

DEC 16 2005

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE
CLERK

STANLEY NORRIS TRAMMELL,)
)
 Appellant,)
 v.)
)
 THE STATE OF OKLAHOMA,)
)
 Appellee.)

NOT FOR PUBLICATION
Case No. F-2004-1112

SUMMARY OPINION

CHAPEL, PRESIDING JUDGE:

Stanley Trammell was tried by jury in Bryan County District Court, Case No. CF-2003-245. He was convicted of Count I: First Degree Murder in violation of 21 O.S.2001, § 701.7; and Count II: Shooting with Intent to Kill in violation of 21 O.S.2001, § 652.¹ The Honorable Farrell M. Hatch followed the jury’s recommendation and imposed the following consecutive sentences: life imprisonment with the possibility of parole on Count I and four (4) years’ imprisonment on Count II. Trammell appeals these judgments and sentences.

Trammell raises the following propositions of error:

- I. The trial court erred in refusing to instruct the jury on self-defense, violating Mr. Trammell’s federal and state rights to due process of law and a fundamentally fair trial.
- II. The trial court erred when it prohibited the defense from introducing character evidence tending to show that the decedent was the first aggressor, depriving Mr. Trammell a fundamentally fair trial and due process of law.

¹ Trammell was also acquitted of two counts of Feloniously Pointing a Firearm.

After thoroughly considering the entire record before us on appeal, including the original record, transcripts, briefs, and parties' exhibits, we find in Proposition I that Trammell was entitled to self-defense instruction.² Proposition II is not addressed due to the relief recommended in Proposition I.

Decision

The Judgments and Sentences of the District Court are **REVERSED** and **REMANDED** for a new trial. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch18, App.2004, the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

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OPINION BY: CHAPEL, P. J.

LUMPKIN, V.P.J.: CONCUR IN RESULTS
C. JOHNSON, J.: CONCUR
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² *Broadrick v. State*, 706 P.2d 534, 536 (Okla.Cr.1985)(defendant entitled to instructions on defense finding "possible" evidentiary support). Trammell's testimony supported the self-defense instructions. Trammell testified that he was attacked, then pursued by at least two if not three men, who had and were attempting to continue to assault him. This was sufficient to allow a jury to determine: if Trammell was justified in using deadly force out of fear of great personal injury or death. 21 O.S.2001, § 733.