



Anthony Lamont Brown v. Commonwealth of Virginia

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COURT OF APPEALS OF VIRGINIA

Present: Judges Beales, Callins and Senior Judge Clements Argued at Richmond, Virginia

ANTHONY LAMONT BROWN MEMORANDUM OPINION * BY v. Record No. 0573-23-2 JUDGE RANDOLPH A. BEALES JUNE 11, 2024 COMMONWEALTH OF VIRGINIA

FROM THE CIRCUIT COURT OF DINWIDDIE COUNTY Joseph M. Teefey, Jr., Judge 1

(Terry Driskill; Terry Driskill Law, on brief), for appellant. Appellant submitting on brief.

Matthew J. Beyrau, Assistant Attorney General (Jason S. Miyares, Attorney General, on brief), for appellee.

Following a jury trial, the Circuit Court of Dinwiddie County convicted Anthony Lamont Brown of first-degree murder, aggravated malicious wounding, and two counts of using a firearm in the commission of a felony. On appeal, Brown argues that the trial court erred in refusing to instruct the jury on voluntary manslaughter.

I. BACKGROUND

Commonwealth v.

Vaughn, 263 Va. 31, 33 (2002).

* This opinion is not designated for publication. See Code § 17.1-413(A). 1 The Honorable Dennis M. Martin, Sr. presided over the jury trial, and the Honorable Joseph M. Teefey, Jr. presided at the sentencing hearing. UNPUBLISHED Deputy Sabrina Allgood of the Dinwiddie Co trial that on the evening of May 1, 2021, she responded to a shooting on Beth Lane in Dinwiddie

County. Deputy Allgood recalled that when she arrived at the crime scene, she saw a man who



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was later identified as Waekuon Johnson lying in a ditch and suffering from a gunshot wound.

[Waekuon] testified that she

recovered two firearms from Pope, which were later sent to the Department of Forensic Science for analysis. She noted that she asked the group of more than 25 bystanders whether they had seen or heard anything, but they all declined to provide any information at that time.

Adonis Jones testified that earlier that evening, he was at his house with Waekuon and a few other friends. Jones recalled that Pope (his brother) told him about a party in Dinwiddie County, which they all decided to attend. He recounted that there were a lot of people at the party and that

However, later that evening, a

fight broke out while Jones and Waekuon were standing outside in front of the house. Jones

[Pope]. I

the party. Then I heard

Jones then stomach like this because I got shot in my stomach. And I ran between some houses. I pulled out

se in any altercation before the shooting. Shanellie Davis testified that she attended her sister-in-law Brown at the party that evening. Monet Johnson in the face. Davis recounted that she and

the other people at the party then ran to the front yard to check on Monet. Davis was standing by

the parked vehicles in the road with her friend (Cassandra Stevens) and another individual (Jamir

Rivers) (Garrett Cody Bonner) telling Jones and Waekuon to leave

then opined -- Davis testified that she heard five or six gunshots and saw Jones, Rivers, and

as Brown fled the crime scene.

Bonner testified that he was in the backyard . . . the side



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He testified that the people at the party then went to the front yard while he and a group of friends looked for Pope to tell him to leave. Bonner stated that when he asked Jones to find Pope and then Bonner testified that Brown shot

Waekuon He then remarked shots I heard like four or five shots and I started running.

heard the gunshots although she did not see anybody shooting. She recalled that she saw several people with guns that evening, including Brown and Rivers, but she denied seeing Pope or Bonner with a gun that evening. However, in a text message exchange with Monet the next morning,

Jennifer wrote that she had heard that Brown, Rivers, and Bonner had shot at Pope.

Pope testified that he attended the party with Jones, Waekuon, and two other friends. Pope remembered speaking with Monet at the party and recalled,

She [Monet] was supposed to stay with me that night, but then some words got exchanged and pretty much she spit on me. When she spit on me I like I pushed her like get off of me. When I pushed her she hit me. When she hit me I blacked out.

Pope stated that he then walked down the street away from the party and heard gunfire, prompting two firearms from

the vehicle. Pope testified that he then returned to the party to check on his friends and remained there until he was arrested. He denied firing a weapon that night.

ce testified that he

was assigned to the investigation and that he interviewed Brown. Deputy Droddy recalled that after advising Brown of his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), Brown stated that he left the party before dark, and he denied shooting anyone. Deputy Droddy further testified that, given that Waekuon had 2



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processed the evidence and took photographs of the crime scene. He recovered two cartridge casings lying next to each other in the roadway. Investigator Shifflett was also handed the two firearms recovered from Pope. After one of the police vehicles left the crime scene, Investigator Shifflett discovered three additional cartridge casings in the roadway.

