

Court of Appeals Cause Number 01-24-00210-CR

IN THE COURT OF APPEALS FOR THE
FIRST DISTRICT OF TEXAS AT HOUSTON

FILED IN
1st COURT OF APPEALS
HOUSTON, TEXAS
10/21/2024 10:17:03 PM
DEBORAH M. YOUNG
Clerk of The Court

TIMOTHY ERIC GULLEY,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**ON APPEAL FROM THE 268TH JUDICIAL DISTRICT COURT OF
FORT BEND COUNTY, TEXAS**

BRIEF OF APPELLANT

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ORAL ARGUMENT REQUESTED

DESIGNATION OF PARTIES

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STATEMENT OF JURISDICTION

This Court has jurisdiction over this appeal pursuant to Tex. Const. art. V, Section 6, as an appeal from a jury verdict in the 268th Judicial District Court.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether there was sufficient evidence for the jury to find Defendant guilty of aggravated robbery apart from the testimony of his co-defendant Isaiahpeter Mnange.....v
2. Whether the Court erred in allowing significant testimony from the testifying police officers about jugging and organized retail theft (and their attempts to link these charges with the defendants in this case), which were not crimes with which Defendant was charged, and which testimony was irrelevant and highly prejudicial.....v

STATEMENT OF FACTS

On October 7, 2022, Defendant Timothy Eric Gulley (“Defendant” or “Timothy”), along with co-defendants Clareesa Mosha Brown (“Clareesa”) and Isaiah Peter (“Peter”) Gikonyo Mnange were arrested and charged with the offense of aggravated robbery with a deadly weapon. R.R. Vol. 3, p. 5:19 – 6:8; p. 7, 17-25; p. 48:8-20. Peter was charged with robbing a woman, Phuong Vu, at gunpoint in a women’s restroom at Katy Mills Mall and taking her purse, wallet and cell phone. Under the law of parties, Clareesa was charged with organizing, encouraging and providing the weapon for the robbery, and Timothy was alleged to have been a lookout and the getaway driver for the robbery.

The cases against Timothy were tried together to a jury from February 28, 2024 to March 5, 2024. The jury found Defendant guilty of both offenses, and after a punishment hearing, the jury assessed Defendant’s punishment at 50 years confinement in the Texas Department of Corrections – Institutional Division. C.R. p. 152.

Peter testified to the following:

In October 2022, Clareesa and Peter were roommates. R.R. Vol. 3, p. 53:16-24. Timothy knew Clareesa, but did not meet Peter until two or three weeks before October 7, 2022 when Clareesa introduced them. R.R. Vol. 3, p. 62:25 – 63:4;

p.64:13-18. Peter and Timothy had only seen each other two or three times, and always with Clareesa, before October 7, 2022. R.R. Vol. 3, p. 64:24 – 65:11. Defendant had access to a car, but it was his girlfriend’s car, not his. R.R. Vol. 3, p. 65:25 – 66:2; 99:21-23; 144:5-8. It was this car which Defendant, Clareesa and Peter were arrested in on the date of the offense. R.R. Vol. 3, p. 66:9-11. If Peter wanted to get in touch with Timothy, he would have to go through Clareesa, because Peter did not have a phone number for Timothy. R.R. Vol. 3, p. 66:16 – 67:4. Peter gave Clareesa one of his three cell phones so she could make calls. R.R. Vol. 3, p. 66:25 – 67:20; 68:15 – 69:19.

On October 7, 2022, Peter started the day by donating plasma to make some money and planned to spend the day with his girlfriend, Asia Cockorham (“Asia”). R.R. Vol. 3, p. 71:1-21. Clareesa and Peter had conversations that morning by both text and phone in which Clareesa was telling Peter that needed to get ready to go do a “job” (to rob someone). R.R. Vol. 3, p. 72:6-25. Peter texted Clareesa that Asia was on her way to meet him at Food Town, and that tomorrow would be a better day to do a job. R.R. Vol. 3, p. 77:22 – 79:11; 79:22 – 80:6. Clareesa wanted Peter to go with her to do a robbery. R.R. Vol. 3, p. 79:5-11. Clareesa texted Peter that Defendant was coming to pick him up and that he was already at Food Town. R.R. Vol. 3, p. 81:3 – 82:22. They picked Peter and Asia up and took

