

**No. 01-24-00778-CR**

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**In the First Court of Appeals Houston, Texas**

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**JASON CIERRA, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 149<sup>th</sup> Judicial District Court  
Of Brazoria County, Texas  
Cause No. 99911-CR**

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**APPELLANT'S BRIEF**

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**APPELLANT REQUESTS ORAL ARGUMENT**

**STATEMENT REGARDING ORAL ARGUMENT**

Pursuant to the Texas Rules of Appellate Procedure 9.4(g) and 38.1(e),  
Appellant requests oral argument to benefit this Court for the following reasons:

**THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT THE  
APPELLANT'S CONVICTION.**

## **IDENTITY OF PARTIES AND COUNSEL**

Pursuant to Tex. R. App. P. Rule 38.1 (a), appellant certifies that the following is a complete list of the parties to the final judgment and the names and addresses of counsel in the trial and on appeal:

**Appellant:**

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**Trial Judge:**

The Honorable Jessica Pulcher  
Presiding Judge 149th District Court  
Brazoria County, Texas

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## **STATEMENT OF THE CASE**

On December 19, 2023, Jason Cierra, Appellant, was indicted for the felony offense of Murder. (CR 1 at 5). The offense was alleged to have been committed on or about October 27, 2023. (CR 1 at 29). On April 9, 2024, Appellant pled not guilty to the indictment. (RR 3 at 10). On April 15, 2024, the Appellant was found guilty by the Jury. (RR 5 at 17). On April 16, 2024, the Appellant was assessed a Life sentence, in the Texas Department of Criminal Justice-Institutional Division, by the Jury. (RR 5 at 17-18).

On September 26, 2024, Appellant timely filed his notice of appeal. (CR 1 at 58).

**ISSUES PRESENTED**

**POINT OF ERROR ONE**

**THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT THE  
APPELLANT'S CONVICTION.**

## **STATEMENT OF FACTS**

On October 27, 2023, Officer Liufau with the Alvin Police Department received a call for service to 3903 Statesmen Drive in Alvin. (RR 4 at 12-15). ~~The call for service was an assist for law enforcement,~~ after EMS initially responded to the address, to assist a man, who it was later determined, was the Appellant's father who recently had surgery. (RR 4 at 14). Police and EMS responded to a trailer which was parked in the driveway. When Liufau arrived on the scene, he heard over the radio that there was a stab victim in the trailer. (RR 4 at 15-16). He observed an infant male on a stretcher covered in blood in the driveway between the house and the trailer. EMS pointed to the trailer. (RR 4 at 15-16). Liufau observed a female, later identified as America Llamas, laying on the ground next to the door of the trailer covered in blood. Her face was battered, and she had a knife sticking out of her chest. (RR 4 at 16). Liufau determined that Llamas was dead because EMS did not have their hands on her and they were not working on her any longer. (RR 4 at 16). The Appellant's father, that EMS originally responded to, was still inside of the trailer. He had a lot of medical issues and could not walk so he was stuck there. (RR 4 at 19). Liufau received the Appellant's name while on the scene and was told by dispatch that the Appellant had called Alvin dispatch wanting to turn himself in and gave them his location. (RR 4 at 20). Liufau, along with other units, turned the scene



over to the Sheriff's Department, since the location of the scene was the County's jurisdiction, then drove to the Appellant's location in Alvin. (RR 4 at 21).

Deputy Dartez, with the Brazoria County Sheriff's Department, received a call for service for an ambulance call that also involved a stabbing victim. (RR 4 at 24-26). As Dartez walked up to the crime scene, he was notified that it was a homicide. (RR 4 at 27). Dartez observed a baby on a gurney covered with blood. While Dartez was on the scene, he was told by Alvin Police Department that the suspect had called wanting to turn himself in. (RR 4 at 27). Dartez left with Sargent Richard along with Alvin Police Department to the suspect's location, a gas station on Mustang Road in Alvin. (RR 4 at 29-30). He took part in arresting the Appellant. (RR 4 at 31). Dartez called for EMS because the Appellant claimed that his hand was broken. Dartez transported the Appellant to Angleton Danbury Hospital. (RR 4 at 32).