2 Medical Examiner Dr. Chrystal Van Dusen testified as an expert in forensic pathology and Forensic Scientist James Bullock of the Virginia Department of Forensic Science testified as

an expert in firearms and tool marks. He testified that he conducted tests on the firearms recovered from Pope and the cartridge casings found at the crime scene, and he concluded that two of the cartridge casings were fired from the same gun and that the three additional cartridge casings were fired from another gun. Bullock determined that none of those five casings were fired from the guns recovered from Pope.

Following the presentation of all the evidence, Brown sel submitted a jury instruction

on voluntary manslaughter. The trial judge there has been any evidence of any sort of provocation or any sort of heat of passion. That is

The jury subsequently convicted Brown of

first-degree murder, aggravated malicious wounding, and two counts of using a firearm in the commission of a felony. Brown now appeals

instruction on voluntary manslaughter.

II. ANALYSIS

On appeal to this Court, Brown argues, for voluntary manslaughter where there was evidence of sufficient provocation to preclude malice

He contends that the , thereby warranting a



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jury instruction on voluntary manslaughter. [t]he appearance of a female

family member who had been wounded, a search in the dark by a group of people for the assailant,

The Supreme Court has stated,

Cooper v. Commonwealth, 277 Witherow v.

Commonwealth, 65 Va. App. 557, 565 (2015) (quoting Gaines v. Commonwealth, 39 Va. App. 562,

568 (2003) (en banc) to be read in connection with the evidence to which they

Chapman v. Commonwealth, 56 Va. App. 725, 736 (2010) (quoting Carroll

v. Hutchinson and Eaton v. Commonwealth, 240 Va. 236,

255 (1990) (quoting Frye v. Commonwealth, 231 Va. 370, 388 (1986)). correctly states the law, if it is not applicable to the facts and circumstances of the case, it should not

Woolridge v.

Commonwealth, 29 Va. App. 339, 348 (1999) (quoting Hatcher v. Commonwealth, 218 Va. 811,

813-14 (1978)).

This Court has committed in the course of a sudden quarrel, or mutual combat, or upon a sudden provocation, and

without any previous grudge, and the killing is from the sudden heat of passion growing solely out

of the quarrel, or combat, or provocation. Dandridge v. Commonwealth, 72 Va. App. 669, 681-82

(2021) (quoting Woods v. Commonwealth, 66 Va. App. 123, 131 (2016)). See also Turner v.

Commonwealth, 23 Va. App. 270, 274 (1996), , 255 Va. 1 (1997) . Unlike murder, voluntary manslaughter occurs in the absence of malice.

Barrett v. Commonwealth, 231 Va. 102, 105 (1986). murder to voluntary manslaughter. Rhodes v. Commonwealth, 41 Va. App. 195, 201 (2003). Here, for Brown to have been entitled to an instruction on voluntary manslaughter, the



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evidence would have had to have supported a conclusion that he intentionally killed Waekuon as a result of heat of passion engendered by a provocation from something more than a mere exchange of words. See *Mayberry v. Commonwealth*, 66 Va. App. 93, 101 (2016).

in

the ensuing search for Pope. Pope testified that he had already left the party and was down the street when the shooting occurred. Davis further testified that Waekuon was backing away when Brown and Rivers started shooting, and the medical examiner confirmed that Waekuon was shot in the back. There is no evidence in the record that Waekuon argued with Brown, threatened Brown, Simply put, there was not a scintilla of

evidence presented at trial supporting a jury instruction on voluntary manslaughter as there were no facts in the record suggesting that Brown acted in the heat of passion under any provocation by Waekuon. Consequently, we certainly cannot say that the trial court erred in refusing to give jury instruction on voluntary manslaughter.

III. CONCLUSION

In short, the trial court did not err in refusing to instruct the jury on voluntary manslaughter because there was not a scintilla of evidence that Brown acted in the sudden heat of passion upon reasonable provocation. Therefore, for all of the foregoing reasons, we affirm the judgment .

Affirmed.

