

Affirm; Opinion Filed May 29, 2020



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-18-01200-CR

**IOANNIS MAKRIS, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the Criminal District Court No. 6
Dallas County, Texas
Trial Court Cause No. F-1600419-X**

MEMORANDUM OPINION

Before Justices Bridges, Partida-Kipness, and Pedersen, III
Opinion by Justice Pedersen, III

Ioannis Makris was charged with the capital murder of his fiancée, Laura Grillo. The indictment alleged that on or about November 13, 2015, appellant caused Grillo's death by employing Jesus Emmanuel Treviño to murder Grillo for remuneration and the promise of remuneration, and Treviño then caused Grillo's death by shooting her with a firearm. Appellant pled not guilty. After a jury found him guilty as charged, the trial court sentenced appellant to life in prison without the possibility of parole. In his sole issue on appeal, appellant contends that James Villeda's accomplice-witness testimony was not sufficiently corroborated. We affirm.

I. Background

Appellant and Grillo lived in a house located at 8213 Americas Cup in Rowlett, Texas. Grillo's three children lived with them. Appellant is the father of the youngest child; the other children have different fathers. Grillo's brother, Brian Aumiller, lived there as well. Appellant and Grillo planned to be married on November 21, 2015.

Grillo's Murder

On Friday, November 13, 2015, Grillo left the house early in the morning to take the children to school. Appellant left the house shortly thereafter to pick up supplies for his home remodeling business. His mother, who was in town for the wedding, accompanied appellant on his errands. Grillo returned home between 8:10 a.m. and 8:22 a.m. Telephone records showed that at 8:39 a.m., appellant was near Lemmon Avenue in Dallas. He placed one phone call to Grillo at 8:46 a.m. and did not get a response. Appellant was seen at the Home Depot on Lemmon Avenue at 9:50 a.m. with two of his employees, Treviño and Villeda. After picking up some doors at the Home Depot on Lemmon, they all drove to the Home Depot on Forest to pick up a microwave oven.

After stopping at the two Home Depot stores, appellant proceeded to a job site in Dallas. Around 11:30 a.m., he received a call from his daughter's school inquiring if someone was coming to pick her up. Appellant made multiple calls to Grillo's

cell phone, but she did not answer. He then called a neighbor, Michaela Shirley, and asked her to check on Grillo.

Aumiller awoke around 11:50 a.m. and, upon leaving his bedroom, discovered that the front door of the house was open. As he moved toward the kitchen, he saw blood on the floor. When he moved further into the kitchen, he saw a woman lying on the floor. There was no landline in the house, and Aumiller did not have a cell phone, so he went to a neighbor's house to call the police. A few minutes later, while still on the phone with appellant, Shirley walked over to appellant's house to check on Grillo. She saw Grillo's van in the driveway, and she saw that the front door was open. As she approached the front door, Aumiller and the neighbor walked out of the house and told Shirley that a woman was inside, lying face down in a pool of blood. Shirley relayed this information to appellant, and he asked the identity of the woman. When Shirley asked Aumiller and the neighbor if they knew who it was, Aumiller said he thought it might be appellant's mother. Appellant assured Shirley it could not be his mother because she was with him. Appellant then asked Shirley if it was possible that the woman was Grillo. When Shirley posed that question to Aumiller, he said he did not think it was Grillo.

The police arrived and ultimately determined that the woman lying on the floor was Grillo. She had been shot in the head, above her left eye. A .40-caliber casing was on the floor nearby. It appeared that Grillo had been shot shortly after entering the house—her shoes were off, but she still held her purse and keys. Police

saw no sign of forced entry. Initially thinking that Grillo could have surprised a burglary in progress, the police investigation encompassed the entire house. However, only the master bedroom showed signs of any disturbance. Police noted that a safe in the master bedroom was open. It also appeared that drawers and jewelry boxes had been dumped out or rummaged through. It was later reported to the police that several thousand dollars and a necklace had been taken from the safe. An autopsy conducted the following day revealed that Grillo died as a result of the gunshot wound to her head.

