

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

MARCH 1996 SESSION

FILED

April 17, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,)
)
 Appellee)
)
 V.)
)
 BILLY ALDRIDGE,)
)
 Appellant)

NO. 02C01-9509-CC-00279
LAKE COUNTY
HON. JOE G. RILEY
JUDGE
(Aggravated Assault)

FOR THE APPELLANT:

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OPINION FILED: _____

AFFIRMED

William M. Barker, Judge

OPINION

The appellant, Billy Aldridge, was convicted of aggravated assault, a class C felony, and sentenced to ten years in the Department of Corrections as a Range II multiple offender. His sentence is to be served consecutively to other sentences which he was serving at the time of this offense. He raises two issues on appeal: (a) the sufficiency of the convicting evidence; and (b) the trial court's failure to grant a new trial based upon the appellant's claims of juror bias.

The judgment of the trial court is affirmed.

The events giving rise to this criminal prosecution occurred on July 12, 1994. At that time both the appellant and the victim, Carl Hanks, were inmates of the Lake County Regional Correction facility. The appellant and the victim had experienced several minor disagreements in the months preceding July 12, 1994. At the time of the offense, the appellant was assigned to work in the kitchen as the dishwasher for the breakfast meal. Another inmate was working as cook and food server. The victim testified that after he had finished his breakfast meal and was preparing to scrape his tray into the garbage can located just outside of the door to the kitchen, the appellant moved the garbage can inside of the kitchen explaining that the garbage bag had a hole in it. The appellant instructed the victim to come into the kitchen and put his tray into the sink. No one was present in the kitchen at that time except the victim and the appellant. The victim testified that he put his tray into the sink as instructed, and as he was turning to leave, the appellant removed a pan of hot grease or butter from the kitchen stove and intentionally threw the contents of the pan on the victim causing severe burns to the victim's face, hand, arm, chest, back, neck, and ear. The burns required the victim to be hospitalized for a month and a half, undergo skin grafts, and he has permanent scarring from the injuries.

The appellant testified that he did not intend to throw the grease or butter on the victim. He said that as he was removing the pan from the oven, he slipped on the floor and instinctively threw the pan in order not to burn himself. He said that he had

not invited the victim into the kitchen area, had no idea that he was standing by the sink, and that he had no ill will toward the victim. However, in a statement given by the appellant to an internal affairs investigator at the correctional facility following the incident, he advised the investigator that as he was removing the pan of grease from the oven it “started burning his hands and he just threw the pan because it was hot and he didn’t know anyone else was in the kitchen.”

Where the sufficiency of the evidence is challenged, the relevant question for this Court is whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979); State v. Williams, 657 S.W.2d 405, 410 (Tenn. 1983); T.R.A.P. 13(e). A guilty verdict, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves any conflicts in favor of the State’s theory. State v. Hatchett, 560 S.W.2d 627, 630 (Tenn. 1978). On appeal the State is entitled to the strongest legitimate view of the evidence and all reasonable inferences which might be drawn therefrom. State v. Cabbage, 571 S.W.2d 832, 836 (Tenn. 1978). Questions concerning the credibility of the witnesses and the weight and value to be given to the evidence are resolved by the trier of fact not this Court. Id. A verdict against a defendant removes the presumption of innocence and replaces it with a presumption of guilt on appeal. State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973). The appellant has the burden of overcoming the presumption of guilt on appeal. State v. Brown, 551 S.W.2d 329, 331 (Tenn. 1977).

When the record is viewed according to the foregoing principles, it is clear that the evidence was sufficient to support the jury verdict. Clearly, the jury chose to believe the testimony of the victim rather than the testimony of the appellant, which was its prerogative.

Moreover, we have reviewed the entire record in this case with regard to the appellant's claim of juror bias and find that the claim is not supported. The two affidavits submitted by the appellant in support of that claim at the hearing on his motion for a new trial simply failed to establish any jury bias.

This Court has thoroughly reviewed the record, the briefs of the parties, and the law applicable to the issues presented for review. It is the opinion of this Court that the judgment of the trial court should be affirmed.

WILLIAM M. BARKER, JUDGE

CONCUR:

JOE B. JONES, PRESIDING JUDGE

GARY R. WADE, JUDGE