them to his and Clareesa's apartment, although Clareesa did not want Asia to come over because she believed Asia would not help with the robbery. R.R. Vol. 3, p. 87:2 – 91:3; 93:14-23. Asia was probably not aware that Clareesa and Peter were communicating about doing a robbery. R.R. Vol. 3, p. 97:19 – 98:12. Peter said that while driving to the apartment, Timothy and Clareesa showed him the guns that they had. R.R. Vol. 3, p. 100:25 – 101:3. Peter then clarified that it was only Clareesa who showed him two guns. R.R. Vol. 3, p. 101:4-12. When they got to the apartment, they dropped off Asia. R.R. Vol. 3, p. 101:25 – 102:8. Peter told Asia when they were alone in the apartment that they were going to do a job, but Asia didn't know what he meant by that. R.R. Vol. 3, p. 102:20 – 103:14.

When Peter, Clareesa and Timothy left, they went to Katy Mills Mall, although Peter said he did not know where they were going. R.R. Vol. 3, p. 104:5-24. Once in the car, Clareesa tells Peter that they are going to go to a job and that they needed Peter's help. R.R. Vol. 3, p. 104:25 – 105:3. Clareesa did most all the talking on the way to Katy Mills about they were going to rob somebody because they needed money for rent. R.R. Vol. 3, p. 105:4 – 106:5. Peter did not remember Timothy saying anything specific on the way to Katy Mills. R.R. Vol. 3, p. 106:6-8.

Once they got to Katy Mills, they parked at an entranceway, Clareesa gave Peter a gun, told him to go look to see if anybody had anything worth taking, and Peter got out and looked around. R.R. Vol. 3, p. 106:9-24. On the way to Katy Mills, Clareesa and Peter debated through text messages about whether to do a robbery that day. R.R. Vol. 3, p. 109:6-24. Peter stated that Timothy was scouting the parking lot with binoculars to see if anybody out there had anything worth taking, but Peter doesn't remember Timothy saying anything while he was doing that. R.R. Vol. 3, p. 109:25 – 110:14. The plan was for Peter to go inside to rob somebody and then he would call Clareesa to let her know he was done so that they would pick him up. R.R. Vol. 3, p. 100:15-20.

Peter was in the mall 10-20 minutes and made a couple of phone calls to Clareesa to let her know if he saw anybody having anything worth taking. R.R. Vol. 3, p. 111:2 – 112:1. Peter testified that he could hear Timothy's voice in the background on his calls with Clareesa, but he could not tell or remember what Timothy said. R.R. Vol. 3, p. 112:2-9. Peter said that he called Clareesa to say that he had found somebody and that they needed to be ready to pick him up. R.R. Vol. 3, p. 112:10-18; 115:18 – 116:3. Peter went outside before going back inside to commit the robbery because he wanted Clareesa to know where he was located. R.R. Vol. 3, p. 114:1-16. After Peter robbed the complainant, he called Clareesa

and she told him to hurry up and get into the car. R.R. Vol. 3, p. 116:4-12.

There is some Katy Mills Mall surveillance video showing Peter following the person he robbed. R.R. Vol. 3, p. 118:7 – 21. Peter followed the complainant into the women's restroom stall, put a gun behind her head and covered her mouth so she would not scream. R.R. Vol. 3, p. 119:16 – 120:2. Peter took the complainant's cell phone, her bags and her purse, and told her if she screamed, he would shoot her. R.R. Vol. 3, p. 120:19 – 121:10. Peter called Clareesa to tell her that he had somebody's stuff, and he needed them to come pick him up, and Clareesa told Peter that they were on their way. R.R. Vol. 3, p. 124:10-19. Surveillance video shows Peter getting in the car with Clareesa and Timothy. R.R. Vol. 3, p. 125:24 – 126:2. Peter was able to get in the car pretty easily. R.R. Vol. 3, p. 126:23-25. Once Peter got in the car, he gave all of the bags and purse to Clareesa because she wanted them and told Peter to give them to her. R.R. Vol. 3, p. 127:1-11. Peter said the plan was for Clareesa and him to divide up the property, and then give Timothy the rest. R.R. Vol. 3, p. 127:12-17. During this time, Timothy was not doing or saying anything, but just driving. R.R. Vol. 3, p. 127:21-24. Clareesa was telling Peter that he got something, and that she was ecstatic looking at what Peter got. R.R. Vol. 3, p. 127:25 - 128:3. Clareesa was going through the property in the front seat. R.R. Vol. 3, p. 129:19-25. During

this time, Timothy was not saying anything, just driving. R.R. Vol. 3, p. 128:4-6. Before his testimony in court, Peter gave a previous recorded interview to the District Attorney's Office in which he stated, in contradiction to his trial testimony, that Timothy was ecstatic, and he was asking Clareesa what they had. R.R. Vol. 3, p. 128:15 - 130:10. After Peter got in the car, he was asking Clareesa what they got in the bags, and he gave his gun to her. R.R. Vol. 3, p. 130:24 – 131:5.