The Investigation

The investigation into Grillo's murder took over six months. In addition to searching appellant's house and obtaining forensic evidence from the scene of the crime, the Rowlett Police Department interviewed family members, friends, and neighbors. They interviewed appellant, Treviño, and Villeda several times. Police analyzed cell phone records for Grillo, appellant, Treviño, and Villeda for content and location. Treviño and Villeda denied any involvement in the offense; nevertheless, Villeda consented to a police search of his motel room. During the search, the police collected cell phones, a backpack containing a zip-lock bag of latex gloves, and a pair of tennis shoes. Treviño's cell phone was seized several days later.

By analyzing cell phone records, the police were able to track the movements of Grillo, appellant, Treviño, and Villeda on the day Grillo was murdered. Records

showed that on the morning of the murder, Treviño received a one-minute call from appellant at approximately 7:45 a.m. Appellant's phone then bounced off cell towers from Rowlett to Dallas between 7:48 a.m. and 8:39 a.m. Treviño's phone records confirmed that he traveled to Rowlett and he was in the vicinity of appellant's house at approximately 8:15 a.m. to 8:20 a.m.

In December, the police learned that Treviño was no longer in Texas. In response to a press release soliciting information regarding Treviño's whereabouts, one of Treviño's former girlfriends, Janet Barron, provided a tip that led police to Treviño's location in Florida. On April 1, 2016, Treviño was arrested for failing to register as a sex offender.

Barron also provided information that enabled the police to locate and interview a number of Treviño's friends. Pursuant to their interviews of Barron, Juan Salazar, and Ramon Fino, police learned that Treviño had asked Salazar and Fino to help him kill appellant's wife. Salazar and Barron remembered seeing Treviño with a black gun.

On May 9, 2016, Villeda was arrested for failure to register as a sex offender. He was re-interviewed by the police about Grillo's murder; he was also interviewed by a Texas Ranger. Villeda ultimately confessed to the Ranger that he was an accomplice to Grillo's murder. According to Villeda, Treviño and appellant planned the details of the murder—the time of day, the getaway car, the various routes through the neighborhood to avoid cameras, and the signal from appellant that it was

time for Treviño and Villeda to head to Rowlett. Villeda stated that appellant told him he was paying Treviño \$15,000 to kill Grillo. Villeda described the getaway car and showed police the route he drove the morning that Grillo was killed.

The police recovered the silver Kia getaway car, and surveillance video put the Kia in the vicinity of the murder. Along the route described by Villeda, police recovered shoe pieces, a hoodie, and several latex gloves. Their investigation eventually led to capital-murder indictments against appellant, Treviño, and Villeda.

The Trial

At appellant's trial, Villeda testified for the State about his role in the capital murder.¹ Villeda testified that he first met Treviño when they were in high school. They did not stay in touch after Villeda dropped out of school. In September 2015, Villeda was struggling to make ends meet. He worked for Del Monte and lived in a motel. He did not own a car. One day, Villeda found himself stranded in Arlington and sent out a global message requesting a ride back to Dallas. Treviño and his girlfriend responded. As they were catching up on the drive to Dallas, Treviño told Villeda about his construction job. Villeda asked Treviño if he could get a job with the construction company, but Treviño said they were not hiring. As he dropped Villeda at the motel, Treviño mentioned that he had a little job to do and asked if

¹ Villeda testified that he had been offered a sentence of twenty-five years on a reduced murder charge in exchange for his truthful testimony in this case.

Villeda wanted to help. Villeda testified that he thought Treviño was talking about a robbery and declined to help. However, Villeda and Treviño stayed in touch.