Hassen Minji has been the owner of Alvin Food Mart since 2005. Minji's store has a security system set up with 14 cameras. On the date in question, Minji provided the Sheriff's Department with video of the Appellant inside the store soon after the stabbing. (RR 4 at 35-37).

Karen Watson worked as a cashier at the Alvin Food Mart on the date in question. As she was waiting on a customer, she observed the Appellant pacing around the store and acting nervous, while on his phone for about 15 minutes. (RR

4 at 41-42, 45). The Appellant told Watson that he was calling the police to come pick him up because he had just killed somebody. (RR 4 at 43-44). Watson noticed that the Appellant had red on his shirt and pants but did not know if it was blood.

Monica Lamas, the daughter of the deceased, America Llamas, lived in Alvin at the time of the incident. In the past, her mother, America, had dated Gilbert, the Appellant's father, for several years. Gilbert and the Appellant were living in the trailer in the driveway of America's residence. (4 RR at 51-55). Gilbert's health was not good. His heart and liver were both bad. He couldn't move very well, and he was in and out of the hospital. (RR 4 at 56-57). America would sometimes help Gilbert move around and would also cook for him. (RR 4 at 58). According to Monica, the Appellant would never help Gilbert and Gilbert would pay the rent. (RR 4 at 59-62). On the day of the incident, Monica saw America at her house about 11 a.m. America was taking care of her sister, Luceros', baby, Juan. America told Monica that Gilbert was having a rough morning. (RR 4 at 64-65). America complained that she had to go help Gilbert because the Appellant was not helping which was a regular occurrence. (RR 4 at 66). Monica thought that America had gone to the porch with Juan to drink her coffee as she normally would, so she went to the back room to put away clothes. About fifteen to twenty minutes later, Monica received a call from Gilbert who told her that the Appellant had killed her mother, so she ran to the trailer. (RR 4 at 67-68, 71, 76). Monica saw EMS at the trailer and America, with a knife in

her chest laying on the floor of the trailer. (RR 4 at 69-70). She saw Juan covered in blood and assumed that it was America's blood. (RR 4 at 72). Monica called her sisters to tell them what happened. Monica listened to a 911 call (State's exhibit 4) the Appellant had made and recognized the Appellant's voice saying that he had killed America. (RR 4 at 78-86). Monica also recognized the Appellant, on his phone, inside the store while watching State's exhibit 3. (RR 4 at 92-93). Monica stated that there was some animosity because America raised the rent of the trailer from \$300 to \$600 a month.

James Minshew, a crime scene investigator, with the County Sheriff's Department, arrived at the crime scene and observed several county units already there and an ambulance in the driveway. (RR 4 at 129-131). He saw Gilbert on the couch when he walked inside the trailer and while he was there, he took a video of the scene. (RR 4 at 134-135). Minshew observed a lot of bruising around America's eyes and nose area. (RR 4 at 152). Minshew applied Bluestar to the Appellant's steering wheel of his vehicle and the driver's seat which both showed the presence of blood. (RR 4 at 161).

Charles Thom, an investigator with the Brazoria County Sheriff's Department was dispatched in reference to a stabbing. (RR 5 at 29). Thom recognized photos of the Appellant which showed his bloody and swollen knuckles. Thom also recognized text messages from the Appellant's phone which said, I told them -- "I told them

they coming from me." "Ok. You just stay out. And leave that knife alone ok? You ran cause you were scared and they'll understand that." "\*Put not out." (RR 5 at 42).

Matthew Boswell, an investigator previously with the Brazoria County Sheriff's Department, went to UTMB Angleton Hospital to collect the Appellant's clothing. (RR 5 at 47-49). Boswell observed the Appellant's pants to have reddish brown stain as well as a reddish stain on the bottom of the Appellant's right shoe. He also observed the Appellant to have injuries on hand or wrist. (RR 5 at 52). Boswell presumed that the stains were blood. (RR 5 at 53).

