or facts depicting the circumstances. State v. Cummings, 99-3000, p. 3 (La. App. 1st Cir. 11/3/00), 771 So. 2d 874, 876.

At trial, the testimony and evidence (which included video surveillance footage from Ragusa's) established the following regarding the events immediately preceding the shooting:

On the date in question, at sometime around 2 o'clock a.m., the defendant and Berman Hudson went to Ragusa's to purchase some cigarettes. Upon arriving at the store, which was open for business but only serving customers through a walk-up service window, the defendant approached the area near the window and waited. Several other individuals were also present in the area near the service window. Hudson went to another area to use the restroom. Shortly thereafter, Ulysses and Raymond Jones arrived at Ragusa's to purchase some beer. Ulysses approached the service window and immediately placed his order. According to Ulysses, when he walked up, the defendant and several other individuals were standing in the area, but they did not appear to be in line. In a taped statement to the police, which was played for the jury at the trial, the defendant claimed he was waiting in line to be served when Ulysses walked up and went straight to the window. The defendant confronted Ulysses about "skipping" the line, and a verbal altercation ensued.

Later, when Berman Hudson returned to the area near the service window, he observed the defendant and Ulysses arguing. Hudson, who had just been released from prison, also became involved, when he too, began arguing with Ulysses. The men continued arguing even after Ulysses received his beer and walked back towards his vehicle. At several times during the verbal altercation, Hudson aggressively walked up towards Ulysses as if he was going to fight. On the video, the defendant can be seen pulling Hudson back several times. The defendant claimed he pulled Hudson back to try and diffuse the situation without a physical confrontation. Hudson testified that the defendant was trying to break up the altercation and did not want to fight. The defendant was trying to get Hudson to "back up" so they could leave. Ulysses, on the other hand, testified that the defendant pulled Hudson back and stated that he "want[ed] a piece of [Ulysses]."

Eventually, the verbal exchange escalated to a physical encounter. By this point, Raymond, who had been waiting at his vehicle, also became involved. The defendant and Ulysses fought first. According to Ulysses, the defendant hit him once and rendered him unconscious. Bystanders later helped to put Ulysses into Raymond's vehicle. When Hudson approached and attempted to join in the fight, Raymond hit him once and knocked him out. Finally, the defendant and Raymond started fighting. During the fight, Raymond pushed the defendant against his vehicle and bit the defendant's ear. Immediately thereafter, the defendant retreated to his vehicle and Raymond ran away towards his. When the defendant emerged from his vehicle, he walked toward the area where Raymond's vehicle was parked and opened fire on the vehicle as Raymond attempted to drive away with Ulysses. The defendant then returned to his vehicle and after several bystanders placed Hudson inside the vehicle, the defendant drove away.

Subsequently, after traveling less than one mile from Ragusa's, the vehicle Raymond was driving crashed into a utility pole. He had been fatally injured during the gunfire. Numerous bullet holes were found in the exterior and interior of the vehicle.

Upon his arrest, the defendant gave a tape-recorded statement to the investigating officers. In his statement, the defendant confessed to his participation in the shooting. Although the defendant did not testify, his statement to the police was introduced by the state and played for the jury at trial. In this statement, the defendant claimed he went "crazy" after Raymond bit his ear.

The video-surveillance footage of the encounters was also introduced into evidence and played for the jury at the trial.

A specific intent to kill can be inferred from a shooting that occurs at a fairly close range. See LSA-R.S. 14:30.1(A)(1); State v. Cummings, 99-3000 at p. 4, 771 So. 2d at 876. Because the evidence in this case establishes that the shots were

fired from fairly close range, directly into the vehicle occupied by the decedent and his brother, the jury could have reasonably inferred that the defendant possessed the requisite specific intent to kill necessary to support both convictions.

Considering the above, viewed in the light most favorable to the state, we find that any rational trier of fact could have also concluded beyond a reasonable doubt that all essential elements of second degree murder and attempted second degree murder were proven. Having found the elements of second degree murder and attempted second degree murder, the jury was then required to determine whether the circumstances indicated that the killing and attempted killing were actually manslaughter and attempted manslaughter.

