

# SUPREME COURT OF LOUISIANA

*No. 98-KA-2460*

STATE OF LOUISIANA

Versus

RICHARD D. HOBLEY

LEMMON, J., Dissenting

Defendant, in a single statement that was clearly voluntary, confessed to two separate and distinct crimes: (1) the Louisiana murder of Steven Traylor, which is the subject of the conviction of first degree murder and sentence of death now under review, and (2) the murder or attempted murder in Texas of a person known as “Big Riley.” The confessed facts that Traylor was murdered in Louisiana and that defendant committed that murder were substantially corroborated by independent evidence at the trial in the present case. Therefore, defendant’s confession was proved to be clearly reliable and trustworthy in regard to the murder of Traylor. The issue on which the majority reverses defendant’s death sentence is whether defendant’s trustworthy confession needs to be corroborated as to the details of the murder or attempted murder of Riley in Texas.

The jurisprudential rule requiring corroboration of confessions is not constitutionally required. The primary purpose of the rule is to test the reliability of a confession and thereby prevent an erroneous conviction based solely on an untrue confession. Warszower v. United States, 312 U.S. 342 (1941); State v. Martin, 93-0285 (La. 10/17/94), 645 So. 2d 190. The key words in this statement of purpose are “conviction” and “solely.”

The jurisprudential requirement of independent proof of the corpus delecti is a

requirement of sufficiency of the evidence for a conviction. 1 McCormick, Evidence §145 (John M. Strong ed., 4th ed. 1992). Because a confession to an unreported and unverifiable crime is inherently suspicious, the requirement of independent proof of the corpus delicti rejects a conviction of the crime based solely on the confession, in the absence of some corroboration.

The corroboration requirement has generally been criticized as no longer necessary, since there are modern day safeguards in the taking of confessions that protect against, for example, a mentally unstable person's confessing to and being convicted of a crime that never occurred. McCormick, supra; see also 7 Wigmore, Evidence §2070 (Chadbourn rev. 1978). Nevertheless, whatever the merits of continuing the corroboration requirement in determining the sufficiency of evidence for a conviction, this court should decline to extend such a requirement to a situation not involving a conviction of the confessed crime.

In State v. Martin, supra, this court upheld a first degree murder conviction based on a killing during the perpetration of an aggravated rape when the defendant had confessed to both murder and rape, but the confession was the sole evidence of the commission of the aggravated rape that constituted the aggravating circumstance necessary for the first degree murder conviction. This court held that the independent corroborating evidence regarding defendant's commission of the murder established the reliability of his single statement that gave details of both the charged crime of first degree murder and the underlying aggravating circumstance (the rape). This court stated that "[t]he rule should not be extended to add a requirement that independent evidence corroborate every element of the crime admitted in the accused's statement, the general reliability of which has been corroborated." 93-0285, p.8, 645 So. 2d at 195.

In the present case, as in Martin, the main concern is the reliability of the confession, the overall reliability of which has been corroborated. Moreover, as in Martin, the confession is not being used to convict the defendant of the crime which is not independently corroborated. I decline to extend the corroboration requirement to the murder or attempted murder of Riley, which was offered as evidence of defendant's character and propensities, and was not the charged crime of which defendant was convicted. Defendant's participation in the Riley crime was, under these circumstances, sufficiently proved by his overall reliable and trustworthy confession.