The next thing Peter remembered was that they were getting pulled over by undercover officers with Katy Police Department. R.R. Vol. 3, p. 131:6-18. Timothy said nothing, but Clareesa told everyone to not tell the police anything. R.R. Vol. 3, p. 131:19-25. The police got everyone out of the car at gunpoint. R.R. Vol. 3, p. 132:6-13. Peter then testified that Timothy said after they were pulled out of the car to not tell them anything. R.R. Vol. 3, p. 132:23 – 133:6.

Peter then testified again the next day that he thought Timothy and Clareesa both said not to tell the police anything, but he only remembers Clareesa saying that. R.R. Vol. 4, p. 17:3-21. Peter testified that he had a hard time keeping his story straight because he was confused. R.R. Vol. 4, p. 38:18-20. Peter admitted that he changed his answers to questions posed by the State several times after the jury was taken out of the courtroom and the prosecutors showed him a video or spoke with him outside the presence of the jury. R.R. Vol. 4, p. 38:18 – 43:3.

After Peter was arrested, he was taken to jail, and he gave a couple of interviews to a detective that evening. R.R. Vol. 3, p. 134:6-13. A ski mask and gloves were found in the car, and Peter presumed they belonged to either Timothy or Clareesa because they did not belong to him. R.R. Vol. 3, p. 136:19-24; 143:14 – 144:3. The police found Peter's bag and work clothes in the back seat of the car. R.R. Vol. 3, p. 138:12 – 139:12. Peter testified that binoculars found in the driver's side door belonged to Timothy, and that Timothy was using them to scope the place out. R.R. Vol. 3, p. 141:17 – 142:3.

Peter testified that he was not honest with the detective when he gave his initial interview about his participation in the robbery. R.R. Vol. 3, p. 144:16 – 145:8. Peter saw Timothy at one of his court dates, at which he asked Peter to write an affidavit stating that Timothy had nothing to do with the robbery at Katy Mills, and in exchange Timothy promised to bond Peter out of jail. R.R. Vol. 3, p. 146:2 – 147:12. Peter wrote the affidavit and sent it to Timothy's lawyer. R.R. Vol. 3, p. 147:13-20. Peter wrote a second similar affidavit which he sent to Timothy because he wasn't sure the first one went through. R.R. Vol. 3, p. 148:14 – 149:8. The affidavits (R.R. Vol. 8, p. 47-48; 90-91) stated, among other things, that Timothy had nothing to do with the robbery, that he had no intention of committing any crimes, and that Peter told Timothy that he was taking him to the

mall to purchase a ring to propose to Asia. R.R. Vol. 3, p. 149:13 - 152:21. The affidavits also stated Clareesa threatened to hurt Asia if Peter and Timothy did not go along with what she said. R.R. Vol. 3, p. 153:11 - 157:3. Peter then testified that what he stated in these affidavits about Timothy having nothing to do with the crime, and that Timothy thought they were going to Katy Mills so Peter could buy Asia a ring, were not true. R.R. Vol. 3, p. 157:4-13. Peter further testified that the only reason he wrote those affidavits was because he thought that Timothy would bond him out. R.R. Vol. 3, p. 157:14-19. Peter then testified that Timothy's actions as a getaway driver helped him commit the robbery, and that he is testifying to things that are different from the affidavits. R.R. Vol. 3, p. 157:21 – 159:7.

Before the trial, Peter met with the police officers and prosecutors for four separate interviews for about five hours total. R.R. Vol. 3, p. 180:4-11. Peter never mentioned binoculars in the car in any of the interviews until the prosecutors brought them up a few days before trial, when the prosecutors were the ones who told Peter that Timothy had binoculars. R.R. Vol. 3, p. 180:8 – 181:18. Peter decided to cooperate with prosecutors and testify against Timothy in the hope of getting a more lenient charge, possibly even a time served. R.R. Vol. 3, p. 182:1 - 184:8. Peter again testified that he lied when he was first interviewed by detectives

and that he lied in the affidavits. R.R. Vol. 3, p. 184:3 – 185:13.

