Affirmed and Opinion filed March 2, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-97-01345-CR

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TERRANCE ARNOLD, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 351st District Court
Harris County, Texas
Trial Court Cause No. 767,050

O P I N I O N

Terrance Arnold, Appellant, was found guilty of arson by a jury and sentenced to three years incarceration. He appeals on one point of error, arguing that the trial court erred in limiting his cross-examination of one of the State's witnesses. We find no error, and affirm.

In April of 1996, Chris Meullion shot and killed Jason Ramirez, and stole his car. Meullion called appellant, who was a friend of his, and together they took the car to a secluded wooded area and doused it with kerosene. They then left, but Meullion returned later that night and set the car on fire. He testified that burning the car had been appellant's idea in order to destroy any fingerprints from Ramirez' murder.

At appellant's arson trial, the State called Meullion as a witness on the arson charge. Prior to presentation of the testimony, however, the trial court granted the State's motion in limine requesting that appellant be prohibited from specifically asking Meullion whether he had committed the offense of capital murder regarding Jason Ramirez or if he had killed him. . As Meullion's conviction for capital murder was on appeal, the State argued that requiring Meullion to admit he comitted capital murder of Ramirez would prejudice his appeal.

The State then presented Meullion's testimony that he had been found guilty of capital murder in the death of Ramirez, and that in exchange for his testimony against appellant in the arson case, the State had agreed to recommend a sentence of 30 years on the attempted capital murder, ten years on the arson charge, and dismiss the related charge for aggravated assault. On the record, but outside the presence of the jury, the trial court denied appellant's request that he be allowed to specifically ask whether Meullion killed Ramirez or had otherwise committed capital murder. (Appellant complains in general terms that his potential cross-examination of Meullion regarding events surrounding Ramirez' death was curtailed by the trial court, but he does not direct us to specific inquiries or rulings for our review.)

A defendant is entitled to pursue all avenues of cross-examination reasonably calculated to expose a motive, bias or interest for a witness to testify. *Lewis v. State*, 815 S.W.2d 560, 565 (Tex. Crim. App. 1991). This broad scope necessarily includes cross-examination concerning criminal charges pending against a witness and over which those in need of the witnesses' testimony might be empowered to exercise control. *Id*. at 565 (Defendant entitled to question witness about pending indictment and any benefit expected or promised in return for testifying).

Although the extent of cross-examination is subject to the sound discretion of the trial judge, the trial judge abuses that discretion when he prevents appropriate cross-examination. Nevertheless, there are several areas where cross-examination may be inappropriate and, in those situations, the trial judge has the discretion to limit cross-examination. For instance, cross-examination may be limited where it is designed to annoy, harass or humiliate, or when

it might endanger the personal safety of the witness. *See Carroll v. State*, 916 S.W.2d 494 (Tex. Crim. App. 1996). *See generally*, *Delaware v. Van Arsdall*, 475 U.S. 673, 682, 106 S.Ct. 1431, 1436 (1986) (Trial judge may exercise discretion to prevent harassment, prejudice, confusion of the issues, witness safety, and repetitive or marginally relevant interrogation).

Here, the State presented testimony regarding the capital murder and other charges, and expressly presented testimony regarding what the witness expected to receive in exchange for his truthful testimony. Appellant was allowed extensive cross-examination along these lines, and he reiterated that the witness had been found guilty of capital murder, had appealed that conviction, and had been promised certain concessions by the State in exchange for his truthful testimony against appellant on the arson charge. He was not allowed to specifically ask the witness if he had committed capital murder or had killed the deceased.

We find that the trial court did not abuse its discretion in excluding these questions. These questions were merely cumulative of facts already in evidence regarding Meullion's criminal conviction for the murder of Jason Ramirez and of the agreements between Meullion and the State regarding his pending charges. Moreover, TEX. R. EVID. Rule 608 prohibits impeachment of a witness by specific prior acts except as to a criminal conviction, which was already before the jury. Lastly, any inquiry as to whether the witness "committed capital murder" calls for a legal conclusion, and appellant's arguments present no persuasive reason for why the court's ruling was in error.

Even assuming the trial court erred in precluding these questions, we find no harm constituting reversible error. The judgment below is affirmed.

/s/ Bill Cannon
Justice

Judgment rendered and Opinion filed March 2, 2000.

Panel consists of Justices Cannon, Draughn, and Hutson-Dunn*

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* Senior Justices Bill Cannon, Joe L. Draughn and D. Camille Hutson-Dunn sitting by assignment.