

****CAPITAL CASE****

IN THE
SUPREME COURT OF THE UNITED STATES

Ronson Bush
Petitioner,

v.

Tommy Sharp, Interim Warden,
Oklahoma State Penitentiary,
Respondent

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit

APPENDIX E

Direct Appeal Decision of the Oklahoma Court of Criminal Appeals

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

JUN 19 2012

MICHAEL S. RICHIE
CLERK

2012 OK CR 9
IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

RONSON KYLE BUSH,)	
)	
Petitioner,)	FOR PUBLICATION
)	
v.)	No. DC 2009-1113
)	
THE STATE OF OKLAHOMA,)	
)	
Respondent.)	

OPINION

LEWIS, VICE PRESIDING JUDGE:

¶1 Ronson Kyle Bush, was charged with first degree murder in violation of 21 O.S.Supp.2004, § 701.7(A), and possession of a firearm after former conviction of a felony in violation of 21 O.S.2001, § 1283, in Grady County District Court case number CF-2008-371. The State filed a Bill of Particulars regarding the punishment for first degree murder, which alleged three aggravating circumstances: (1) the murder was especially heinous, atrocious or cruel; (2) there exists a probability that the defendant would commit criminal acts of violence such that he would constitute a continuing threat to society; and (3) the murder was committed by the defendant while he was serving a sentence of imprisonment on a conviction for a felony. 21 O.S.2001, § 701.12 (4), (6), and (7).

¶2 Bush proceeded to trial on October 19, 2009, before the Honorable Richard G. Van Dyck, District Judge. After the State had presented its second

witness, on October 22, Bush expressed his desire to enter a blind plea. The trial court conducted a plea hearing and allowed Bush to enter an *Alford*¹ plea to first degree murder and a guilty plea to possession of a firearm after former conviction of a felony. The next day a non-jury sentencing proceeding commenced pursuant to 21 O.S.2001 701.10(B). Sometime during the first day of sentencing, Bush told the trial court that he wanted to withdraw his pleas, but the trial court denied his motion and advised him to wait until after being sentenced to move to withdraw the plea. At the conclusion of sentencing trial Judge Van Dyck found the existence of all three aggravating circumstances and assessed punishment at death on the first degree murder; the trial court assessed a life sentence on the firearm charge.

¶3 After being sentenced, and within the requisite ten day period, Bush filed a motion to withdraw his plea on November 9, 2009, the specifics of which are discussed below in our evaluation of propositions one and two. The trial court held a hearing on the motion and, at the conclusion of the hearing, denied the motion. Bush is now before this Court with his appeal from the trial court's decision and with his appeal from the Judgment and Sentence.²

I. FACTS

¶4 On the evening of December 22, 2008, while at Billy Harrington's home, Ronson Bush shot Harrington six times with Harrington's .357 caliber

¹ *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970).

² Appellant's notice of intent to appeal was timely filed on December 4, 2009, and his Petition for Writ of Certiorari was filed with this Court on January 27, 2010. Appellant filed his brief on March 31, 2011. The State filed its response brief on July 28, 2011. Appellant's reply brief was filed August 17, 2011. Oral argument was held February 28, 2012.

revolver. Harrington made it to the front yard of the home, where he collapsed. Bush then tied Harrington to the back of his pickup and dragged him into a field near the house.

¶5 By all accounts, Harrington and Bush had been best friends for a number of years. Harrington did what he could to aid Bush who dealt with addictions, paranoia, and other related mental illnesses. Harrington's final attempts to assist Bush came just days before the shooting. On December 18, Harrington attempted to take Bush to Griffin Memorial Hospital in Norman, Oklahoma but Bush was exceedingly drunk, and the two men fought during the trip. Harrington left Bush in a parking lot in Norman, and drove on to Tulsa for work. Bush hitched a ride back to Harrington's trailer. When Harrington arrived home that evening, accompanied by Jimmy Barrington, they found Bush passed out on the couch with Harrington's firearms purposefully placed around the house.

¶6 After calling the sheriff's office to send someone to the house, Harrington again agreed to take Bush back to Griffin Memorial Hospital, where Bush voluntarily admitted himself for treatment. Bush, however, on December 22, checked himself out of the hospital, called Harrington for a ride, and returned to Harrington's home. Bush drank vodka from a pint bottle purchased in Blanchard on the way home. Once home, both men shot guns off the porch and played with Harrington's dog. Harrington also gave Bush a haircut.

¶7 Sometime around 7:15 p.m., Harrington was talking on the phone with his girlfriend who could hear Bush in the background. Bush took a photograph of Harrington and nothing seemed amiss; minutes later, however, Bush shot and killed Harrington.

¶8 Bush explained that things started downhill when he mentioned getting Christmas presents for Stephanie Morgan, an ex-girlfriend, and her son. Bush said that Harrington told him that he should forget about Morgan as she was sleeping with other people. According to Bush, Harrington went on to say that even he had “fucked” her. Bush said he then snapped, picked up the .357 revolver, and started shooting Harrington. Bush kept shooting as Harrington got up, went to the kitchen, collapsed, then got up and walked outside.

¶9 At around 7:44 p.m. Harrington’s mother, Kathy Harrington, tried to call Harrington’s cell phone, but Bush answered. Bush kept putting Mrs. Harrington off, probably because Harrington was already dead. Mrs. Harrington called friends who went to the home and discovered Harrington’s body in the field.

¶10 Bush, in the mean time, left the trailer in Harrington’s truck, bought some beer, and drove to Ms. Morgan’s home. Bush kicked in the back door and entered Morgan’s unoccupied home. He waited on her to arrive and drank some alcohol from a commemorative bottle she had stored in her bedroom.

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