

NEWS RELEASE

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FOR IMMEDIATE RELEASE

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AG STRANGE ANNOUNCES CONVICTIONS UPHELD FOR MURDER AND ASSAULT IN WINSTON COUNTY

(MONTGOMERY) – Attorney General Luther Strange announced that the Alabama Court of Criminal Appeals Friday has upheld the murder and first-degree assault convictions of a Haleyville woman. Katrina Drake Alexander, now 41, was found guilty by a Winston County jury on June 17, 2010, of the murder of her husband's ex-wife, and the shooting assault of the murder victim's step father-in-law.

Evidence was presented at trial that Alexander retrieved the gun of her husband, who was a Haleyville police officer, from his police locker and shot and killed Renee Perry, her husband's ex-wife, at the victim's home. Evidence at trial also showed Alexander twice shot Freddie Barnett, the step father-in-law of the woman she killed, who was also at Perry's home.

Alexander received a sentence of life imprisonment for the murder conviction and a concurrent 20-year term of imprisonment for the first-degree assault conviction.

The case was prosecuted at the trial level by Winston County District Attorney Jack Bostick's Office, and the conviction was handled on appeal by Attorney General Strange's Appeals Division.

After her conviction and sentencing, Alexander sought to have her conviction reversed on appeal. The Attorney General's office argued to the Alabama Court of Criminal Appeals that it should affirm Alexander's convictions. The Court of Criminal Appeals agreed with the State, and handed down its decision on Friday, March 11, that both of Alexander's convictions were to be upheld.

For additional details, see attached ruling by the Alabama Court of Criminal Appeals.

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Rel: 03/11/2011

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala.R.App.P. Rule 54(d), states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

Court of Criminal Appeals
State of Alabama
Judicial Building, 300 Dexter Avenue
P. O. Box 301555
Montgomery, AL 36130-1555

SAMUEL HENRY WELCH
Presiding Judge
MARY BECKER WINDOM
J. ELIZABETH KELLUM
LILES C. BURKE
J. MICHAEL JOINER
Judges

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Clerk
Gerri Robinson
Assistant Clerk
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MEMORANDUM

CR-09-1537

Winston Circuit Court CC-07-189

Katrina Drake Alexander v. State of Alabama

WELCH, Presiding Judge.

Katrina Drake Alexander was convicted of murder, a violation of § 13A-6-2, Ala. Code 1975, and convicted of first-degree assault, a violation of § 13A-6-20, Ala. Code 1975. The trial court sentenced Alexander to serve a term of life imprisonment for the murder conviction and sentenced Alexander to serve a term of 20 years' imprisonment for her first-degree assault conviction, to be served concurrently. The trial court ordered Alexander to pay an assessment of \$6,235.20 to the Crime Victims Compensation Fund. No post-trial motions were filed. This appeal followed.

The following evidence was elicited at trial. Randy Stults a dispatcher at the Haleyville Police Department testified to the following. Stults worked with Ron Alexander,

who was also a dispatcher, and knew Ron's wife, Katrina Alexander. On October 30, 2007, Katrina came by the dispatch office sometime after lunch, went to Ron's locker, and then left. At approximately 2:32 p.m., Stults received a call from Katrina on the police dispatch system. Katrina told him, "I have shot Renee [Perry], and I've wounded him [Freddie Barnett]. I didn't mean to." (R. 134.)

Chris Perry testified to the following. On October 30, 2007, Chris was married to Renee Perry, and they lived in a mobile home park. Ron Alexander was Renee's ex-husband. On that date, Chris was at home with his stepfather Freddie Barnett, Renee, and Renee's brother Jamie. At approximately 2:30 p.m., Barnett told Renee and Chris that Katrina had pulled up outside. Chris went outside to ask Katrina what she wanted, and she stated that she wanted to speak with Renee. Chris went back into the kitchen, and Renee went out the door. Chris heard a gunshot and saw Renee fall to the ground. Chris heard more gunshots and saw Barnett diving into the door, saying, "She shot Renee, and she shot me, and she's coming in the house. Y'all run." (R. 143.) Chris ran out of the back door of the mobile home and saw Katrina leaving in her car.

Freddie Barnett testified to the following. Barnett saw Katrina shoot Renee and testified that Katrina subsequently shot him twice. Barnett testified that one bullet exited his body through his back, and the second bullet exploded inside his body when it hit his ribs. Barnett has had several bullet fragments removed from his chest.

