

No. 01-24-00324-CR

IN THE COURT OF APPEALS  
FOR THE FIRST DISTRICT OF TEXAS

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HOUSTON, TEXAS

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HENRY DAVID COSSETTE

DEBORAH M. YOUNG  
Clerk of The Court

*Appellant*

v.

THE STATE OF TEXAS

*Appellee*

On Appeal from Cause Number 1759883  
From the 184<sup>th</sup> District Court of Harris County, Texas

BRIEF FOR APPELLANT

ORAL ARGUMENT WAIVED

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## **STATEMENT OF THE CASE**

Mr. Cossette was charged with the first-degree felony offense of murder on May 16, 2022. (C.R. at 27). On April 23, 2024, he entered a plea of not guilty and proceeded to trial by the court. (2 R.R. at 8-9). On April 24, 2024, the trial court found Mr. Cossette guilty of murder as charged. (3 R.R. at 194; C.R. at 284). Mr. Cossette received a sentence by the trial court of forty-five (45) years in the Institutional Division of the Texas Department of Criminal Justice. (3 R.R. at 202; C.R. at 284). Mr. Cossette filed timely notice of appeal and the Harris County Public Defender's Office was appointed to represent him. (C.R. at 289).

## **ISSUE PRESENTED**

### **ISSUE ONE**

THE EVIDENCE IS LEGALLY INSUFFICIENT TO SUPPORT APPELLANT'S CONVICTION FOR THE OFFENSE OF MURDER BECAUSE THE STATE FAILED TO DISPROVE HIS JUSTIFICATION OF SELF-DEFENSE.

## **STATEMENT OF FACTS**

On May 16, 2022, Appellant was indicted for the offense of murder. According to the indictment:

in Harris County, Texas, HENRY DAVID COSSETTE, hereafter styled the Defendant, heretofore on or about February 6, 2022, did then and there unlawfully, intentionally and knowingly cause the death of Sara Goodwin, hereinafter styled the Complainant, by impeding the normal breathing and circulation of the blood of the Complainant by applying pressure to the Complainant's neck with the Defendant's hands.

It was further presented:

that in Harris County, Texas, Henry David Cossette, hereinafter styled the Defendant, heretofore on or about February 6, 2022, did then and there unlawfully intend to cause serious bodily injury to Sara Goodwin, hereinafter called the Complainant, and did cause the death of the Complainant by intentionally and knowingly committing an act clearly dangerous to human life, namely impeding the normal breathing and circulation of the blood of the Complainant by applying pressure to the Complainant's throat and neck with the Defendant's hands.

(C.R. at 27). On April 23, 2024, he entered a plea of not guilty to that charge. (2 R.R. at 8-9; C.R. at 284).

Lieutenant Christopher Zamora, was with the missing persons division of the Houston Police Department on February 9, 2022, when the Complainant was reported missing by a friend, Jessica Finn. (R.R. at 65-72). According to Finn, the Complainant had been staying with her for about a week. She saw her for the last time at approximately 2:00 or 3:00 o'clock in the morning on February 6, 2022. Finn received a text from the Complainant around 1:00 o'clock in the afternoon indicating that she had gone early to work as a prostitute so she could leave to visit her mother and brothers. Around 2:30 PM she sent another text indicating she was "going to go with a guy." Finn began to worry about the Complainant after an hour had passed and she had not texted again. She drove around the area where the Complainant worked looking for her, but she did not find her. (3 R.R. 109-114).

Zamora assigned Detective Danny Do to investigate the disappearance. (R.R. at 65-72).

Jack Miller, a firefighter with the City of Houston, received a dispatch call on the evening of February 19, 2022. The complaint was regarding a possible suicide by smoke inhalation. An ambulance was also called to the scene “on a psychiatric problem.” At the scene a twenty-seven year old black male was found unresponsive on the floor of the apartment covered in vomit. There was a small charcoal burner on and the apartment had filled with smoke. Miller put the heater in the sink under running water to stop it from smoking. He and his partner put the patient on oxygen and when he finally began to come around he was visibly very upset and admitted he was trying to hurt himself because he had done something he could not live with. The patient’s girlfriend who called in the fire was at the scene and also very upset and concerned. After the patient told them what it was he had done, they called the police department to meet at the hospital. The patient would be transferred to a hospital and turned over to hospital personnel. (2 R.R. at 14-26; State’s Exhibits 1 & 2).