Several weeks later, Treviño arranged for Villeda to work for appellant's construction company on a one-day trial basis. Treviño picked him up in appellant's blue work truck and drove him to the job site. On the way there, Treviño told Villeda that he had been hired to kill someone's wife and he needed a driver. Treviño said he would pay Villeda \$1,000 to be the driver. When they arrived at the work site, Treviño pointed out appellant as the person for whom he was going to do this job. Later in the day, when Villeda met appellant, appellant said he knew that Villeda was going to be the driver. At the end of the day, Treviño told Villeda that appellant had agreed to hire him to work full-time for his construction company. On the drive home, Villeda told Treviño that he would be the driver.

Villeda began working for appellant's construction company three weeks before the murder. He was paid in cash. Appellant transferred money into an account belonging to Treviño's girlfriend. Treviño then withdrew the money and paid Villeda in cash. Because Villeda did not have a car, Treviño picked him up every morning, either in Treviño's girlfriend's car, or in appellant's work truck.

Villeda gradually learned the details of the plan to kill Grillo. He learned that appellant would call or send a text message to Treviño after Grillo left the house to take the children to school. He was told that his job was to drive Treviño to appellant's house, drop him off, and shortly thereafter, pick him up from the house.

Villeda testified that one day, during work hours, appellant drove him around the neighborhood to show him different routes to take so he could avoid surveillance cameras. As they were driving, appellant expressed his impatience with Treviño's delays and excuses, and he told Villeda that he was paying Treviño \$15,000 to do the job. Villeda explained that this was more than Treviño told him he was being paid. When asked if appellant had already paid Treviño to kill Grillo, Villeda testified that Treviño showed him two envelopes of cash in the center console of appellant's work truck.

Villeda testified that appellant started making comments during work, saying that they needed to hurry up because it was getting close to the wedding and he did not have a tuxedo. According to Villeda, Treviño wanted to wait until he had obtained a disposable getaway car, and he also wanted to wait for the "right" day. Villeda described how Treviño found their getaway car—a silver Kia on Craigslist. Appellant allowed Villeda and Treviño to leave a job site in the middle of their work day to purchase the silver Kia and to drive it to Villeda's motel.

Once Treviño had the getaway car, he and Villeda made several attempts to complete the job. Treviño arrived at Villeda's motel room as if he were picking him up for work. Treviño and Villeda dressed in black hoodies, and Villeda drove them to appellant's house in the silver Kia. Villeda testified that Treviño had a black gun that he carried in a backpack. On their first attempt, a neighbor's garage door was open so they did not stop at appellant's house. Treviño called appellant to tell him

why they did not do it. Villeda drove them back to his motel where they switched cars and went to work. Their second and third attempts were likewise thwarted because appellant's neighbors were in their garages or yards.

Villeda described the events of Friday, November 13, 2015. Appellant sent a text message informing Treviño that he and Grillo had both left the house. Treviño and Villeda drove to the house in the silver Kia. When they arrived, the driveway was empty. Treviño put the gun into the pocket of his hoodie, got out of the car, and walked to the house. Treviño had been to the house many times and knew the code to the front door keypad lock. Villeda drove around the block. When Villeda returned, Grillo's van was in the driveway. Treviño was standing in front of the house wearing a ski mask and gloves.

Villeda testified that as they drove away from the house, Treviño dismantled his gun and placed the pieces into his backpack. He also placed his hoodie and pants into his backpack. As Villeda drove, Treviño took his shoes off and threw them out of the car window, one at a time. Once they were on the highway, Treviño called appellant and told him the job was done. Villeda drove back to his motel so they could exchange the silver Kia for the car Treviño usually drove. Treviño left his backpack at the motel. On the way to meet appellant at Home Depot, they stopped at a gas station, and Treviño handed Villeda a trash bag to put into the store dumpster. Villeda stated that he could tell by the weight and the "jingle" that the bag contained pieces of the dismantled gun.