Stephanie Dollar, the Appellant's girlfriend at the time of the incident, lives in Washington state. (RR 5 at 64, 76). Stephanie was aware of Gilbert's declining health, through daily conversations with the Appellant, from July 2023 to October 2023. (RR 5 at 71). She was aware that Gilbert was in and out of the hospital and couldn't walk so the Appellant would help him get around. (RR 5 at 72). Stephanie knew that the Appellant did not have a good relationship with America and blamed her for Gilbert being sick. (RR 5 at 75). The Appellant told Stephanie that America was verbally abusive to him and Gilbert. (RR 5 at 76). At first, Stephanie sided with the Appellant, but now she had the full story. (RR 5 at 76-77). Stephanie was on the phone with the Appellant on the day of the murder. Stephanie said the Appellant seemed scared because Gilbert had been kicked out of the hospital due to lack of insurance benefits. Stephanie said the Appellant had to get up with Gilbert 19 times

throughout the previous night and that he hurt himself trying to get Gilbert to the bathroom as well as dropping him a couple of times. (RR 5 at 80). The Appellant told Stephanie that Gilbert also had a bowel movement on the bed. (RR 5 at 81). While on the phone with the Appellant, she heard him open the door, apparently, he saw America because he asks America for help. Stephanie could hear America saying something to the Appellant which caused the Appellant to tell her it was her fault. America and the Appellant begin arguing and she leaves the trailer after tending to Gilbert. Stephanie then calls 911 to have EMS go to the trailer. Stephanie got back on the phone with the Appellant. While on the phone with the Appellant, America goes back to the trailer and Stephanie hears America knocking and hears America saying that her grandbaby wanted to see Gilbert. (RR 5 83-88). Stephanie asks the Appellant to put her on speaker phone, when she hears the Appellant and America still arguing, so she tells America to stop fighting. Stephanie then hears the phone drop and the Appellant calling America a “bitch”. (RR 5 at 88-90). Stephanie hears something hit the ground, much like the sound of a sandbag. She then heard something like a clapping sound. She could hear Gilbert yelling for the Appellant to stop. Gilbert kept wailing and crying out. Stephanie believed that the Appellant had attacked America. (RR 5 at 91-93). The Appellant got back on the phone with Stephanie but when asked what he did, he did not say anything. Stephanie again asked him what he did and in response the Appellant said that he “fucked her up”

twice. (RR 5 at 93). The Appellant says to Stephanie that he's sorry, he loves her and hangs up the phone. The Appellant called Stephanie back from a mart down the street. He wanted to know who Stephanie told, about what took place, and he also told her that he thought he had broken his finger. (RR 5 at 94-96). The Appellant told Stephanie that he had stabbed America. (RR 5 at 97). Stephanie told the Appellant to call the police and tell them where you are, what happened, that you're unarmed and turning yourself in. (RR 5 at 98). The Appellant then texted Stephanie that the police were coming for him. (RR 5 at 100). Stephanie had obtained a probable cause affidavit and read it to the Appellant, asking him, if it was accurate, in which the Appellant told her that it was. (RR 5 at 105-106).

## **SUMMARY OF THE ARGUMENT**

### **POINT OF ERROR ONE**

**THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT THE APPELLANT'S CONVICTION.**

### **ARGUMENT**

**POINT OF ERROR ONE: THE EVIDENCE ADDUCED AT TRIAL WAS INSUFFICIENT TO SUPPORT THIS CONVICTION.**

#### **SUFFICIENCY**

Appellant challenges the legal sufficiency of the evidence to support his conviction. The Court of Criminal Appeals has held that only one standard should be used in a criminal case to evaluate the sufficiency of the evidence to support findings that must be established beyond a reasonable doubt: legal sufficiency. *Brooks v. State*, 323 S.W.3d 893,894-95 (Tex. Crim. App. 2010). Accordingly, the review of the sufficiency of the evidence in this case is under a rigorous and proper application of the legal sufficiency standard of *Jackson v. Virginia*, 443 U.S. 307 (1979). *Brooks*, 323 S.W.3d at 906. When reviewing the sufficiency of the evidence, it is proper to view all of the evidence in the light most favorable to the verdict to determine whether the fact finder was rationally justified in finding guilt beyond a reasonable doubt. *Brooks*, 323 S.W.3d at 899; *Williams v. State*, 235 S.W.3d 742, 750 (Tex. Crim. App. 2007). This Court will defer to the fact finder's resolution of

conflicting evidence unless the resolution is not rational. *Brooks*, 323 S.W.3d at 902 n.19, 907. Appellant argues the evidence is legally insufficient to support his conviction.

