

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

FEBRUARY 1997 SESSION

FILED

March 11, 1997

Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,)
)
 APPELLEE,)
)
v.)
)
CHRISTOPHER LEE PRICE,)
)
 APPELLANT.)

No. 02-C-01-9604-CC-00132

Henry County

Julian P. Guinn, Judge

(Robbery, Assault, and Escape)

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OPINION FILED: _____

AFFIRMED

Joe B. Jones, Presiding Judge

OPINION

The appellant, Christopher Lee Price, was convicted of robbery, a Class C felony, assault, a Class A misdemeanor, and escape, a Class E felony, by a jury of his peers. The trial court found that the appellant was a multiple offender and imposed the following Range II sentences: confinement for six (6) years in the Department of Correction and a fine of \$3,000 for robbery, and confinement for two (2) years in the Department of Correction for escape. The trial court sentenced the appellant to confinement for eleven months and twenty-nine days in the Henry County Jail for assault. The appellant does not challenge his conviction for escape. However, he contends the evidence is insufficient, as a matter of law, to support a finding by a rational trier of fact that he is guilty of assault and robbery beyond a reasonable doubt. After a thorough review of the record, the briefs submitted by the parties, and the law governing the issue presented for review, it is the opinion of this Court the judgment of the trial court should be affirmed.

The appellant and his stepbrother, Andra Huspon, were inmates confined to the Henry County Jail. They shared a cell in the isolation area of the jail. Price and Huspon were placed in isolation because they engaged in a fight with other inmates.

On March 23, 1995, an inmate, who had been moved from isolation to the general population of the jail, asked Deputy Kyle M. Wiggins to see if he could find several books the inmate had left in an isolation cell. When Deputy Wiggins arrived in the isolation section of the jail, he discovered there was a problem concerning the laundry which had been recently distributed to the inmates. He opened the cell occupied by Price and Huspon to investigate, and both the appellant and Huspon attacked him. They threw Deputy Wiggins against the cell bars and held him there. One of them took Wiggins's pepper spray from his belt and sprayed him in his face. They took the keys to the jail from his hand. While one of these individuals opened a door to a section of the jail, the other held Deputy Wiggins. Once the door was open, the person holding Deputy Wiggins threw him against a wall and the appellant and Huspon went through the door.

The appellant and Huspon exited the jail through a rear door. The alarm connected to the door was activated. Although officers converged upon the building housing the jail, the appellant and Huspon eluded the officers. The keys and pepper spray were taken from

the jail. They were discarded by the appellant and Huspon as they ran from the jail.

A friend drove the appellant and Huspon to Humboldt, their hometown. A Humboldt police officer arrested the appellant on March 24, 1995. He was returned to Henry County and placed in the Henry County Jail.

Huspon testified in support of the appellant's defense. According to Huspon, the appellant did not touch Deputy Wiggins and the appellant did not take either the pepper spray or the keys from Deputy Wiggins. Huspon, who had entered pleas of guilty to all three offenses, claimed he attacked Deputy Wiggins without the appellant's help, took the pepper spray from his belt, sprayed Wiggins with the pepper spray, and took the keys from his hand. When asked where the appellant was during the attack, Huspon said he could not account for the appellant's actions before the appellant followed him through the jail and out the back door. Huspon claimed another inmate, Chris Johnson, held Deputy Wiggins and assisted him in the escape.

The testimony of Deputy Wiggins is at odds with the statements made by Huspon. Deputy Wiggins was facing Johnson's cell. He stated Johnson remained in his cell and stared while the affray was taking place. As previously noted, Wiggins testified both the appellant and Huspon were holding him from behind.

Deputy Wiggins suffered a cut on his elbow, and his shoulder was sore for awhile. In addition, he could not wash the pepper spray from his face because water intensifies the effect of the mace. He had to allow the pepper spray to dry and wear off. His glasses were destroyed during the attack.

