

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-001518-MR

APRIL BOGGS

APPELLANT

v. APPEAL FROM LETCHER CIRCUIT COURT
HONORABLE SAMUEL T. WRIGHT, III, JUDGE
ACTION NO. 02-CR-00042-002

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: BARBER, KNOPF, AND SCHRODER, JUDGES.

BARBER, JUDGE: Appellant, April Boggs (Boggs), appeals the denial of a motion for directed verdict and her conviction in her trial for criminal facilitation to commit murder, criminal facilitation to first degree burglary, and complicity to trafficking in marijuana. We affirm the trial court's ruling and judgment.

April Boggs was charged with criminal facilitation of a burglary and two murders committed by her husband Jerome. At trial the prosecution alleged that Boggs had driven Jerome Boggs

to the residence of Timothy Cook. Jerome Boggs shot Timothy Cook and his son, and returned to the vehicle. April Boggs then drove Jerome away from the scene. Boggs contended that she had no knowledge that Jerome was planning to kill the Cooks, and that she believed he simply intended to purchase marijuana from Timothy Cook when she left him near the Cook residence.

At trial, the chief investigating officer testified that April Boggs did not admit to any prior knowledge that Jerome was going to commit murder when she took him to Timothy Cook's residence. April made a statement to him that she didn't know about the murder or robbery until after the fact. She also said in her statement that after the murders Jerome wouldn't let her be alone or spend time away from him. Boggs made a motion for directed verdict at trial. Boggs contended that there had been no evidence presented at trial showing that she had any knowledge of Jerome's intent to commit burglary or murder. The motion was denied by the trial court.

The standard for granting or denying a motion for directed verdict requires that the Court review the evidence presented in the light most favorable to the Commonwealth. Commonwealth v. Sawhill, Ky., 660 S.W.2d 3, 4 (1983). Where, given the evidence as a whole, it is not clearly unreasonable for the jury to find the defendant guilty, then the motion for directed verdict must be denied. Hopewell v. Commonwealth, Ky.

App., 687 S.W.2d 153, 154 (1985). Boggs has not shown reversible error in the Letcher circuit court's denial of her motion for directed verdict. The court's ruling is affirmed.

Boggs denies that she was properly found guilty of criminal facilitation, claiming that she had no prior knowledge of Jerome's intent to commit the crimes. KRS 506.080(1) defines criminal facilitation as follows:

A person is guilty of criminal facilitation when, acting with knowledge that another person is committing or intends to commit a crime, he engages in conduct which knowingly provides each person with means or opportunity for the commission of the crime and which in fact aids such person to commit the crime.

Several weeks prior to the murder, April and Jerome Boggs made application for food assistance from the local food pantry. The Boggs' also returned their wedding gifts to the store where they were purchased and accepted cash in exchange. The prosecution introduced this evidence at trial to show that the Boggs' were in financial distress prior to February 17, 2002. Timothy Cook and his four-year old son were killed on the afternoon of February 17, 2002. That evening, Boggs and her husband Jerome purchased a \$110.00 engagement ring for April at a Wal-Mart near the Cook residence. Boggs paid cash for the ring. They then checked into the jacuzzi room of the Super Eight motel overlooking the murder scene and paid cash for the room. Jerome specifically requested the room overlooking the

Cook residence. Friends of Jerome Boggs visited the motel room later in the evening. At trial these friends testified that Jerome had requested alcoholic beverages and narcotics from them, and had stated that he had "big money" to pay for the requested substances. The friends noted that Jerome had a large amount of cash, and a freezer bag half filled with marijuana. April Boggs' parents testified at trial that Jerome Boggs had a little money during the week before the murders. April testified that Jerome had perhaps \$30.00 prior to the murders, and \$1,000.00 afterwards.

In her statements to the police April Boggs testified that she dropped Jerome off at the Sugar Shack near the Cook residence, and returned to pick him up twenty minutes later, as he requested. She stated that Jerome did not tell her that he had killed anyone until after she picked him back up. Boggs stated that she usually drove Jerome up to the Cook residence to buy drugs, and waited outside for him during the purchase. She did not have an explanation as to why Jerome did not drive to the Cook residence on the day of the murders, or why she did not accompany him as she usually did. She testified that Jerome got a large sum of money after the Cooks were killed. Boggs believed that she might subsequently have washed the shirt Jerome had been wearing at the time of the murders. Boggs believed she may have received some money from Jerome after the

murder. Boggs did not tell the police that Jerome had forced her to take part in driving him to the crime scene, or that he kept her against her will after he admitted to the murders.

April Boggs denied knowing that Jerome had a gun prior to the murders. At trial the Commonwealth introduced evidence tending to show that Jerome could not have concealed the gun from April as she drove him to the Sugar Shack. April testified at trial that Jerome was not wearing a coat at the time. The gun was shown to the jury, and the Commonwealth argued that the gun was too large for Jerome to have concealed it from April. Other witnesses testified that they knew Jerome had the gun and holster long before the day of the murders.

April Boggs contended at trial that Jerome abused her, and forced her to take part in the crime. April made no such statement to the police during the investigation of the murders. She simply told the investigating officer that after the murders Jerome did not let her be by herself. At no point were signs of abuse noted on April's person. Witnesses testified that Boggs worked and lived near the separate residences of her parents, and had never made any attempt to seek assistance from them. There was no evidence at trial that Boggs had accused Jerome of abuse at any time prior to the murders, or that she had desired to leave him. Witnesses present in the motel during the days after the murder testified that Boggs was out of the room, and

away from Jerome at various times after the murders, on trips to the grocery store or the liquor store, but never made any attempt to leave him.

The Commonwealth argues that sufficient circumstantial evidence existed to support the jury's finding of guilt on the facilitation charges. The Commonwealth contends that Boggs has shown no reversible error in the conduct of the trial. Kentucky law holds that where a person drives a killer to the crime scene, that individual can be found guilty of facilitating the murder which occurs. Young v. Commonwealth, Ky., 50 S.W.3d 148, 165 (2001). An individual who provides a means of transportation to a criminal, knowing that the transportation will be used to assist in the commission of a crime is guilty of facilitation. Adkins v. Commonwealth, Ky. App., 647 S.W.2d 502, 505 (1982). Numerous witnesses testified at trial regarding Boggs' actions before and after the charged offenses. The weight and value of the evidence are for the trier of fact to decide. Spivey v. Sheeler, Ky., 514 S.W.2d 667, 668 (1974). Boggs has shown no reversible error. For this reason, the judgment of the Letcher Circuit Court is affirmed.

ALL CONCUR.

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