Villeda explained that he and Treviño met appellant at the Home Depot on Lemmon to pick up doors for a remodeling job. Villeda and Treviño were driving Treviño's girlfriend's Lincoln; appellant and his mother were in appellant's work truck with an attached trailer. They all drove to the Home Depot on Forest so appellant could buy a microwave oven. At that point, they switched vehicles. Treviño and Villeda took appellant's work truck to a job site and unloaded the doors. Appellant and his mother took the Lincoln. After they unloaded the doors, Treviño paid Villeda \$1,000 in cash for driving. Switching vehicles again, appellant and his mother left to pick up appellant's daughter at school. Once the police informed appellant that Grillo had been shot, all work stopped for the day.

The following day, after the police finished processing the crime scene and released the house to appellant, Villeda, Treviño, and Treviño's girlfriend bought cleaning supplies and went to appellant's house to help him clean the house. When they arrived, appellant's neighbors were already there, helping to clean the kitchen.

Appellant's neighbor, Michaela Shirley, testified at trial, describing several occasions when appellant's statements or actions seemed to be odd or unusual. Shirley was in front of appellant's house when the police arrived, and also when appellant arrived. A family friend arrived and asked appellant what happened. Shirley said that appellant responded by making a gesture with his hand as if to indicate that someone's head had been cut off. Shirley testified that she thought this response was "a little unusual."

The next day, appellant asked Shirley and her husband to help him remove the blood from the kitchen so he could bring the children home that night. Shirley testified that she thought this was odd because, as a mother, she would not have felt safe bringing her children back into the house so soon, especially since they did not know who had murdered Grillo. As Shirley and her husband were cleaning appellant's kitchen, they discussed using toothbrushes to remove the blood from the grout between the floor tiles. Appellant overheard them and suggested they use Grillo's toothbrush since she would not need it anymore, and then appellant laughed. Shirley testified that she found appellant's comment strange and upsetting.

Chris Sawyer, a detective with the Rowlett Police Department, was assigned to investigate Grillo's murder. He described police interviews of appellant, Treviño, and Villeda. There were inconsistencies between statements made by Treviño and Villeda, so the police interviewed each of them more than once. Police then discovered that records from Treviño's cell phone revealed that Treviño had lied about his whereabouts on the day of Grillo's murder. In addition, the police were able to extract recorded phone conversations, texts, and email messages between appellant and Treviño. Treviño's phone also contained a photograph of Janet Barron holding a Springfield .40-caliber handgun, a type of gun that could have fired the round that killed Grillo, according to testing done on the .40-caliber casing found at the scene.

Detective Sawyer also testified regarding emails from June 2015 that were extracted from Grillo's and appellant's phones. Grillo emailed appellant stating that she thought it would be best if they went their separate ways. She elaborated that they had been through a lot over the years, and their relationship was getting worse. She said she just needed to be on her own and take care of her kids. Although she could not promise to always live in Texas, he would be able to see his daughter. And she also promised she would not go after him for child support. Detective Sawyer testified that this email was significant because it indicated there were problems within the relationship. Detective Sawyer testified that he also found it interesting that within twenty minutes of receiving Grillo's email, appellant forwarded it to Treviño with a notation in the subject line, "Look."

The police located Janet Barron in Colorado. She testified that in 2015, she lived with Treviño for several months, first at Juan Salazar's apartment and later at their own apartment. She identified photographs of herself holding Treviño's gun. She stated that he frequently carried a backpack containing his work clothes, his gun, and his cocaine. On cross-examination, Barron explained that Treviño was in the country illegally so he did not have a bank account. She said that appellant paid Treviño in cash, under the table. Months after they broke up, Treviño contacted her through Facebook, using the name "Mike Smith," and told her that he was living in Florida. When the Rowlett police contacted her, she identified Treviño's gun and

backpack, she provided names of Treviño's friends, and she provided Treviño's Florida contact information.