### **STANDARD OF REVIEW**

When reviewing the sufficiency of the evidence, the view is to all of the evidence in the light most favorable to the verdict to determine whether the jury was rationally justified in finding guilt beyond a reasonable doubt. *Id.* at 898. *Dewberry v. State*, 4 S.W.3d 735,740 (Tex. Crim. App.1999); see also *Sharp v. State*, 707 S.W.2d 611,614 (Tex. Crim. App. 1986) (stating the jury may choose to believe or disbelieve any portion of the testimony at trial). The duty as a reviewing court is to ensure that the evidence presented actually supports a conclusion that the defendant committed the crime. *Williams v. State*, 235 S.W.3d 742, 750 (Tex. Crim. App.2007).

#### **Sec. 19.02. MURDER.** (a) In this section:

(1) "Adequate cause" means cause that would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper, sufficient to render the mind incapable of cool reflection.

(2) "Sudden passion" means passion directly caused by and arising out of provocation by the individual killed or another acting with the person killed which passion arises at the time of the offense and is not solely the result of former provocation.

(b) A person commits an offense if the person:



- (1) intentionally or knowingly causes the death of an individual;
  - (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual;
  - (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, the person commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual; or
  - (4) knowingly manufactures or delivers a controlled substance included in Penalty Group 1-B under Section 481.1022, Health and Safety Code, in violation of Section 481.1123, Health and Safety Code, and an individual dies as a result of injecting, ingesting, inhaling, or introducing into the individual's body any amount of the controlled substance manufactured or delivered by the actor, regardless of whether the controlled substance was used by itself or with another substance, including a drug, adulterant, or dilutant.
- (c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.
- (d) At the punishment stage of a trial, the defendant may raise the issue as to whether he caused the death under the immediate influence of sudden passion arising from an adequate cause. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.
- (e) It is a defense to prosecution under Subsection (b)(4) that the actor's conduct in manufacturing or delivering the controlled substance was authorized under Chapter 481, Health and Safety Code, or other state or federal law.

In this case, the State had to prove that the Appellant, on or about the 27th day of October, 2023, did then and there intentionally or knowingly cause the death of an individual, namely, America Soto Llamas, by stabbing the said America Soto Llamas with a deadly weapon to-wit: a knife, which in the manner of its use or intended use was capable of causing death or serious bodily injury;

And that the Appellant, on or about the 27th day of October 2023, did then and there with intent to cause serious bodily injury to an individual, namely, America Soto Llamas, commit an act clearly dangerous to human life, to-wit: did stab the said America Soto Llamas with a deadly weapon, to-wit: a knife, which in the manner of its use or intended use was capable of causing death or serious bodily injury, that caused the death of the said America Soto Llamas.

In this case, not one State's witness could identify the Appellant as the person who killed America Llamas. Even Gilbert, who was in the trailer at the time the stabbing allegedly occurred, could not have seen the Appellant stab America. Trial counsel showed Gilbert pictures inside of the trailer during the deposition and from where Gilbert was at, he could not have seen the Appellant stab America. (Linton) Q. Okay. And the reason why I was asking was the police officers that went to the scene that day, they took some pictures. And I'm going to show you a couple of these pictures, and you tell me if you recognize them because what I want to know is where you were when this was happening so that I can determine -- or so the jury can see whether or not you had a clear view of your son. (Defendant 's Deposition Exhibit Number 1 was marked.) (BY MR. LINTON) I'm going to show you what is going to be Defendant 's Deposition Exhibit Number 1. Does that look familiar to you? (Gilbert) A. Uh-huh. (Linton) Q. Okay. (Gilbert) A. Yes. (Linton) Q. Now, I know you didn't take this picture. A police officer took it. But is that you lying in some