Lieutenant Zamora received a tip from the homicide division desk officer indicating that a patrol officer “had got a tip after responding to a call that a tall, skinny, African-American woman was stabbed, killed, and pushed out onto Bissonnet on the same date [the girl Finn reported] went missing.” The suspect in that alleged incident was named Henry Cossette. Based on this information, he sent Detective Do, along with homicide investigators, to the hospital in order to interview Appellant. Based on Appellant’s interview with the detectives, they were able to obtain “very specific details of the location” of the Complainant’s body. (2 R.R. at 80-86, 90).



On February 20, 2022, Sergeant Mark Holbrook with the Homicide Division was the investigator assigned to this case. His first task was to go to the hospital to interview Appellant. He found Appellant awake and aware of what was going on. Along with Detective Do, he interviewed Appellant. There was also a hospital patient sitter in the room during the interview. He read Appellant his Miranda warnings before beginning the interview even though he told Appellant he was not under arrest. Halbrook was able to identify Appellant in the courtroom as the same man he interviewed at the hospital. Appellant was forthright with the investigators. He told him he killed the Complainant by placing his hands around her neck and impeding her breath until she died. He also told them “he had dismembered the body” and “placed it in trash bags.” He then explained where the trash bags would be found and he identified the Complainant from a photospread. (2 R.R. at 176-182; State’s Exhibit 166).

Holbrook described Appellant as “distraught, but friendly.” (2 R.R. at 198-199). In addition to the location of the trash bags, Appellant voluntarily explained to the investigators what had happened on the day he picked up a prostitute with the intention of paying her for sex. After the interview, Holbrook procured a warrant for Appellant’s DNA and Appellant consented to the release of cellphone in order to extract data. (2 R.R. 183-184).

Officer Joseph Roscoe from the homicide division was also assigned to this case on February 20, 2022. He and Holbrook divided the work such would interview the witnesses and he would document evidence and oversee the scenes. He went to the

apartment where the suicide attempt had occurred. The crime scene unit arrived shortly after. In addition, he located a vehicle in the parking lot that was registered to a “David Cossette.” He obtained a search warrant for the apartment and the vehicle. (2 R.R. at 125-134).

Jaclyn Millhollon reported to the scene from the crime scene unit. She was dispatched on February 20, 2022, to investigate an arson and possible homicide. When she arrived, Roscoe was already there. She photographed and diagramed the apartment and the vehicle in the parking lot. She marked items of interest and processed the interior of the apartment with a reagent known as “Bluestar.” (2 R.R. at 36-46; State’s Exhibits 3-6). Bluestar creates a “chemiluminescence” when in contact with hemoglobin in blood. She sprayed Bluestar on the “bathroom sink area, a mop that was between the tub and the toilet, the toilet area between the toilet and tub, the bathtub, the south bathroom wall, the north bathroom wall, the shower curtain, back of the bathroom door, towels hanging on the back of the bathroom door, rags hanging on the sink cabinet in the bathroom, the floor between the sink in the bathroom, below the sink in the bathroom, a gray rug in the kitchen, and a black rug in the kitchen.” She found blood in all of the areas. (2 R.R. at 47-52; State’s Exhibits 8-24, 27-48).

Officer Roscoe oversaw the collection of the evidence at the apartment until he received word from Sergeant Holbrook of a second possible scene where they might locate trash bags containing human remains. (2 R.R. at 135-138). The scene turned out to be a wooded area next to a large pasture. Trash bags were found spread out about

20-30 yards deep into the wooded area. The trash bags looked similar to the bags found in the apartment. (2 R.R. at 139-142).

Angelica Hernandez, a crime scene investigator, received the dispatch to process the scene where she was told “possible human remains were found” in a wooded area. First, she took still and video photos of the scene. The Medical Examiner arrived and concluded that human remains had been found inside the trash bags so she began collecting evidence. (2 R.R. at 100-118; State’s Exhibits 55-100.1).

Believing the trash bags had been transported in the vehicle found at the apartment complex, Roscoe ordered records from the toll authority to try to determine if that vehicle could be seen in the vicinity of the scene. He was able to see the vehicle drive into the area “at approximately 19:07 hours” and leave the area “at approximately 19:31 hours on February 6, 2022.” (2 R.R. at 145-146; State’s Exhibits 103-107).