Manslaughter is a proper responsive verdict for a charge of second degree murder. LSA-C.Cr.P. art. 814(A)(3). Attempted manslaughter is a proper responsive verdict for a charge of attempted second degree murder. LSA-C.Cr.P. art. 814(A)(4). LSA-R.S. 14:31(A)(1) defines manslaughter as a homicide which would be either first degree murder or second degree murder, “but the offense is committed in sudden passion or heat of blood immediately caused by provocation sufficient to deprive an average person of his self-control and cool reflection.” Additionally, “[p]rovocation shall not reduce a homicide to manslaughter if the jury finds that the offender’s blood had actually cooled, or that an average person’s blood would have cooled, at the time the offense was committed[.]” LSA-R.S. 14:31(A)(1). The existence of “sudden passion” and “heat of blood” are not elements of the offense but, rather, are factors in the nature of mitigating circumstances that may reduce the grade of homicide. State v. Crochet, 96-1666, pp. 9-10 (La. App. 1st Cir. 5/9/97), 693 So. 2d 1300, 1307, writ denied, 97-1547 (La. 11/21/97), 703 So. 2d 1305. Provocation is a question of fact to be determined by the trier of fact. Thus, the issue remaining is whether any rational trier of fact, viewing the evidence in the light most favorable to the prosecution,

could have found that the mitigating factors were not established by a preponderance of the evidence. State v. Harris, 97-0537, p. 11 (La. App. 1st Cir. 2/20/98), 708 So. 2d 1169, 1176, writ denied, 98-0758 (La. 9/4/98), 723 So. 2d 434. The defendant has the burden of proving these mitigating factors by a preponderance of the evidence. State v. Riley, 91-2132, p. 11 (La. App. 1st Cir. 5/20/94), 637 So. 2d 758, 763.

In his brief to this court, the defendant argues that, with the evidence presented at trial, he met his burden of proving that the mitigating factors of sudden passion and heat of blood were present under the facts and circumstances of this case. As previously stated, in order to reduce second degree murder to manslaughter, the **defendant** is required to prove, by a preponderance of the evidence, "sudden passion" or "heat of blood" immediately caused by provocation sufficient to deprive an average person of self-control and cool reflection. The defendant argues that there were sufficient acts by both Ulysses and Raymond Jones to create sudden passion or heat of blood and cause the defendant, or any ordinary individual under similar circumstances, to lose self-control and cool reflection.

The guilty verdicts in this case indicate that the jurors, who were aware of the physical altercations and other circumstances surrounding the victim's death, concluded this was a case of second degree murder and attempted second degree murder and rejected the possibility of manslaughter and attempted manslaughter verdicts. The jury obviously concluded that the verbal confrontation and physical fights that took place between the defendant and Ulysses, and then between the defendant and Raymond, did not equate to provocation sufficient to deprive an average person of self-control and cool reflection. Although the testimony of the witnesses and the defendant's taped statement suggest sudden passion or heat of blood caused by involvement in the physical altercations, the fact that the Jones



brothers were inside their vehicle and were attempting to drive away when the shots were fired indicates that the defendant had time for self-reflection. At the point at which the defendant fired the shots, the altercations had ended. Before opening fire, the defendant returned to his vehicle and stayed there for several moments, concealed a weapon on his person, calmly walked back to the area where the Jones brothers' vehicle had been located, and opened fire. The facts and circumstances of the shooting support a conclusion that the defendant acted with deliberation and reflection after having been involved in the fights.

We find that any rational trier of fact could have concluded that the mitigating factors, which reduce the degree of homicide and/or attempted homicide from murder to manslaughter and/or attempted manslaughter, were not present in this case. This determination is clearly supported by the evidence. Thus, the trial court did not err in denying the defendant's motion for post verdict judgment of acquittal. This assignment of error lacks merit.

For the foregoing reasons, the defendant's convictions and sentences are affirmed.

**CONVICTIONS AND SENTENCES AFFIRMED.**