type of a bed? (Gilbert) A. Yes. (Linton) Q. And I guess this was before the -- for a jury to see as well. But is that you? (Gilbert) A. Yes, it is. (Linton) Q. Okay. And what type of a bed is that that you're laying in? (Gilbert) A. It's like a little couch. It pulls out. (Linton) Q. Okay. And is there a bed back here (Gilbert) A. That's a bed. (Linton) Q. - - where I 've got the - - (Gilbert) A. Yes. (Linton) Q. -- where it's pointing the finger? (Gilbert) A. Yes. Full size bed. (Linton) Q. Okay. You had said that you had that blackout and you fell down and you defecated on yourself and you were asking your son -- (Gilbert) A. Right. (Linton) Q. -- to help you out. (Gilbert) A. Yeah. (Linton) Q. -- and America to help you out. (Gilbert) A. Yeah. (Linton) Q. When you blacked out and defecated on yourself, was it back there on that mattress? (Gilbert) A. Yes, yes. It was there. I don't know how I got over here, though. (Linton) Q. Okay. And - - and - - and that's what I wanted to know, and this camera is taking down everything that we're talking about, but it may be that a jury's actually going to be seeing this one day, so I want to make sure you can take a look at me as well as the camera. You you had your blackout back here on this mattress; is that right? (Gilbert) A. Right. (Linton) Q. And then somehow -- are you saying that you got up in some way and ended up on this -- on this couch? (Gilbert) A. Yeah. I don't remember. I remember I was in here stuck. I was right here (indicating). (Linton) Q. Okay. And where were you -- for the jury, where were you laying or standing or sitting when you said your son, Jason, plunged that knife into America? (Gilbert) A.

I guess I was right here (indicating). (Linton) Q. Okay. Where you are in this picture?

(Gilbert) A. Right, uh-huh. (RR 7 at 76-79).

(Linton) Q. The reason why I'm asking that is that if you had a blackout and you had defecated on yourself and you stumbled and fell down, how you would be able to see him. I understand you might be able to hear him if he was yelling or screaming but -- or if America was saying anything; but I was just wondering, based on those pictures, how you would have see him do anything. If you want to take a look at them, if that helps -- helps you remember. Is it possible that maybe you didn't see him but you just heard something happen? It's not very far away but -- just a few feet, but is it possible that you may not have seen him? (Gilbert) A. No. I know I saw him. (Linton) Q. Okay. (Gilbert) A. I don't know how but ...(RR 7 at 81).

Gilbert would've been the only witness to the murder, but based upon his testimony from his deposition, it's clear that he wasn't able to observe the Appellant stab America. In addition, Gilbert claims that he blacked out during this time.

Stephanie was not an eyewitness to the murder. She was on the phone with the Appellant, while she was in Seattle, Washington, during the time that the stabbing allegedly occurred. However, she was not able to see anything that transpired, but only heard things that she clearly speculated upon.

### **CONCLUSION AND PRAYER FOR RELIEF**

WHEREFORE PREMISES CONSIDERED, Appellant, Jason Cierra respectfully asks that the judgment of the trial court be reversed and that a judgment of acquittal be entered or in the alternative that Appellant's sentence be set aside and for such other and further relief to which Appellant may be justly entitled.

Respectfully Submitted,

/s/ Michael C. Diaz

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## **CERTIFICATE OF COMPLIANCE**

Pursuant to Tex. R. App. 9.4(i) 3, I hereby certify that the foregoing document, appellant's brief, filed on May 14, 2025, has 4228 words based upon the word count under Microsoft Word.

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## **CERTIFICATE OF SERVICE**

In accordance with TEX. R. APP. P. 9.5, I Michael C. Diaz, certify that a true and accurate copy of the foregoing brief for appellant has been served, by electronic service on May 14, 2025, to the District Attorney's Office, Brazoria County, Texas.

/s/Michael C. Diaz  
Michael C. Diaz

### **Automated Certificate of eService**

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