On February 23, 2022, Roscoe collected the cell phone Appellant released to Holbrook with consent. The phone was tagged into evidence and transferred to the Houston Forensic Science Center for examination. (2 R.R. at 150-155; State’s Exhibits 109 & 112). Spencer Ledesma with the Houston Forensic Science Center extracted the data from the cellphone. He created a report of the extracted data. (2 R.R. at 167-174; State’s Exhibits 111, 113, & 114).

The cell phone extraction would reveal a series of Google searches including “lake near me,” “Anderson Lake,” “decomposition stages,” several news stations, “what kind of animal will eat a dead body,” how long can a body decompose in plastic

bags,” “can you track a dead iPhone,” and “missing person’s report in southwest Houston.” All of the searches occurred between February 6, 2022, and February 12, 2022. (2 R.R. at 188-194; State’s exhibits 134-155).

On February 22, 2022, and February 23, 2022, Ashley Blackwell a DNA analyst, was tasked with collecting DNA evidence from four bags containing human remains. She collected swabs and tape lifts from the bags and directly from the remains. The swabs were then sent to the lab for analysis. (3 R.R. at 54, 56-61; State’s Exhibits 159-162).

A forensic DNA analyst with the Harris County Institute of Forensic Sciences named Molly VanBuren tested the items submitted by Blackwell. These included a “second black leg bag drawstring swab” and a “second black leg bag knot swab.” From the “second black leg bag drawstring swab” she recovered a DNA profile that was a mixture of two individuals with at least one male contributor. “The DNA results are approximately 2.47 sextillion times more likely if they originated from [the Complainant] and [Appellant] than if they are originated from two unknown unrelated individuals.”

The DNA profile from the second swab was “interpreted as a mixture of two individuals at least one male contributor.” “The DNA results are approximately 1.48 septillion times more likely if they originated from [the Complainant] and an unknown unrelated individual than if they originated from two unknown unrelated individuals.” “The DNA results are approximately two – 279,000 times more likely if they originated

from [Appellant] and an unknown unrelated individual than if they originated from two unknown unrelated individuals.” (3 R.R. at 95-102; State’s Exhibit 163).

Although originally performed by someone else, Paulyann Maclayton would testify as an assistant medical examiner with the Harris County Institute of Forensic Sciences. She reviewed the report and photos from that original examination to testify that observed insect activity and various stages of decomposition of the body parts found in the trash bags. She was able to determine that the body had been dismembered with some type of sharp object. The cause of death was determined to have been “homicidal violence with asphyxia and neck compression.” (3 R.R. at 63-84; State’s Exhibits 115-131).

## **SUMMARY OF THE ARGUMENT**

Appellant contends that the State failed to disprove that he acted in self-defense when he strangled the Complainant.

### **ARGUMENT**

#### **ISSUE ONE**

THE EVIDENCE IS LEGALLY INSUFFICIENT TO SUPPORT APPELLANT’S CONVICTION FOR THE OFFENSE OF MURDER BECAUSE THE STATE FAILED TO DISPROVE HIS JUSTIFICATION OF SELF-DEFENSE.

##### **A. Standard of Review**

In reviewing the sufficiency of the evidence to support a conviction, this Court reviews all of the evidence in the light most favorable to the verdict in order to determine whether any rational trier of fact could have found the essential elements of

the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1970); *Laster v. State*, 275 S.W.3d 512, 517 (Tex. Crim. App. 2009). In a legal sufficiency review, this Court does not reweigh the evidence or substitute its judgment for that of the trier of fact. *King v. State*, 29 S.W.3d 556, 562 (Tex. Crim. App. 2000). In determining the legal sufficiency of circumstantial evidence, the reviewing court considers the combined and cumulative force of all the incriminating circumstantial evidence. See *Clayton v. State*, 235 S.W.3d 772, 782 (Tex. Crim. App. 2007); *Brooks v. State*, 323 S.W.3d 893, 845 (Tex. Crim. App. 2010)(Plurality Op.)

