

**Affirmed and Opinion filed October 25, 2001.**



**In The**  
**Fourteenth Court of Appeals**

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**NO. 14-00-00710-CR**

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**MARIA FLORES DEAMARO, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 268th District Court  
Fort Bend County, Texas  
Trial Court Cause No. 32,280**

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**OPINION**

Appellant, Maria Flores Deamaro, was convicted by a jury of the offense of criminal solicitation to commit capital murder and sentenced to fifty years imprisonment and a fine of \$10,000. In two issues, appellant contends the evidence was both legally and factually insufficient to show she solicited another to find a murderer. We affirm.

In the early morning hours of April 23, 1998, Juan Saldana Castillo was shot and killed in his home by an unknown assailant. Appellant, Mr. Castillo's companion, was inside the house when the shooting occurred, and police suspicions were roused by her behavior in its aftermath. Investigation led officers to a former associate of Mr. Castillo,

Armando Vasquez Saldana. When confronted, Mr. Saldana admitted to his involvement in a murder-for-hire scheme concocted by appellant. At appellant's request, Mr. Saldana had hired an individual known as "Ramon" to kill Mr. Castillo.<sup>1</sup> Following the murder, appellant used her adult daughter as an intermediary to pay the agreed-upon price of \$30,000 to Mr. Saldana, who retained \$5,000 and remitted the remainder to "Ramon."

When an appellant challenges both the legal and factual sufficiency of the evidence, we must first determine whether the evidence adduced at trial was legally sufficient to support the verdict. *Clewis v. State*, 922 S.W.2d 125 (Tex. Crim. App. 1996). When reviewing legal sufficiency, we view the evidence in the light most favorable to the verdict and determine whether a rational trier of fact could have found the elements of the offense beyond a reasonable doubt. *Curry v. State*, 30 S.W.3d 394, 406 (Tex. Crim. App. 2000). We consider all of the evidence whether properly or improperly admitted. *Green v. State*, 893 S.W.2d 536, 540 (Tex. Crim. App. 1995); *Chambers v. State*, 805 S.W.2d 459, 460 (Tex. Crim. App. 1991). Moreover, in determining legal sufficiency, we do not examine the fact finder's weighing of the evidence, but merely determine whether there is evidence supporting the verdict. *Clewis v. State*, 922 S.W.2d 126, 132 n. 10 (Tex. Crim. App. 1996).

In her first issue, appellant contends the State's evidence was legally insufficient to prove that she engaged in criminal solicitation as defined in the penal code and alleged in the indictment. Specifically, appellant alleges there was legally insufficient evidence to show she requested, commanded or attempted to induce Mr. Saldana to hire Mr. Castillo's actual killer.

The penal code provides that a person commits an offense if, with intent that a capital or first degree felony be committed, she "requests, commands, or attempts to induce another

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<sup>1</sup> The record is unclear as to whether "Ramon" committed the murder himself or employed a fourth person. Nevertheless, appellant may be guilty of criminal solicitation to commit capital murder where she solicits a person to hire someone who then retains another to commit the actual murder. *See Johnson v. State*, 650 S.W.2d 784, 787 (Tex. Crim. App. 1983).

to engage in specific conduct that, under the circumstances surrounding h[er] conduct as the actor believes them to be, would constitute the felony or make the other a party to its commission.” TEX. PEN. CODE ANN. § 15.03(a) (Vernon 1994). The indictment alleged that appellant, with the requisite intent, did request and attempt to induce Mr. Saldana to find a person to cause the death of Mr. Castillo for the promise of remuneration.

The State offered the testimony of Mr. Saldana that appellant hired him for \$5,000 to hire an agent to kill Mr. Castillo for \$25,000. Moreover, the translated transcription of a conversation between appellant and Mr. Saldana captured by police surveillance corroborates the latter’s testimony, as required by the penal code. *See id.* § 15.03(b). Appellant’s contention that the evidence was legally insufficient to show that she committed a criminal solicitation is thus without merit. Issue one is overruled.

When reviewing claims of factual insufficiency, it is our duty to examine the jury’s weighing of the evidence. *Johnson v. State*, 23 S.W.3d 1, 6 (Tex. Crim. App. 2000). In other words, we must view all the evidence “without the prism of ‘in the light most favorable to the prosecution,’ [i.e., views the evidence in a neutral light,] and sets aside the verdict only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.” *Id.* at 7 (quoting *Clewis v. State*, 922 S.W.2d at 129). Thus, when reviewing factual sufficiency challenges, appellate courts must determine “whether a neutral review of all of the evidence, both for and against the finding, demonstrates that the proof of guilt, although adequate if taken alone, is greatly outweighed by contrary proof.” *Id.* at 11.

In her second issue, appellant contends the State’s evidence was factually insufficient for the jury to conclude that she committed the offense of criminal solicitation to commit capital murder and was so contrary to the overwhelming weight of the credible evidence as to be clearly wrong and unjust. Specifically, appellant alleges there was factually insufficient evidence to show she requested, commanded or attempted to induce Mr. Saldana to hire Mr. Castillo’s actual killer. We disagree.

Mr. Saldana testified that appellant approached him about finding a gunman to kill Mr. Castillo, and that her insistence overcame his initial reluctance. Moreover, Mr. Saldana testified that he met with appellant in April 1998 and agreed on a price for the murder of \$30,000, with \$5,000 of that sum to be retained by Mr. Saldana. In addition, Mr. Saldana testified that appellant made arrangements with him for collection of the monies owed following Mr. Castillo's murder. This testimony was corroborated by appellant herself in the conversation captured by police surveillance. As appellant acknowledged, while she did not kill Mr. Castillo, she sought and paid for it to be done. The jury, as the trier of fact, resolves any conflicts in the evidence, evaluates the credibility of the witnesses, and determines the weight to be given to any particular evidence. *Edwards v. State*, 10 S.W.3d 699, 702 (Tex. App.—Houston [14<sup>th</sup> Dist.] 1999, pet. granted); *Ruiz v. State*, 891 S.W.2d 302, 304 (Tex. App.—San Antonio 1994, pet. ref'd). Viewing all of the evidence, we cannot say the jury's finding that appellant requested or attempted to induce Mr. Saldana to find someone to murder Mr. Castillo is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. *See Clewis*, 922 S.W.2d at 129. Accordingly, we overrule appellant's second issue.

The judgment of the trial court is affirmed.

/s/ J. Harvey Hudson  
Justice

Judgment rendered and Opinion filed October 25, 2001.

Panel consists of Justices Anderson, Hudson, and Frost.

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