Officer Michael Glasheen with the Haleyville Police Department testified to the following. Officer Glasheen was working as a patrolman on October 30, 2007, when he was dispatched to the Alexander residence. When Officer Glasheen arrived, he saw Ron standing in the front yard talking on the cell phone with Katrina. Ron told Officer Glasheen that he thought that Katrina had shot his ex-wife, Renee, and that Katrina was upset and was stopped in her vehicle on the side of the road because she couldn't travel any further. Ron got in Officer Glasheen's vehicle, and they drove to Katrina's vehicle. When the men arrived, Officer Glasheen got out of his vehicle and saw that the gun was on the roof of Katrina's car, and he subsequently took Katrina into custody.

The State presented testimony that Renee Perry died as a result of the gunshot wound which she received to her head.

Katrina Alexander testified to the following on her own behalf. Katrina testified that on the date of the shooting that she was taking Lexapro, Xanax, Trazadone, Phenergan, Lortab, Toprol, and Pepcid. Katrina testified that in August of 2007 that she and Renee got into an argument over an allegation that Chris had molested a child, and Katrina did not think that children should be in the home with him. The women began fighting, and the police were notified. Ultimately, Katrina was charged with assaulting Renee. Katrina testified that the day before the shooting, Ron told her that he wanted a divorce and that upset her. On the date of the incident, Katrina testified that she went to get Ron's gun because she wanted to scare Renee.

Alexander argues that there is insufficient evidence to support her convictions for murder and first-degree assault. Specifically, Alexander argues that she was involuntarily intoxicated and unable to form the requisite intent required to commit the crimes.

However, Alexander failed to present this argument to the trial court when she moved for a judgment of acquittal at the close of the State's case.

"Review on appeal is restricted to questions and issues properly and timely raised at trial." Ex parte Coulliette, 857 So. 2d 793, 794 (Ala. 2003), citing Newsome v. State, 570 So. 2d 703, 717 (Ala. Crim. App. 1989). "An issue raised for the first time on appeal is not subject to appellate review because it has not been properly preserved and presented." Id. at 794, citing Pate v. State, 601 So. 2d 210, 213 (Ala. Crim. App. 1992). "[T]o preserve an issue for appellate review, it must be presented to the trial court by a timely and specific motion setting out the specific grounds in support thereof." McKinney v. State, 654 So. 2d 95, 99 (Ala. Crim. App. 1995) (citation omitted). "When a specific ground of objection is stated, all other unstated grounds of objection are waived." State v. Holloway, 307 So. 2d 13, 17 (Ala. 1975). See also Murray v. State, 494 So. 2d 891 (Ala. Crim. App. 1986).

In this case, Alexander was indicted for three charges: capital murder¹, murder, and first-degree assault. When Alexander moved for a judgment of acquittal, she did so based on the elements of the capital murder charge presented against her and argued that the State had failed to prove intent as to murder and first-degree assault. However, Alexander did not argue that she was involuntarily intoxicated by her prescriptions and that this defense negated the intent elements of murder and first-degree assault. (R. 466-467.)

Moreover, defense counsel stated the following before the trial court charged the jury,

"MR. SALVAGIO [Defense counsel]: Yes, sir. And I wish I now had done it before closing arguments because what I wanted to ask you was we're not pleading guilty by reason of intoxication. I didn't want that charge. I just don't think it fits. And now he's mentioned it, but I mean, still, I mean, that's why I wanted to talk to you. I mean, I should have probably, you know, in hindsight, insisted that we do it beforehand. But I don't want the charge. I mean, I don't think that charge fits it in any manner."

(R. 657.)

Therefore, not only did defense counsel fail to state involuntary intoxication as grounds for the motion for a judgment of acquittal at the close of the case, but also defense counsel's discussion of intoxication with the trial court before it charged the jury reflects that the defense did not believe that the defense of involuntary intoxication applied to the facts of Alexander's case at all. For the reasons stated above, this argument is not properly before this Court for review. Therefore, the judgment of the trial court is due to be affirmed.

AFFIRMED.

Windom, Kellum, Burke, and Joiner, JJ., concur.

¹The indictment alleged that Alexander committed murder pursuant to § 13A-5-40(a)(14), Ala. Code 1975.