

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLENFORD ANTHONY BUDD,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Case No. 46977

FILED

SEP 20 2006

RESPONDENT'S ANSWERING BRIEF

BY JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

**Appeal From Judgment of Conviction
Eighth Judicial District Court, Clark County**

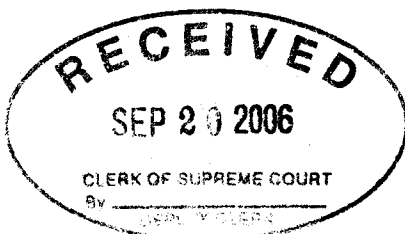
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11 **RESPONDENT'S ANSWERING BRIEF**

12 **Appeal from Judgment of Conviction and Sentence**
13 **Eighth Judicial Court, Clark County**

14 **STATEMENT OF THE ISSUE**

15 Whether the State proved beyond a reasonable doubt that Defendant
16 committed the crimes of Murder in the First Degree when he killed three
17 people by shooting each of them several times.

18 **STATEMENT OF THE CASE**

19 The State of Nevada accepts and adopts Defendant's Statement of the Case.

20 **STATEMENT OF THE FACTS**

21 At approximately midnight on May 26, 2003, detectives from the Las Vegas
22 Metropolitan Police Department were on patrol in the Saratoga Palms East
23 Apartments in Las Vegas, Clark County, Nevada. The apartment complex has been
24 plagued with high-levels of drug and gang activity. (Recorder's Transcript,
25 (hereinafter "R.T.") 12/9/05, 16) Thus, police drove through the complex slowly,
26 with their windows down, to detect the sounds of gunshots or other criminal activity.
(R.T., 12/9/05, 16).

27 Detectives heard three gunshots. (R.T., 12/9/05, 22). Within minutes, police
28 were able to determine that the shots had come from Apartment 2068. Detectives

1 climbed the stairs to find the first of three victims, Jason Moore, lying dead on the
2 front doorstep. (R.T. 12/9/05, 29). Detectives later found Dajon Jones dead in a front
3 bedroom (R.T. 12/9/05, 30). Finally, detectives found the third victim, Derrick Jones,
4 lying in the hallway clinging for life. (R.T. 12/9/05, 31). Derrick was transported to
5 the hospital where he later died. (R.T. 12/12/05, 98). Following a search of the house,
6 described as smoked-filled and having the smell of a shooting range, police secured
7 the crime scene. (R.T. 12/9/05, 71, 82). A short time later, police were able to
8 identify Glenford Budd (hereinafter "Defendant") as the shooter.

9 At the scene, crime scene analysts found eleven (11) bullet casings from a
10 single nine millimeter (9mm) semi-automatic handgun. (R.T. 12/9/05, 107,120). The
11 bullets from this gun either remained in, or passed through, the three victims. On May
12 28, 2003, autopsies were performed on all three victims. The medical examiner found
13 that Dajon Jones suffered from two fatal gunshot wounds to the neck.¹ (R.T. 12/8/05,
14 142-143). Derrick Jones suffered from seven wounds, including four to the back.
15 (R.T. 12/8/05, 147-152). Two of these wounds, both to the head, were fatal. Id. Jason
16 Moore suffered from three gunshot wounds, including a head wound and a neck
17 wound. (R.T. 12/8/05, 138). Two of the wounds were fatal. Id. Evidence of
18 marijuana usage was found during the autopsies of Derrick and Dajon Jones. (R.T.
19 12/8/05, 152).

20 Defendant fled the scene of the attack and went into hiding. During that time,
21 he cut his hair. (R.T. 12/12/05, 135, 139). Defendant initially told police that he
22 went to the apartment to inquire about his stolen one-half pound of marijuana. (R.T.
23 12/12/05, 89). He told police that he heard a gunshot and fled the apartment along
24 with Lazon Jones. Id. This statement was contradicted by Lazon Jones.

25 Lazon Jones testified that he, Derrick, Dajon, and Jason were with Defendant
26 all day on May 26. (R.T. 12/8/05, 78-79). During the day, Defendant, known by
27
28

¹ A third shot missed. The bullet was found in a closet near where Dajon's body was found. (R.T. 12/8/05).

1 Lazon as "A.I."² was involved in altercations with both Derrick and Jason. (R.T.
2 12/8/05, 78-79). That night, the group was in Apartment 2068. Defendant went to the
3 store to get alcohol. (R.T. 12/8/05, 112-113). He came back with a single can. (R.T.
4 12/8/05, 117). Defendant went into the room where Dajon had been lying down.
5 (R.T. 12/8/05, 83). Lazon heard Defendant say "Where's my stuff at?" He then
6 heard three gunshots. (R.T. 12/8/05, 83). Lazon fled the apartment and called 911.
7 (R.T. 12/8/05, 91). After shooting Jason Moore on the front doorstep, Defendant fled
8 the scene. (R.T. 12/9/05, 141). In the interim, Derrick Jones was shot and killed. As
9 Defendant ran from the scene, Lazon saw that he still held a gun in his hand. (R.T.
10 12/8/05, 93).