Ramon Fino testified that he knew Treviño; he also knew appellant and had worked part-time for appellant's construction company. Fino described having several conversations with Treviño about a murder. In February 2015, Treviño told him that appellant was going to pay him \$4,000 to kill his wife. Fino explained that at first, Treviño was going to find someone else to do the killing. He planned to pay that person \$1,000, and keep the rest of the money for himself. Fino said that Treviño's plan to kill appellant's wife involved two vehicles—one would be the getaway car. The day Treviño talked about his plan, Fino saw that Treviño had a gun. Later, Treviño told him that he wanted to keep all of the money. When the prosecutor asked if Treviño had decided to kill appellant's wife himself, Fino stated, "yes." Months later, Treviño asked to borrow Fino's car. When Fino asked why Treviño needed his car, Treviño told him he already knew why. Fino asked again, and Treviño again responded that he knew why.

Juan Salazar testified that Treviño used to live with him and his family. During the year that Treviño lived with his family, Salazar saw Treviño with a gun. He also testified that Treviño told him that he was going to be paid \$13,000 to kill his boss's wife, and Treviño wanted Salazar to help him. Salazar knew that appellant was Treviño's boss; Salazar met appellant on one occasion. Treviño offered Salazar \$3,000 to drive him to appellant's house to kill appellant's wife, and then drive him

home again. At first, Salazar thought Treviño was playing around; he did not think Treviño could do something like that. But Treviño asked for his help multiple times. After the third time, Salazar told Treviño to move out of his apartment.

Evidence at trial also included voluminous technical evidence. Mike Fegley, an employee of ZetX (the company), described how ZetX (the computer program) analyzed cell-phone records and mapped the locations and movements of those cell phones during a given time period. The program showed the locations of appellant, Treviño, and Villeda in the days leading up to the murder and on the day of the murder.

A jury found appellant guilty as charged, and the trial court imposed an automatic sentence of life without parole. This appeal followed.

II. Discussion

In his sole issue, appellant contends that Villeda's accomplice-witness testimony was not sufficiently corroborated, as required by article 38.14 of the Texas Code of Criminal Procedure. An accomplice is a person who participates in the offense before, during, or after its commission with the requisite mental state. *Smith v. State*, 332 S.W.3d 425, 439 (Tex. Crim App. 2011) (internal citations omitted). An accomplice must have engaged in an affirmative act that promotes the commission of the offense that the accused committed. *Id.* A witness who is indicted for the same offense or a lesser included offense as the accused is an accomplice as a matter of law. *Cocke v. State*, 201 S.W.3d 744, 747–48 (Tex. Crim.

App. 2006). Here, the court instructed the jury that James Villeda was appellant's accomplice as a matter of law.

Under Texas law, a conviction cannot be based on an accomplice witness's testimony unless the testimony is corroborated by non-accomplice evidence that tends to connect the accused to the offense committed. TEX. CODE CRIM. PROC. ANN. art. 38.14. Evidence that the offense was committed is insufficient to corroborate an accomplice witness's testimony. *Id.*

In reviewing the sufficiency of the corroborative evidence, we exclude the accomplice testimony from our consideration and examine the remaining portions of the record to ascertain whether there is evidence that tends to connect the accused to the offense. *Malone v. State*, 253 S.W.3d 253, 257 (Tex. Crim. App. 2008); *Medrano v. State*, 421 S.W.3d 869, 883 (Tex. App.—Dallas 2014, pet. ref'd). Thus, the question here is whether there is evidence tending to connect appellant with the offense without considering the testimony of Villeda.

A challenge of insufficient corroboration is not the same as a challenge of insufficient evidence to support the verdict as a whole. *Cathey v. State*, 992 S.W.2d 460, 462–63 (Tex. Crim. Ap. 1999); *Cantelon v. State*, 85 S.W.3d 457, 460 (Tex. App.—Austin 2002, no pet.). Because the standard is “tendency to connect,” rather than a rational-sufficiency standard, the corroborating evidence need not be sufficient by itself to establish guilt beyond a reasonable doubt. *Hernandez v. State*, 939 S.W.2d 173, 176 (Tex. Crim. App. 1997). “[C]ircumstances that are apparently

insignificant may constitute sufficient evidence of corroboration.” *Malone*, 253 S.W.3d at 257. Also, “[t]here need be only some non–accomplice evidence tending to connect the defendant to the crime, not to every element of the crime.” *Joubert v. State*, 235 S.W.3d 729, 731 (Tex. Crim. App. 2007). Nor is the evidence required to link the defendant directly to the crime. *Reed v. State*, 744 S.W.2d 112, 126 (Tex. Crim. App. 1988). If the combined weight of the non-accomplice evidence tends to connect the defendant to the offense, article 38.14 is fulfilled. *Cathey*, 992 S.W.2d at 462.

