

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2009 KA 2257

STATE OF LOUISIANA

VERSUS

RHINE REYNOLDS

Judgment Rendered: May 7, 2010

**Appealed from the
18th Judicial District Court
In and for the Parish of West Baton Rouge
State of Louisiana
Case No. 072482**

The Honorable J. Robin Free, Judge Presiding

**Richard J. Ward
District Attorney
Elizabeth A. Engolio
Assistant District Attorney
Plaquemine, Louisiana**

**Counsel for Appellee
State of Louisiana**

**Frederick Kroenke
Baton Rouge, Louisiana**

**Counsel for Defendant/Appellant
Rhine Reynolds**

**Rhine Reynolds
Angola, Louisiana**

**Defendant/Appellant *Pro Se*
Rhine Reynolds**

BEFORE: DOWNING, GAIDRY, AND McCLENDON, JJ.

GAIDRY, J.

The defendant, Rhine Reynolds, was charged by grand jury indictment with one count of second degree murder, a violation of La. R.S. 14:30.1. Defendant initially entered a plea of not guilty and moved to quash the indictment on the basis that the prosecution was brought in an improper venue. The trial court denied the motion to quash. After defendant unsuccessfully reurged his challenge to venue, he entered a guilty plea under *State v. Crosby*, 338 So.2d 584 (La. 1976), reserving his right to seek review of the venue issue. The trial court sentenced defendant to the mandatory term of life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence.

Defendant's sole assignment of error addresses whether the trial court erred in denying his motion to quash the indictment. After reviewing the record and considering the issue raised, we affirm defendant's conviction and sentence.

FACTS

Because there was no trial in this matter, the factual circumstances relating to this crime were not fully developed. What is not in dispute is that the decomposing body of the victim, Sophia Arnold, was found on April 12, 2007, behind the Mississippi River levee in West Baton Rouge Parish. However, the factual version put forth by defendant is that on April 10, 2007, at approximately 10:00 p.m., defendant picked up the victim at the Southern University campus. Defendant drove Ms. Arnold to a residence in the vicinity of Greenwell Springs Road and Joor Road, where she danced for a group of men for approximately 45 minutes. Defendant then took Ms. Arnold to his residence in the Sherwood Forest area of East Baton Rouge Parish.

After they arrived at defendant's residence, defendant and Ms. Arnold became involved in a physical altercation after an argument over payment for her dancing. According to defendant, he grabbed Ms. Arnold by the neck and held her for five to ten minutes, after which time her body became limp. Defendant then placed Ms. Arnold's body in the back of his truck and drove to a location in Port Allen, where he concealed the body behind the levee. The ensuing investigation pointed to defendant, and he was eventually charged with second degree murder in West Baton Rouge Parish.

PROPER VENUE

In defendant's sole assignment of error, he argues that the prosecution was improperly brought in West Baton Rouge Parish. Defendant asserts that his own statements and testimony on the motion showed that Ms. Arnold was killed in East Baton Rouge Parish, which should have been the venue for the prosecution.

Louisiana Code of Criminal Procedure article 611 addresses proper venue in criminal prosecutions. Specifically, paragraph (B) provides:

If the offender is charged with the crime of first or second degree murder and it cannot be determined where the offense or the elements of the offense occurred, the offense is deemed to have been committed in the parish where the body of the victim was found.

Louisiana Code of Criminal Procedure article 615 provides:

Improper venue shall be raised in advance of trial by motion to quash, and shall be tried by the judge alone. Venue shall not be considered an essential element to be proven by the state at trial, rather it shall be a jurisdictional matter to be proven by the state by a preponderance of the evidence and decided by the court in advance of trial.

Pursuant to a pretrial motion, the trial judge is not required to find that a crime was committed but only that venue is proper by a preponderance of

the evidence. *State v. Odom*, 02-2701, p. 6 (La. App. 1st Cir. 6/27/03), 861 So.2d 195, 198, *writ denied*, 03-2147 (La. 10/17/03), 855 So.2d 766.

In the instant case, defendant argues venue was proper in East Baton Rouge Parish. In support of his argument, he points to his own testimony at the second pretrial hearing challenging venue in West Baton Rouge Parish. At that hearing, defendant testified that following the altercation at his residence in East Baton Rouge Parish, Ms. Arnold's body was completely limp. According to defendant, he retrieved a mirror and held it under Ms. Arnold's nose to determine if she was still breathing, and she was not. Defendant also testified that there was a thick foam substance coming from Ms. Arnold's mouth, which indicated to him that she was dead.

On cross-examination, defendant admitted he did not take Ms. Arnold's pulse. The prosecutor also examined defendant regarding prior statements he made to investigators in which he stated he did not know when Ms. Arnold died. The prosecutor also questioned defendant regarding how he could pinpoint the moment Arnold died, yet the coroner was unable to determine Arnold's exact time of death.

At the initial hearing on the motion to quash, the state introduced testimony from Major Richard Johnson of the West Baton Rouge Parish Sheriff's office. Major Johnson testified that in the early interviews with defendant, defendant stated that he inflicted injury on Ms. Arnold in East Baton Rouge Parish, but that he was not sure if she was still alive when he loaded her into the back of his truck before driving to West Baton Rouge Parish to dump her body. Major Johnson's testimony at the second hearing was consistent with his testimony at the initial hearing. Moreover, Major Johnson testified that there was never any evidence recovered by his office or the Baton Rouge detectives that connected the victim with defendant's

home, which could have corroborated defendant's assertions regarding her place of death. Rather, defendant's interview was the only evidence suggesting that Ms. Arnold was killed in his home.

Following the second hearing, the trial court again ruled venue to be proper in West Baton Rouge Parish since there was no evidence adduced that specifically disclosed where Ms. Arnold's death occurred. The trial court acknowledged defendant provided self-serving testimony, but also that his prior statements conflicted with his latest version of what occurred between him and Ms. Arnold.

Considering the foregoing, the trial court was not presented with any evidence indicating where Ms. Arnold's death actually occurred. Accordingly, because La. C.Cr.P. art. 611(B) specifically addresses this situation, we cannot say the trial court's ruling, finding proper venue in West Baton Rouge Parish and denying the motion to quash, was in error.

This assignment of error has no merit.

CONVICTION AND SENTENCE AFFIRMED.