IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-9546
Conference Calendar

JAMES E. QUINN,

Petitioner-Appellant,

versus

JOHN WHITLEY, Warden,
Louisiana State Penitentiary
and RICHARD P. IEYOUB, Attorney
General, State of Louisiana,

Respondents-Appellees.

- - - - - - - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA 92 2186 K
- - - - - - - - - -
August 19, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

James Quinn argues that there is insufficient evidence to uphold his conviction for second-degree murder. See State v. Quinn, 526 So.2d 322 (La. Ct. App. 1988), cert. denied, 538 So.2d 586 (La. 1989).

The standard for testing the sufficiency of evidence in a federal habeas review of a state court conviction is whether, "after viewing the evidence in the light most favorable to the

---

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Guzman v. Lensing, 934 F.2d 80, 82 (5th Cir. 1991)(quoting Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979)). When, as here, a state appellate court has reviewed the issue of the sufficiency of the evidence, that court's determination is entitled to great weight in a federal habeas review. Porretto v. Stalder, 834 F.2d 461, 467 (5th Cir. 1987).

Quinn argues that "the state's prosecution failed to show a specific intent a necessary element to conclude a second degree murder conviction[.]" See La. Rev. Stat. Ann. § 14:30.1 (West 1986). Specific criminal intent is that state of mind that exists when the circumstances indicate that the offender actively desired the prescribed criminal consequences to follow his act. La. Rev. Stat. Ann. § 14:10 (West 1986). Quinn's sister testified at trial that she saw Quinn beat the victim "brutally and violently." The pathologist testified that there were at least nine separate areas of impact to the victim's face and head. A rational trier of fact could have concluded that Quinn actively desired to kill or inflict great bodily harm to the victim.

Quinn also argues that the jury should have convicted him only of manslaughter because he allegedly had a telephone conversation with the victim's lover immediately before the murder. In view of Quinn's prolonged brutal attack on the victim, which continued after his sister attempted to intervene, the jury could have entertained doubts that the beating was the

result of sudden passion. See Quinn, 526 So.2d at 323. Therefore, a reasonable trier of fact could have found beyond a reasonable doubt that, despite the "manslaughter" argument, Quinn had the specific intent necessary for conviction.

Quinn's attempt to analogize his case to State v. Jackson, 452 So.2d 1225, 1229 (La. Ct. App. 1984), in which the defendant was convicted of manslaughter after a prolonged attack on the victim which also continued after attempts to intervene is without merit. In Jackson, id., the defendant had been provoked when the victim cut him on the head. In the present case, the state court concluded that the telephone call conveying that Quinn's spouse was engaged in an extra-marital affair was not provocation sufficient to reduce Quinn's crime from murder to manslaughter. Quinn, 526 So.2d at 323.

This Court will not consider other issues raised by Quinn on appeal because he did not present them to the district court. See Fransaw v. Lynaugh, 810 F.2d 518, 523 (5th Cir.), cert. denied, 483 U.S. 1008 (1987).

This Court may find the evidence sufficient to support a conviction even though the facts also support one or more reasonable hypotheses consistent with the defendant's claim of innocence. Gibson v. Collins, 947 F.2d 780, 783 (5th Cir. 1991), cert. denied, 113 S.Ct. 102 (1992). The evidence was sufficient to convict Quinn of second-degree murder. Accordingly, the judgment of the district court is AFFIRMED.