Affording proper deference to the jury’s fact resolution, we conclude that the non-accomplice evidence was sufficient to tend to connect appellant to Grillo’s murder. Testimony of non-accomplice witnesses tended to connect appellant to the crime. Salazar told the police that Treviño told him that he would receive \$13,000 for killing his boss’s wife; Treviño offered to pay him \$3,000 to drive the getaway car. Fino told police that in February 2015, Treviño told him that appellant was paying him \$4,000 to kill his wife. Treviño told Fino that Grillo was going to keep the children, and appellant did not want to pay child support. *See Johnson v. State*, 208 S.W.3d 478, 492 (Tex. App.—Austin 2006, pet. ref’d) (“While evidence of motive is alone insufficient to corroborate an accomplice, it is a circumstance that may be considered together with other corroborative evidence.”). Shirley, appellant’s next-door neighbor, testified about appellant’s unusual behavior and comments following Grillo’s murder. *See Smith*, 332 S.W.3d at 447 (not grieving

the murder as would be expected is a circumstance that may be considered together with other corroborative evidence).

Other evidence tending to connect appellant to the crime included cell phone records for appellant, Treviño, and Villeda. By tracking the locations and movements of their cell phones, the ZetX program corroborated Villeda's testimony about the day appellant allowed Treviño and Villeda to leave work to purchase the getaway car. Once Treviño obtained the car, he and Villeda began making "attempts" to complete the job. The ZetX program corroborated the three "attempts" by Treviño and Villeda in the days leading up to the murder. It also corroborated Villeda's testimony describing the events on the day of the murder.

Through cell phone extractions, Detective Sawyer was able to retrieve the content of text messages between appellant and Treviño on the morning of the murder. At 7:48 a.m., appellant sent Treviño a text saying, "don't be late," followed by another text saying "it is a good day to get some work done." Treviño responded, "okay." At that point, ZetX analysis of Treviño's cell phone tracked the movement of Treviño's phone as he left the location of Villeda's motel and traveled toward Rowlett. At 9:05 a.m., a text message was sent from Treviño's cell phone number to appellant's cell phone number, just stating "okay." At the time that text was sent, Treviño's cell phone was in Wylie and was traveling back toward Dallas.

Cell phone records also revealed that Treviño and appellant were in constant contact in the days following the murder. Treviño's cell phone contained recorded

calls between Treviño and appellant. In a call recorded on November 19, 2015—the date Villeda was re-interviewed by police—appellant can be heard saying, “hopefully he didn’t tell them how...,” and Treviño responded, “I hope not because he was with me the whole time.”

The cumulative force of the non-accomplice evidence, giving proper deference to the jury’s resolution of the facts, tends to connect appellant to the murder of Grillo. *See Smith*, 332 S.W.3d at 442. We conclude the jury could have rationally found that the corroborating evidence tended to connect appellant to Grillo’s murder, and we overrule his sole issue.

III. Conclusion

Having resolved appellant’s sole issue against him, we affirm the judgment of the trial court.

/Bill Pedersen, III//
BILL PEDERSEN, III
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

IOANNIS MAKRIS, Appellant

No. 05-18-01200-CR v.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District
Court No. 6, Dallas County, Texas
Trial Court Cause No. F-1600419-X.
Opinion delivered by Justice
Pedersen, III. Justices Bridges and
Partida-Kipness participating.

Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered this 29th day of May, 2020.