Asia testified that she saw a gun on Clareesa's hip when Timothy picked Peter and her up and drove them to Clareesa and Peter's apartment, but that nobody showed it to her. R.R. Vol. 3, p. 168:12-17 Otherwise, Asia testified that there were no discussions about a gun in the car, no one showed her multiple firearms, and that it was quiet in the car on the way to the apartment. R.R. Vol. 3, p. 169:10 - 170:3. After Peter was arrested, Asia and he broke up. R.R. Vol. 3, p. 175:4-7. However, when Asia met with the prosecution before the trial of the case, she told them that she had not seen a gun on the way back to the apartment. R.R. Vol. 3, p. 176:15 – 177:6. Timothy had no participation in the text messages between Clareesa and Peter. R.R. Vol. 3, p. 186:2-10; 22-25. All the phone calls in the instant case were between Clareesa and Peter. R.R. Vol. 3, p. 188:24 - 189:1. Peter initially told the police that he was dropped off at the mall by a guy named Rich, that he did not know Clareesa or Timothy, and that he was not involved in a robbery, and later, that he did not have a gun in the robbery. R.R. Vol. 3, p. 191:10 – 193:9. In all, Peter wrote a total of four affidavits stating that Timothy had nothing to do with the robbery. R.R. Vol. 3, p. 196:20-24. Peter states that the first time he had ever held a gun was on the day of the robbery. R.R. Vol. 3, p. 201:8 – 202:9. Peter stated that Clareesa showed the guns in front of

Asia. R.R. Vol. 3, p. 206:11-19. Peter agreed that his entire story changed completely once he decided to cooperate with the prosecutors and cut a deal. R.R. Vol. 3, p. 210:20 - 212:10. Peter initially testified that he did not hear Timothy say anything when he and Clareesa were making phone calls. Then the prosecutors showed him a video outside the presence of the jury, and Peter then testified that he could hear Timothy's voice in the background during the phone calls, thus bringing Timothy into the case. R.R. Vol. 3, p. 212:7 – 213:3. Timothy's gun never went into the mall, the ski mask and gloves never went into the mall, and nobody ever put on the ski mask or gloves. R.R. Vol. 3, p. 213:16-25. When Timothy picked Peter up from the mall, Timothy did not speed off. He drove off at a normal pace and he did not flee or run from the police and cooperated with them. Nothing about the way Timothy was driving made him look like a getaway driver. R.R. Vol. 3, p. 214:1-22.

Detective Lieutenant Jarod Stewart ("Stewart") was assigned to the Criminal Investigations Division of the Katy Police Department. R.R. Vol. 4, p. 46:7-15. Stewart testified about his education, training and duties with Katy PD, including the efforts of Katy Mills and Katy PD to curtail organized retail theft operations. R.R. Vol. 4, p. 52:21 – 57:23. Stewart then began testifying about juggings at Katy Mills, over the objection of defense counsel as to relevance which was overruled.

R.R. Vol. 4, p. 58:21 – 59:5. Stewart testified in detail about jugging procedures and its relation to organized retail theft, Katy Mills Mall and about how many of its participants come from outside the mall area, again over the objections of defense counsel. R.R. Vol. 4, p. 58:21 – 65:4. Stewart continued his testimony about organized retail theft operations, organized criminal gangs and crews, and professional ATM theft crews, and how their activities are similar to what happened in the instant case, once again over the objection of defense counsel. R.R. Vol. 4, p. 65:5 – 67:8.

