

[Cite as *In re J.C.C.*, 2015-Ohio-592.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101072

IN RE: J.C.C.
A Minor Child

JUDGMENT:
REVERSED AND VACATED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. DL-13100066

BEFORE: E.A. Gallagher, J., Jones, P.J., and Kilbane, J.

RELEASED AND JOURNALIZED: February 19, 2015

ATTORNEYS FOR APPELLANT

Robert L. Tobik
Cuyahoga County Public Defender
BY: John T. Martin
Assistant Public Defender
310 Lakeside Avenue
Suite 200
Cleveland, Ohio 44113

ATTORNEYS FOR APPELLEE

Timothy J. McGinty
Cuyahoga County Prosecutor
BY: Norman Schroth
Assistant Prosecuting Attorney
Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

EILEEN A. GALLAGHER, J.:

{¶1} Appellant J.C.C.¹ appeals the involuntary manslaughter adjudication entered in the Cuyahoga Court of Common Pleas Court, Juvenile Division. J.C.C. argues that the State presented insufficient evidence to sustain the adjudication of delinquency for the crime of involuntary manslaughter and that the verdict was against the manifest weight of the evidence. Finding merit to the instant appeal, we reverse the decision of the trial court and vacate the adjudication and commitment.

{¶2} J.C.C., a sixteen-year old female, went, after school, with a group of friends to a park in Warrensville Heights, Ohio. While they were at the park there were repeated telephone calls between J.C.C., and S.D. but the duration of some suggests that there was no conversation between the two. J.C.C. provided a written statement to Warrensville Heights police on October 3, 2012 wherein she states that “during the 45 minutes to 1 hour we were at the park [S.D.] was on my phone and Otis phone threaten[sic] that she was on her way to beat me up. So we continued to chill out at the park not thinking she was for real...”

{¶3} S.D. did arrive at the park, driven there by her stepfather and aunt. Upon arrival, S.D. immediately jumped out of the vehicle and, according to witness testimony, “was calling [J.C.C.] out. And so she like, when she had stepped out, she had fell, and then she got back up and started charging herself towards [J.C.C.]”

{¶4} J.C.C. was considerably smaller than S.D. who was 5’3” and weighed approximately 223 pounds. The girls fell to the ground and began fighting until S.D.’s stepfather pulled J.C.C. off of S.D. and threw her aside. J.C.C. then began to call her parents on her cell phone and,

¹It is this court’s policy to protect the privacy of minors; therefore, the minors in this opinion are referred to by their initials.

according to witness testimony, “S.D. got back up and started like bouncing all around, yelling, screaming calling J.C.C. back out for another round two” while S.D.’s aunt and stepfather also berated J.C.C. and encouraged the fight to continue by repeated taunts. While the stepfather and aunt yelled at J.C.C., S.D. walked away and collapsed. One of J.C.C.’s friends went over and, realizing that S.D. was in distress, called the stepfather and aunt to S.D. J.C.C. left the scene of the fight while others attended to S.D.

{¶5} A passerby who witnessed the girls fighting called 911. Police and EMTs arrived and transported S.D. to Ahuja Hospital. Because the State failed to present the testimony of the responding EMT personnel or any personnel from Ahuja, it is unclear as to when, or where, S.D. died. An autopsy was performed by the Cuyahoga County Medical Examiner’s Office and the cause of death was determined to be sudden cardiac death and was ruled a homicide.

{¶6} During trial, both the State and defense counsel presented experts to testify about the cause of death. The experts testified that S.D.’s heart failure was the result of her having become over excited and suffering from a fatal rush of adrenaline; the defense expert opined that her obesity was a pre-existing condition that created additional strain on her heart.

{¶7} The trial court adjudicated J.C.C. delinquent of one count of involuntary manslaughter and this appeal followed. J.C.C. raises the following assigned errors:

The evidence was insufficient to sustain the adjudication of delinquency for the crime of involuntary manslaughter. The verdict was against the manifest weight of the evidence.