11 While on the run, Defendant admitted to his uncle, Winston Budd that he had
12 shot three people. (R.T. 12/12/05, 133). Defendant had cut his distinctive braids after
13 the Memorial Day shooting. (R.T. 12/12/05, 135). When his uncle told Defendant to
14 turn himself in, Defendant said that he "preferred to run." (R.T. 12/12/05, 133).
15 Defendant was eventually arrested.

16 After being booked into the Clark County Detention Center to await trial,
17 Defendant made contact with another inmate, Greg Lewis. (R.T. 12/12/05, 9).
18 Defendant and Lewis knew each other before the incident. (R.T. 12/12/05, 10).
19 During Defendant's incarceration at the Detention Center, Defendant confided to
20 Lewis that he had shot and killed the victims because they stole his one-half pound of
21 marijuana. (R.T. 12/12/05, 12-17). Lewis contacted the police to reveal what he had
22 learned. (R.T. 12/12/05, 17, 92). Lewis was not promised, nor was he given anything
23 in exchange for his statement to police.³ (R.T. 12/12/05, 18, 92).

24 Defendant did not know about Lewis's cooperation. He sent a letter addressed
25 to Lewis including lyrics to a song Defendant wrote about the murder. (R.T.
26

27 ² The nickname is derived from that of NBA player Allen Iverson of the Philadelphia 76'ers. Iverson is among the
28 smallest players in the league and has distinctive braids in his hair. http://www.nba.com/playerfile/allen_iverson

³ The District Attorney's Office did write to the Parole Board to inform them of Mr. Lewis assistance in solving the
triple homicide. This did not result in a reduced sentence or his release. (R.T. 12/12/05, 21).

1 12/12/05, 23-33). He titled the song "Killer in Me" and hoped to have the song
2 released on the "Murda Music CD" upon his release. (R.T. 12/12/05, 33). The lyrics
3 to the rap song:

4 The call me Smalls, a.k.a A.I.
5 Everyday on the street, I used to get high
6 There's rules for a killa, Don't get it confused
7 I'm wearing county blues, with my face on the news
8 Blew these niggas off the earth. That's the way it had to go
9 I only killed three, but I should have killed four
10 Left them dead on the floor, but just right before
11 They was crying and pleading, screaming for Jesus.
12 Y'all can keep the weed, because you can't smoke it now
13 Because your ass is in the ground
14 Cross me, I blow like a bomb,
15 took three niggas from their moms,
16 I'm a thrilla killa.
17 Ask Saratoga Palms.

18 (R.T. 12/12/05, 33). Defendant's handwriting was identified by Lewis based on a
19 prior letter Defendant had sent to Lewis. (R.T. 12/12/05, 25). Defendant's distinctive
20 handwriting for the lyrics, which he admitted was done to prevent "snitches" from
21 reading, was recognized by Lewis from a prior event where he observed Defendant
22 use that style of handwriting. (R.T. 12/12/05, 26, 33).

23 ARGUMENT

24 **THE STATE PROVED BEYOND A REASONABLE DOUBT** 25 **THAT THE DEFENDANT WAS GUILTY OF THREE COUNTS** 26 **OF FIRST DEGREE MURDER**

27 The defendant's argument that the State failed to prove beyond a reasonable
28 doubt that he killed three people is without merit. In reviewing evidence supporting a
jury's verdict, this court must determine whether the jury, acting reasonably, could
have been convinced beyond a reasonable doubt of the defendant's guilt by the
competent evidence. Braunstein v. State, 118 Nev. 68, 40 P.3d 413 (2002). The State
presented overwhelming evidence, including eyewitness testimony, witness

1 testimony, and the defendant's lyrical confession which supported the conclusion that
2 the defendant committed the crimes.

3 First Degree Murder is murder which is perpetrated by means of any kind of
4 willful, deliberate, and premeditated killing. NRS 200.030. It is beyond dispute that
5 the jury could have found that the Defendant intended to kill Derrick Jones, Jason
6 Moore, and Dajon Jones when he inflicted multiple gunshot wounds into each person.
7 Moreover, each of the victims had at least two wounds that were classified as fatal.
8 The Medical Examiner concluded, due to the presence of gunpowder burns on Dajon
9 Jones's body that his killer fired from within 24 inches. Jason Moore suffered a
10 gunshot wound to the back of the head. Derrick Jones's body was riddled with seven
11 bullet wounds. Clearly, there was sufficient evidence of the intent to kill.

12 The defendant's own words speak of his deliberation and premeditation. He
13 admitted to police that he suspected the victims of stealing one-half pound of
14 marijuana. (R.T. 12/12/05, 89). Because the victims allegedly took his marijuana, the
15 defendant wanted revenge. He wrote, "Cross me, I blow like a bomb." He wrote that
16 he exacted this revenge when he put the victims "in the ground." His premeditation
17 was further evidenced by the fact that he returned from the store with a single
18 alcoholic beverage. (R.T. 12/8/05, 117). There would be no need to supply the others
19 with drinks. A few minutes later, all of the others, with the exception of Lazon, would
20 be dead.