When an accused challenges the sufficiency of the convicting evidence, this Court must review the record to determine if the evidence adduced at trial is sufficient "to support the finding by the trier of fact of guilt beyond a reasonable doubt." Tenn. R. App. P. 13(e). This rule is applicable to findings of guilt based upon direct evidence, circumstantial evidence, or a combination of direct and circumstantial evidence. State v. Dykes, 803 S.W.2d 250, 253 (Tenn. Crim. App.), per. app. denied (Tenn. 1990).

In determining the sufficiency of the convicting evidence, this Court does not reweigh or reevaluate the evidence. State v. Matthews, 805 S.W.2d 776, 779 (Tenn. Crim. App.), per. app. denied (Tenn. 1990). Nor may this Court substitute its inferences for those

drawn by the trier of fact from circumstantial evidence. Liakas v. State, 199 Tenn. 298, 305, 286 S.W.2d 856, 859, cert. denied, 352 U.S. 845, 77 S.Ct. 39, 1 L.Ed.2d 49 (1956). To the contrary, this Court is required to afford the State of Tennessee the strongest legitimate view of the evidence contained in the record as well as all reasonable and legitimate inferences which may be drawn from the evidence. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978).

Questions concerning the credibility of the witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact, not this Court. Cabbage, 571 S.W.2d at 835. In State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973), our Supreme Court said: "A guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of the State."

Since a verdict of guilt removes the presumption of innocence and replaces it with a presumption of guilt, the accused, as the appellant, has the burden in this Court of illustrating why the evidence is insufficient to support the verdicts returned by the trier of fact. State v. Tuggle, 639 S.W.2d 913, 914 (Tenn. 1982). This Court will not disturb a verdict of guilt due to the sufficiency of the evidence unless the facts contained in the record are insufficient, as a matter of law, for a rational trier of fact to find that the accused is guilty beyond a reasonable doubt. Tuggle, 639 S.W.2d at 914.

The crime of robbery is defined as "the intentional or knowing theft of property from the person of another by violence or putting the person in fear." Tenn. Code Ann. § 39-13-401. Here, the appellant and Huspon, working in tandem, attacked Deputy Wiggins, violently threw him against the cell's bars, sprayed his face with pepper spray, and slung him against the wall before exiting the cell. The appellant and Huspon took the pepper spray from Deputy Wiggins's belt and the jail keys from his hand. They left the jail with both items of property and disposed of these items after leaving the jail. This Court is of the opinion the evidence contained in the record is sufficient to support a finding by a rational trier of fact that the appellant is guilty of robbery beyond a reasonable doubt. Tenn. R. App. P. 13(e). Assuming Huspon was the person who took the pepper spray and the jail keys, the appellant is still responsible due to his participation in the crime. In other

words, the appellant possessed the requisite culpable mental state necessary for a conviction. Tenn. Code Ann. § 39-11-402(2). This issue is without merit.

In the context of this case, the offense of assault is defined as the intentional, knowing, or reckless causing of bodily injury to another. Tenn. Code Ann. § 39-13-101(a)(1). Deputy Wiggins was intentionally attacked by the appellant and Huspon, and, as a direct and proximate result of the attack, sustained bodily injury. He had a cut on his elbow, his shoulder was bruised and sore after the affray, and he suffered the effects of the pepper spray on his face. The term “bodily injury” is defined as “a cut, abrasion, bruise, burn or disfigurement; physical pain or temporary illness or impairment of a function of a bodily member, organ, or mental faculty.” Tenn. Code Ann. § 39-11-106(a)(2)(Supp. 1995). This Court is of the opinion there is sufficient evidence contained in the record to support a finding by a rational trier of fact the appellant is guilty of assault beyond a reasonable doubt.

As previously stated, the appellant does not challenge his conviction for escape. Nevertheless, the evidence contained in the record is clearly sufficient to support a finding by a rational trier of fact that he is guilty of escape beyond a reasonable doubt. Tenn. R. App. P. 13(e).

JOE B. JONES, PRESIDING JUDGE

CONCUR:

JOHN H. PEAY, JUDGE

JOE G. RILEY, JUDGE