{¶8} In her first assigned error, J.C.C. argues that the evidence was insufficient to sustain the adjudication of delinquency for the crime of involuntary manslaughter because of the lack of causation and foreseeability. A claim of insufficient evidence invokes a due process concern and raises the question of whether the evidence is legally sufficient to support the jury verdict as

a matter of law. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52, 678 N.E.2d 541. This is a question of law that we review de novo. *Id.* In analyzing the sufficiency of evidence to sustain a criminal conviction, an appellate court must construe the evidence in a light most favorable to the prosecution. *State v. Hill*, 75 Ohio St.3d 195, 205, 1996-Ohio-222, 661 N.E.2d 1068. After construing the evidence in this manner, the test for determining sufficiency is whether any rational trier of fact considering the evidence could have found all essential elements of the charged offenses proven beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

{¶9} Pursuant to R.C. 2903.04(B), involuntary manslaughter is defined as follows:

No person shall cause the death of another * * * as a proximate result of the offender's committing or attempting to commit a misdemeanor of any degree, a regulatory offense, or a minor misdemeanor * * * .

{¶10} J.C.C. argues that while the State was able to prove that S.D. died as a result of heart failure that arose from an adrenaline rush, the State did not prove the cause of the adrenaline rush. Here, there were three instances that could have ignited S.D.'s massive adrenaline rush leading to her heart failure. The first could have occurred before, and in anticipation of, the fight. The second instance could have occurred during the fight itself and the third could have occurred during the time S.D. and her stepfather instigated the continuation of the fight.

{¶11} The deputy coroner who performed S.D.'s autopsy did not provide a definite conclusion as to the precise instance that caused the adrenaline rush. It is this lack of precision that brings into question whether sufficient evidence exists to support the conclusion that J.C.C. caused S.D.'s death. As an essential element of involuntary manslaughter, the State must support the conclusion that J.C.C. caused S.D.'s death with sufficient evidence. This cannot be

accomplished in this case because, of the three possible causes of the adrenaline rush responsible for S.D.'s death, at least one cannot be attributed to J.C.C. or her actions. Without identifying which of the three incidents caused the rush of adrenaline, we cannot definitively state whether J.C.C. caused the rush that resulted in S.D.'s death. As such, insufficient evidence exists to support the adjudication of delinquency.

{¶12} We find the present case distinguishable from the cases cited by the State in support of their argument that sufficient evidence exists. The State cites to *State v. Miller*, 10th Dist. Franklin No. 11AP-899, 2013-Ohio-1242, and *Baraka v. Kentucky*, 194 S.W.3d 313, 2004-SC-0256-DG (2006). In each case, the defendant's actions during a physical altercation caused stress that ultimately resulted in a victim suffering a fatal heart attack. Those courts affirmed the defendant's convictions in both cases. Unlike the cases cited above in which the physical altercations were attributable only to the defendant, in this case, the decedent was the aggressor. Not only was the decedent visibly and vocally agitated upon arrival at the location where J.C.C. was present, she initiated the physical confrontation.

{¶13} When J.C.C. ceased defending herself, S.D. berated and taunted her, jumped around and screamed at her to continue fighting. These facts do not portray a decedent who had no part in the stress that ultimately caused her heart failure. These facts describe the actions of an aggressor.

{¶14} It is perplexing as to why the State failed to produce the two adults who transported S.D. to the scene or any of the many young people who were present during the fight between the two girls. Nonetheless, the picture painted by the limited evidence presented by the State shows that S.D. was the aggressor. J.C.C.'s statement to police revealed that she did know whether S.D. really planned to come and fight her. J.C.C. was merely at the park with her friends when

S.D. arrived to fight. Conversely, S.D. recruited family members to drive her to J.C.C.'s location where she initiated the fight. When J.C.C. got the better of S.D. during the fight, S.D.'s stepfather intervened, threw J.C.C. to the ground and then S.D., her stepfather and aunt taunted J.C.C. to continue the fight.

{¶15} It is inexplicable to this court as to why the two adults who were complicit in the events leading up to the death of S.D. by transporting her to the scene for the purpose of engaging in a brawl, verbally encouraging the altercation and failing to offer aid and assistance to the dying young girl were not criminally charged.

{¶16} From the start to the finish of this altercation, S.D. escalated the stress and physical confrontation. We find it inexcusable for J.C.C. to pay the price criminally, for what were very likely S.D.'s own actions.

{¶17} Accordingly, we find that there is insufficient evidence to support the adjudication of delinquency on the charge of involuntary manslaughter. Our analysis of J.C.C.'s first assigned error renders her remaining appeal moot.

{¶18} The judgment of the trial court is reversed, the adjudication and imposed commitment are vacated.

It is ordered that appellant recover from appellee costs herein taxed. The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

EILEEN A. GALLAGHER, JUDGE

LARRY A. JONES, SR., P.J., and
MARY EILEEN KILBANE, J., CONCUR