Sufficiency of the evidence is measured by the elements of the offense as defined by a hypothetically correct jury charge. *Villarreal v. State*, 286 S.W.3d 321, 327 (Tex. Crim. App. 2009)(citing *Malik v. State*, 953 S.W.2d 234, 240 (Tex. Crim. App. 1997)). Such a charge is one that accurately sets out the law, is authorized by the indictment, does not unnecessarily increase the State's theories of liability, and adequately describes the particular offense for which the defendant was tried. *Id.*

Evidence is sufficient if, when viewed in the light most favorable to the verdict, a rational fact finder could not have found each element of the offense beyond a reasonable doubt. *Westbrook v. State*, 29 S.W.3d 102, 111 (Tex. Crim. App. 2000)(citing *Jackson v. Virginia*, 443 U.S. 307 (1979)).

Proof that only amounts to strong suspicion or mere probability of guilt is insufficient to sustain a conviction. *Urbano v. State*, 837 S.W.2d 114, 116 (Tex. Crim.

App. 1992), superseded in part on other grounds, *Herrin v. State*, 125 S.W.3d 436, 443 (Tex. Crim. App. 2002).

## **B. Applicable Law**

There are three methods of committing murder set forth in the statute. These three different methods are different manner and means of committing the same offense and not distinct separate offenses. *Aguirre v. State*, 732 S.W.2d 320, 325-26 (Tex. Crim. App. 1982). A person commits murder if he “(1) intentionally or knowingly causes the death of an individual,” or “(2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual,” or “(3) commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual. Tex. Penal Code § 19.02(b)(1)(2)&(3). “A person acts intentionally with respect to...a result of his conduct when it is his conscious objective or desire to...cause the result.” *Id.* §6.03(a). “A person acts knowingly...with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause a result.” *Id.* §6.03(b).

A person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect against the other’s use or attempted use of unlawful force. Tex. Penal Code §9.31(a). A person is justified in using deadly force against another if he would be justified in using force, and he

reasonably believes deadly force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly force. Tex. Penal Code §9.32(a). A "reasonable belief" is defined as one that would be held by an ordinary and prudent person in the same circumstances as the actor. See Tex. Penal Code §1.07(a)(42).

The evidence does not have to show the victim was actually using or attempting to use unlawful deadly force because a person has the right to defend himself from apparent danger as he reasonably apprehends it. *Hamel v. State*, 916 S.W.2d 491, 493 (Tex. Crim. App. 1996).

The defendant has the burden of producing some evidence to support a claim for self-defense. *Zuliani v. State*, 97 S.W.3d 589, 594 (Tex. Crim. App. 2003). The issue of self-defense is a fact to be determined by the trier of fact. *Saxton v. State*, 804 S.W.2d 910 (Tex. Crim. App. 1991). The penal code provides that deadly force used in self-defense is a defense to prosecution for murder if that use of force is "justified." Tex. Penal Code §9.02 & 9.31.

The defendant's burden of production requires him to adduce some evidence that would support a rational finding in his favor on the defensive issue. *Broughton v. State*, 569 S.W.3d 592, 608 (Tex. Crim. App. 2018); *Krajcovic v. State*, 393 S.W.3d 282, 286 (Tex. Crim. App. 2013). In solving the sufficiency of the evidence issue the reviewing court determines whether, after reviewing all of the evidence in the light most favorable to the verdict, any rational trier of fact would have found the essential elements of the offense beyond a reasonable doubt and also would have found against



the defendant on the self-defense issue beyond a reasonable doubt. *Broughton*, 569 S.W.3d at 609.

Here, the State did not meet its burden of persuasion in disproving self-defense.

### **C. Application of the Facts**

The indictment charged Appellant with murder. The indictment charged that:

in Harris County, Texas, HENRY DAVID COSSETTE, hereafter styled the Defendant, heretofore on or about February 6, 2022, did then and there unlawfully, intentionally and knowingly cause the death of Sara Goodwin, hereinafter styled the Complainant, by impeding the normal breathing and circulation of the blood of the Complainant by applying pressure to the Complainant's neck with the Defendant's hands.

