

COURT OF APPEALS OF VIRGINIA

Present: Judges Willis, Fitzpatrick and Overton  
Argued at Salem, Virginia

JUDY IRENE DEAL JARRELLS

v. Record No. 1256-95-3  
COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION\* BY  
JUDGE NELSON T. OVERTON  
MAY 7, 1996

FROM THE CIRCUIT COURT OF FRANKLIN COUNTY  
B. A. Davis, III, Judge

Mary E. Harkins for appellant.

Richard H. Rizk, Assistant Attorney General  
(James S. Gilmore, III, Attorney General;  
Thomas C. Daniel, Assistant Attorney General,  
on brief), for appellee.

Judy Irene Deal Jarrells was convicted by a jury of acting as a principal in the second degree to first degree murder. Jarrells appeals, contending that the evidence at trial was insufficient to sustain her conviction. We disagree and affirm the trial court.

The parties are fully conversant with the record in the cause, and a recitation of the facts is unnecessary to this memorandum opinion.

When the sufficiency of the evidence is challenged on appeal, we must construe the evidence in the light most favorable to the Commonwealth, granting to it all reasonable inferences fairly deducible therefrom. Higginbotham v. Commonwealth, 216

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\*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

Va. 349, 352, 218 S.E.2d 534, 537 (1975). The inferences drawn from circumstantial evidence are within the province of the jury and not the appellate court so long as the inferences are reasonable and justified. O'Brien v. Commonwealth, 4 Va. App. 261, 263, 356 S.E.2d 449, 450 (1987).

To convict Jarrells as a principal in the second degree, the Commonwealth had to prove beyond a reasonable doubt that she was present during the offense and aided, abetted, or encouraged the killer in his crime. Augustine v. Commonwealth, 226 Va. 120, 124, 306 S.E.2d 886, 888-89 (1983); Rollston v. Commonwealth, 11 Va. App. 535, 539, 399 S.E.2d 823, 825 (1991). Furthermore, the appellant must have shared the criminal intent of the principal in the first degree. Triplett v. Commonwealth, 141 Va. 577, 586, 127 S.E. 486, 489 (1925); Rollston, 11 Va. App. at 539, 399 S.E.2d at 825.

Here, Jarrells was present in the house at the murder. Evidence was presented that Jarrells had requested several other people to kill her husband. The man who eventually did shoot her husband testified that she had solicited his help just prior to the murder. Thus, taken in the light most favorable to the Commonwealth, the evidence is sufficient to sustain Jarrells' conviction.

Because the jury's verdict was supported by the evidence, we affirm the conviction.

Affirmed.