

JAN 13 2006

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA
MICHAEL S. RICHIE
CLERK

WILLIAM ANTWYOE WATSON,)
)
 Appellant,) NOT FOR PUBLICATION
)
 v.) No. F-2004-430
)
 THE STATE OF OKLAHOMA,)
)
 Appellee.)

SUMMARY OPINION

LEWIS, JUDGE:

William Antwyoe Watson, Appellant, was tried by jury and convicted of First-Degree Manslaughter in violation of 21 O.S.2001, § 711(3), in the District Court of Tulsa County, Case No. CF-2003-2831, before the Honorable Jesse Harris, District Judge.¹ The jury assessed punishment at four (4) years, and the trial court sentenced accordingly

Watson has perfected an appeal of the District Court's Judgment and Sentence. In support of the appeal, Watson raises the following propositions of error:

1. The evidence presented at trial was insufficient to support a conviction for first-degree manslaughter.
2. Erroneous statements of the law in closing argument prejudiced Appellant, denying his right to a fair trial.
3. The accumulation of error during trial requires reversal.

¹ Watson was originally charged with three counts: first-degree murder, rape by instrumentation and forcible sodomy. First-degree murder was reduced to first-degree manslaughter after preliminary hearing. The jury acquitted Watson of the rape by instrumentation and the forcible sodomy charge.

After thorough consideration of Watson's propositions of error and the entire record before us on appeal, including the original record, transcripts, exhibits, and briefs, we have determined that the Judgment and Sentence of the District Court shall be reversed and remanded with instructions to dismiss.

We find, in considering proposition one, that the State failed to meet its burden of proving that Watson did not act in self-defense under the theory that he was justified under 21 O.S.2001, § 1289.25, in using deadly force against the victim. *See Howell v. State*, 1994 OK CR 62, ¶ 25, 882 P.2d 1086, 1092 (restating the law that the State must prove beyond a reasonable doubt that the defendant was not acting in self-defense, otherwise he must be found not guilty).

The undisputed evidence, in a light most favorable to the State, showed that the victim, Steven Roberson, made unlawful entry into Watson's apartment, forced him out of his apartment, and started beating on him, despite attempts by Watson's girlfriend to stop the beating. While being dragged from his apartment, Watson grabbed a knife. While Roberson was attacking him, Watson stabbed him twice. Roberson died as a result of the stab wounds.

Section 1289.25 allows deadly force against a person who has made an unlawful entry into his dwelling, when a person has a reasonable belief that the person might use any physical force, no matter how slight, against any occupant of the dwelling. Here Watson's belief that Roberson might use physical force against him was reasonable. Roberson had earlier in the

evening, attacked Watson and beat him with his fists, attempted to break his neck, and threatened to kill him, because Roberson believed Watson had sexually assaulted Roberson's girlfriend. Watson was able to escape and get to the sanctity of his apartment. Roberson apparently not satisfied that he had completed the job, entered Watson's apartment, woke him, and dragged him from the apartment, while threatening to kill him.

Based on the evidence, no reasonable juror could have found that the State met its burden to prove that Watson did not act in self-defense; therefore, this case must be reversed and remanded to the district court with instructions to dismiss.

Because this case is being reversed and remanded with instructions to dismiss, the issues raised in propositions one and two are moot. We will not address the claims raised therein.

DECISION

The Judgment and Sentence of the District Court shall be **REVERSED** and **REMANDED** to the District Court with instructions to **DISMISS**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2006), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

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OPINION BY: LEWIS, J.

CHAPEL, P.J.:
LUMPKIN, V.P.J.:
C. JOHNSON, J.:
A. JOHNSON, J.:

CONCURS IN RESULTS
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