21 Defendant primarily focuses on the weight and credibility accorded to the
22 witnesses. Where conflicting testimony is presented, the jury determines what weight
23 and credibility to give it. Braunstein v. State, 118 Nev. 68, 40 P.3d 413 (2002). The
24 Court asks, "Whether, after viewing the evidence in the light most favorable to the
25 prosecution, any rational trier of fact could have found the essential elements of the
26 crime beyond a reasonable doubt." Id.

27 Defendant implies that, because Lazon Jones did not physically see the murders
28 of Dajon Jones, Derrick Jones, and Jason Moore, the "evidence is murky when one

1 attempts to determine who killed the three men.” However, this is belied by the fact
2 that only two people were in the room at the time of the Dajon Jones was shot and
3 only one, Defendant, left alive. Clearly, the jury could conclude, beyond a reasonable
4 doubt, that Defendant killed Dajon Jones.

5 Celeste Palua, an eyewitness to the crime, observed Defendant shoot Jason
6 Moore. (R.T. 12/9/05, 136). She recognized Defendant from his small body structure
7 and his distinctive braids. (R.T. 12/9/05, 158). Defendant, admittedly called
8 “Smalls,” cut his distinctive braids before his arrest. (R.T. 12/12/05, 135). It is
9 reasonable that the jury could have found that her testimony supported a conclusion
10 that Defendant killed Jason Moore.

11 Derrick Jones’s body was riddled with bullets fired from the same gun that
12 killed Dajon Jones and Jason Moore. Lazon Jones testified that Dajon Jones was the
13 first person to be shot. Celeste Palua testified that Defendant left immediately after he
14 shot Jason Moore. No one, other than the victims and the Defendant were inside the
15 apartment⁴ after Dajon was shot and killed. There is no evidence that anyone entered
16 the apartment before the Defendant left. Thus, the only logical conclusion that the
17 jury could make is that Defendant shot and killed Derrick Jones after he shot Dajon
18 Jones, but before he shot Jason Moore.

19 Defendant asserts that Lazon Jones’s credibility may be questioned because no
20 evidence of alcohol consumption was found in the deceased victims during the
21 autopsies conducted over a day and a half after the murders. (Defendant’s Brief, p.
22 10-11). It is well settled that alcohol dissipates⁵ from the blood stream over a short
23 amount of time. See Schmerber v. California, 384 U.S. 757, 86 S.Ct. 1826 (1966).
24 Moreover, the matter of alcohol consumption is a collateral issue. Lazon’s testimony
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26
27 ⁴ Defendant asserts that Palua’s testimony regarding a woman leaving with Lazon supports a finding that someone else
28 was in the apartment. The woman was identified and testified that she was on the doorstep of the apartment when the
shooting began. (R.T. 12/12/05, 129). She fled with Lazon before Jason was killed. *Id.*

⁵ Many courts have accepted as a scientific fact that alcohol dissipates between .015% and .022% per hour. *See generally*
Nelson v. City of Irvine, 143 F.3d 1196 (9th Cir 1998); State v. Armstrong, 689 P.2d 897 (Kan. 1984).

1 regarding the victims' use of alcohol use is of no consequence to determining whether
2 Defendant shot and killed the victims.

3 Finally, Defendant attacks Greg Lewis's credibility, stating that he lied on the
4 witness stand to get parole. There is no evidence to support this allegation. Lewis
5 came forward voluntarily. He received no promises or reward in exchange for his
6 testimony. While it is true that the District Attorney's Office advised the Parole
7 Board of Mr. Lewis's cooperation, (R.T. 12/12/05, 21), the letter did not ask for
8 leniency or a reduced sentence.

9 Defendant knew the risk that Lewis could be a "snitch" when he put his trust in
10 a convicted felon. (R.T. 12/12/05, 33-34). Nonetheless, with lyrical style, Defendant
11 confessed to Lewis that he killed the three men at the Saratoga Palms. "I only killed
12 three, but I should have killed four." He admitted his motive. "Y'all can keep the
13 weed, because you can't smoke it now." He admitted the location of the crime, "Ask
14 Saratoga Palms." Most importantly, he identified himself as the killer, "They call me
15 Smalls, a.k.a A.I.," "I'm a thrilla killa."

16 Viewing the evidence in the light most favorable to the prosecution, the jury
17 reasonably could have found the essential elements of the crime of First Degree
18 Murder beyond a reasonable doubt. Therefore, Defendant should be denied relief.
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1 CONCLUSION

2 For all the foregoing reasons, Defendant's conviction and sentence should be
3 affirmed.

4 Dated this 18th day of September 2006.

5 Respectfully submitted,

6 DAVID ROGER,
7 Clark County District Attorney
8 Nevada Bar # 002781

9 BY


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Dated this 18th day of September 2006.

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