

WILLIAM E. MOSLEY *v.* STATE OF ARKANSAS

CR 73-106

501 S.W. 2d 225

Opinion delivered November 19, 1973

HOMICIDE—VOLUNTARY MANSLAUGHTER—WEIGHT & SUFFICIENCY OF EVIDENCE.—Conviction for voluntary manslaughter would not be disturbed on appeal where appellant designated the entire record but filed no abstract and brief, the State filed a brief in support of its motion to affirm for want of error appearing on the face of the record and an abstract in accordance with Supreme Court Rule 11 (f) but no error was found that would call for a reversal, and there was ample evidence to go to the jury and sufficient evidence to sustain the verdict and judgment.

Appeal from Mississippi Circuit Court, *Charles W. Light*, Judge; affirmed.

No brief for appellant.

*Jim Guy Tucker*, Atty. Gen., by: *O. H. Hargraves*, Deputy Atty. Gen., for appellee.

J. FRED JONES, Justice. William E. Mosley was convicted of the crime of voluntary manslaughter in connection with the death of Garland Little and was sentenced to seven years in the penitentiary. Mosley has designated the entire record on appeal to this court but has filed no abstract and brief.

The Attorney General has filed a brief in support of

the state's motion to affirm for want of error appearing on the face of the record, and has filed an abstract of the record in accordance with rule 11 (f) of this court. We have examined the entire record and find no error that would call for a reversal in this case.

The homicide in this case grew out of a free-for-all brawl in a combination bar and pool hall in which the appellant Mosley and several other people were involved. It appears that the brawl started when a barmaid tripped over a wire behind the bar and her boyfriend, who was present, thought another one of the patrons had pushed her. The record discloses that practically all of the patrons got into the act of fighting each other with fists, bar stools and pool cues.

Donald Thacker testified that he was not involved in the fight but was present and observed all of it from behind the bar. He said people were swinging pool sticks and bar stools and that he saw Garland Little on the floor getting beat up. He said that Little was crippled and as he got up from a bar stool where he was sitting, he pulled Mosley's hair. He said Jimmy Burris struck Little in the side with a bar stool and knocked him down. He said that Mosley then seemed to go berserk and started beating Little on the chest and head with a pool cue. He said Little remained on the floor while Mosley stood over him and beat him with the pool cue. He said he observed Lloyd Lonberger trying to get Mosley to stop beating Little, and that the fight was all over when Mosley did finally stop beating Little with the pool cue. He said he did not see Little get to his feet again after the beating. He said that one of Little's eyes was hanging out of its socket; that his other eye was badly swollen and he was unable to talk when the ambulance came for him. Little died in a hospital from subdural hematoma approximately ten days following the beating.

We are of the opinion that there was ample evidence to go to the jury in this case and that the evidence is sufficient to sustain the verdict and the judgment rendered thereon. Finding no error in the record, the judgment is affirmed.

Affirmed.