It was further presented:

that in Harris County, Texas, Henry David Cossette, hereinafter styled the Defendant, heretofore on or about February 6, 2022, did then and there unlawfully intend to cause serious bodily injury to Sara Goodwin, hereinafter called the Complainant, and did cause the death of the Complainant by intentionally and knowingly committing an act clearly dangerous to human life, namely impeding the normal breathing and circulation of the blood of the Complainant by applying pressure to the Complainant's throat and neck with the Defendant's hands.

(C.R. at 27).

According to Appellant, he picked up a prostitute and brought her back to his apartment. They negotiated a price, but right after he paid her on CashApp she changed her personality and was not engaged. She was on the phone. He was upset that she took his money, but did not have sex with him. He asked for half of his money back, but she refused. She was trying to leave so he tried to stop her, but she pushed him and pulled a knife on him.

He was trying to save himself and told her he was scared. She inquired about what money he had in the apartment, but he did not have any. She tried to steal his laptop so he tried to restrain her. Because she was a prostitute, he was too ashamed to call for emergency assistance. The situation escalated. He told her she should leave. He was not trying to hurt her, but they fought. In order to “not get killed” he pushed her. She fell and hit her head. She appeared to be knocked out but she was breathing fast and in and out of consciousness. She still had the knife and began being aggressive again so he placed his hands around her neck and applied pressure until she passed out. His intention was to immobilize her. He was not trying to kill her and he did not initially realize she was dead.

He did his best to wake her up, but she was not breathing. Finally realizing she was dead, he panicked and decided to hide the body. In order to get her body out of the apartment, he dismembered her in the bathtub with a kitchen knife and placed the parts in four black trash bags. He put the bags in the trunk of his car and drove around trying to find a place to hide her body. He felt so bad about what happened he could not stop thinking about what he had done. (State’s Exhibit 166)

According to Sergeant Holbrook, in some circumstances, strangulation would be a legitimate method of defending one’s self. (3 R.R. at 10-30). Appellant’s behavior after the fact would not affect whether or not he had originally acted in self-defense. (3 R.R. at 37-38). Officer Roscoe also agreed that a person could have acted in self-defense, but subsequently disposed of the body. (2 R.R. at 159-162). One such example

is the case of State of Texas versus Robert Durst, Mr. Durst was found not guilty when he claimed self-defense in the shooting death of his neighbor despite the fact that he too panicked, dismembered the body, and threw it in the Galveston Bay. *See* <https://www.cnn.com/2003/LAW/11/11/durst.verdict/>.

There was no evidence presented by the State contrary to Appellant's version of events that the Complainant had a knife and was threatening him with it during a struggle and Appellant acted in self-defense. To suggest otherwise ignores the evidence set forth at trial. The evidence was absolutely uncontroverted. Consequently, the State did not disprove that Appellant acted in self-defense. The trial court unfairly inferred that Appellant committed the offense of murder and that it was not justifiable self-defense. *See Sanders V. State*, 119 S.W.3d 818, 820 (Tex. Crim. App. 2003). Accordingly, the evidence is legally insufficient to support Appellant's conviction for murder. Appellant's conviction should be reversed and a judgment of acquittal entered.

**PRAYER**

Mr. Cossette asks this Court to reverse and remand to the trial court for entrance of a judgment of acquittal or for any other relief he may be entitled.

Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

Pursuant to proposed Rule 9.4(i)(3), undersigned counsel certifies that this brief complies with the type-volume limitations of *Tex. R. App. Proc. 9.4(e)(i)*.

1. Including the portions exempted by *Tex. R. App. Proc. 9.4 (i)(1)*, this brief contains 4,379 words printed in a proportionally spaced typeface.
2. This brief is printed in a proportionally spaced, serif typeface using Garamond 14 point font in text and Garamond 12 point font in footnotes produced by Microsoft Word Software.
3. Undersigned counsel understands that a material misrepresentation in completing this certificate, or circumvention of the type-volume limits in *Tex. R. App. Proc. 9.4(j)*, may result in the Court's striking this brief and imposing sanctions against the person who signed it.

/s/ Dancie Schindler  
DAUCIE SCHINDLER

## **CERTIFICATE OF SERVICE**

I certify that on the 26<sup>th</sup> day of September, 2024, a copy of the foregoing instrument has been electronically served upon the Appellate Division of the Harris County District Attorney's Office.

/s/ *Daucie Schindler*  
DAUCIE SCHINDLER

### **Automated Certificate of eService**

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