Katy PD was having its monthly organized retail theft operation at Katy Mills on October 7, 2022. R.R. Vol. 4, p. 67:19-25. Around 4:00-4:30pm, Stewart responded to a communication from units inside the mall that some activity had been observed. R.R. Vol. 4, p. 74:16-20. Stewart received a communication from Detective Joseph Darrehshoori (“Darrehshoori”) that he had observed a male in a hurry (later determined to be Peter) carrying a women’s purse and shopping bag as if he were trying to make a getaway, and he put out a physical description. R.R. Vol. 4, p. 75:13-25. Darrehshoori was following Peter closely, and then Stewart, who was in his truck in the parking lot, saw Peter and a car pull up to him hurriedly, and saw Peter get in the car. R.R. Vol. 4, p. 76:24 – 77:25. The mall had surveillance cameras in the parking lot which recorded part of Peter’s exit into

the parking lot and part of the vehicle's travel on video. R.R. Vol. 4, p. 79:4 – 65:4. Stewart testified that when he sees part of the video, the vehicle driven by Timothy is close to striking pedestrians, failing to stop for them or yield the right of way to them, and rolling through a stop sign. R.R. Vol. 4, p. 84:20 – 85:3; 95:5-11. Stewart said that the vehicle was travelling at a pretty good speed more than normal for the average car in a parking lot. R.R. Vol. 4, p. 89:6-9; 93:4-19. Katy PD and security officers then executed a felony stop on the vehicle, and they took everybody into custody. R.R. Vol. 4, p. 95:12-19. The officers who made the stop received a transmission that an aggravated robbery had occurred. R.R. Vol. 4, p. 96:10 – 97:14. Officers arrested all three occupants of the vehicle, Peter in the back seat, Clareesa in the front passenger seat and Timothy the driver. R.R. Vol. 4, p. 98:5 – 99:1.

Officers took photos of everything on the scene. R.R. Vol. 4, p. 100:15-23. A pink bag from one of the stores was found in the back seat, and the complainant's white purse was found in the front passenger seat floor. R.R. Vol. 4, p. 101:8 – 102:12. Another handbag and two handguns were also found on the front passenger floorboard near the center console. R.R. Vol. 4, p. 103:17 – 106:3. Officers found three cell phones in the console area, including the complainant's phone, and a mask or hood type piece of clothing against the console. R.R. Vol. 4,

p. 106:22 – 107:15. Officers also found binoculars in the driver's side door area near the handle. R.R. Vol. 4, p. 109:3-8. Two ski masks and a pair of gloves were also found in the center console. R.R. Vol. 4, p. 111:19 – 112:1. There were other winter clothes in the car which the arresting officers did not bother to lay on the hood of the car and photograph. R.R. Vol. 4, p. 117:1 – 118:6. Although Stewart had testified to the jury about juggling, he admitted that the instant case was not juggling. R.R. Vol. 4, p. 118:7-16. Stewart saw no suspicious activity on video of the vehicle in the parking lot before he heard that something had happened in the mall. R.R. Vol. 4, p. 119:5 – 120:8. Stewart admitted that not stopping at a stop sign is not indicia of a getaway driver. R.R. Vol. 4, p. 120:16-24. All the bags but one were found in the front passenger seat where Clareesa was sitting. R.R. Vol. 4, p. 124:10-16.

Darrehshoori was a detective with Katy PD attached to the substation in Katy Mills Mall. R.R. Vol. 4, p. 130:7 – 131:1. Darrehshoori testified in detail about characteristics of, and trends in, organized retail theft, which is large-scale retail theft in groups in which stolen items are resold for profit. R.R. Vol. 4, p. 135:9 – 137:17. Darrehshoori was the officer in charge of the undercover retail theft operation at Katy Mills on October 7, 2022. R.R. Vol. 4, p. 142:20 – 143:3. Darrehshoori was in plain clothes and on some of the video inside the mall shown

to the jury which also included Peter leaving the mall to get into the vehicle. R.R. Vol. 4, p. 145:7 – 147:15. Darrehshoori watched Peter get into the vehicle after leaving the mall and communicated with other officers about this. R.R. Vol. 4, p. 148:3-24. Darrehshoori saw the vehicle moving fast through the parking lot, slightly pass up Peter as he was attempting to get into the car, and not yield to any pedestrian, and in his opinion it was a getaway vehicle. R.R. Vol. 4, p. 152:10 – 153:17.

ARGUMENT

I. There was insufficient evidence for the jury to find that Appellant was guilty of aggravated robbery apart from the testimony of co-defendant Isaiah Peter Mnange.

Under Rule 38.14 of the Texas Code of Criminal Procedure, a conviction cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the defendant with the offense committed; and the corroboration is not sufficient if it merely shows the commission of the offense. Tex. Code Crim. Proc. Ann. Art. 38.14 (Vernon 2005). “In assessing the sufficiency or corroborative evidence, we eliminate the testimony of the accomplice witness from consideration and examine the testimony of the other witnesses to ascertain whether the non-accomplice evidence tends to connect the accused with the commission of the offense.” *St. Julian v. State*, 132 S.W.3d 512,

516 (Tex. App. – Houston [1st. Dist.] 2004, pet. ref’d.). When determining whether evidence corroborating accomplice testimony sufficiently connects defendant with a charged offense, as required to support conviction on the basis of accomplice testimony, each case must be judged on its own facts, and there is no set amount of non-accomplice corroboration evidence that is required. *Aviles-Barroso v. State*, 477 S.W.3d 363 (Tex. App. – Houston [14th Dist.] 2015, pet. ref’d.).

In the instant case, once all of Peter’s testimony is set aside, the non-accomplice testimony evidence is: 1) the car used in the offense belonged to Timothy’s girlfriend, not Timothy; 2) the police found a pair of gloves and ski masks in the car, but there is no evidence that these items were used in the robbery, and in fact, there were other items of winter clothing in the car; 3) Timothy drove the car into which Peter got in after he left the mall; 4) two officers testified that the car was driving at a greater than normal speed through the parking lot, was not yielding the right of way to pedestrians and rolled through a stop sign (Defendant immediately pulled over when stopped by the police, and he was otherwise cooperative with the police during the investigation); and 5) a pair of binoculars was found in the driver’s side door, although there is no surveillance video of anyone using the binoculars before or during the commission of the offense, or

non-accomplice testimonial proof that the binoculars were used at any time around the commission of the offense.

There was no non-accomplice evidence that the ski masks or gloves belonged to Timothy. There was no non-accomplice testimony that the vehicle Timothy was driving was fleeing from anyone after Peter got back into the car. Timothy was never charged with evading arrest or detention because of his driving. None of the text messages on the cell phones which officers found in the vehicle which discussed the job that Clareesa and Peter planned to do were to or from Timothy. In short, there is insufficient non-accomplice corroborating evidence to justify Timothy's conviction at trial.

II. The court erred in allowing irrelevant and prejudicial testimony from two police officers about jugging and organized retail theft operations. Defendant was not charged with either of these crimes, but the officers' testimony attempted to associate the actions of Defendant to these two offenses.

Stewart and Darrehshoori both testified at length about the characteristics of jugging and organized retail theft operations over the objections of defense counsel. R.R. Vol. 4, p. 58:21 – 67:8 (Stewart) and R.R. Vol. 4, p. 135:9 – 137:17 (Darrehshoori). Neither Defendant nor his co-defendants were ever charged with conduct constituting jugging or organized retail theft. This testimony was irrelevant and unfairly prejudicial in violation of Texas Rules of Evidence 403 and

404(b) because it necessarily left the jury with the impression that Defendant was part of a juggling and/or organized retail theft operation.

In *Valcarcel v. State*, 765 S.W.2d 412 (Tex. Crim. App. 1989), the Court reversed the convictions of defendants charged with possession of a large amount of cocaine who were stopped travelling on Interstate 40 near New Mexico. At trial, the State had elicited the testimony of a DPS trooper who opined that defendants fit the “drug courier profile”, even though the trooper had nothing to do with defendants’ case. The Court ruled that this testimony was irrelevant and highly prejudicial, and thus defendants were not allowed a fair and impartial trial by jury. *Id.* at 418.

Similarly in *Gonzalez v. State*, 115 S.W.3d 278 (Tex. App. – Corpus Christi, 2003, writ ref’d), the prosecutor argued in closing that defendant’s conduct in the murder of the complainant resembled the conduct of Osama Bin Laden on September 11, 2001. The trial judge sustained defense counsel’s objection as to improper jury argument, but overruled counsel’s motion for a mistrial. The court of appeals ruled that the prosecutor’s comments were harmful to the defendant and so prejudicial that the trial court’s admonition could not cure the error, and that the harmful remarks deprived the defendant of a fair and impartial trial. *Id.* at 285.

PRAYER FOR RELIEF

Appellant prays that this Court reverse the judgment entered by the trial court and if necessary, remand the case back to the trial court for further proceedings. Appellant prays for such other and further relief to which he may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing brief was served upon the following parties via electronic filing manager on October 21, 2024:

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**CERTIFICATE OF COMPLIANCE WITH TEXAS
RULE OF APPELLATE PROCEDURE 9.4(i)(3)**

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