

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C. A. No. 25106

Appellee

v.

RODNEY TYRONE WRIGHT

Appellant

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. CR 09 05 1407

DECISION AND JOURNAL ENTRY

Dated: July14, 2010

MOORE, Judge.

{¶1} Appellant, Rodney T. Wright, appeals from the judgment of the Summit County Court of Common Pleas. This Court affirms.

I.

{¶2} On February 22, 2009, Wright and Cheri Bernath were involved in an altercation in Akron, Ohio. Wright was angered by what he characterized as dangerous driving by Bernath. While stopped at a traffic light, Wright approached Bernath's car. She rolled her window down and Wright quickly punched her twice in the left side of her face. Wright walked back to his vehicle and followed Bernath for a period of time during which she made numerous turns and drove through stop signs in an effort to evade him. Once Bernath returned to the friend's home at which she was staying, Bernath's friend transported her to the hospital for treatment.

{¶3} On May 12, 2009, the Summit County Grand Jury indicted Wright on one count of felonious assault in violation of R.C. 2903.11(A)(1), a felony of the second degree. Beginning

September 24, 2009, the charge was tried to a jury. On September 28, 2009, the jury returned a guilty verdict. On October 28, 2009, the trial court sentenced Wright to a six-year prison term.

{¶4} Wright timely filed a notice of appeal, raising one assignment of error.

II.

ASSIGNMENT OF ERROR

“[] THE TRIAL COURT ERRED BY OVERRULING MR. WRIGHT’S OHIO CRIM.R. 29(A) MOTION FOR JUDGMENT OF ACQUITTAL BECAUSE THE EVIDENCE WAS INSUFFICIENT TO SUPPORT A CONVICTION FOR FELONIOUS ASSAULT.”

{¶5} In his assignment of error, Wright contends that his conviction was supported by insufficient evidence. Wright specifically contends that the State failed to present sufficient evidence with regard to the elements of mens rea, and whether the victim suffered serious physical harm. We do not agree.

{¶6} When considering a challenge to the sufficiency of the evidence, the court must determine whether the prosecution has met its burden of production, while a manifest weight challenge requires the court to examine whether the prosecution has met its burden of persuasion. *State v. Thompkins* (1997), 78 Ohio St.3d 380, 390 (Cook, J., concurring). To determine whether the evidence in a criminal case was sufficient to sustain a conviction, an appellate court must view that evidence in a light most favorable to the prosecution:

“An appellate court’s function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of the defendant’s guilt beyond a reasonable doubt. The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.” *State v. Jenks* (1991), 61 Ohio St.3d 259, paragraph two of the syllabus.

Mens Rea

{¶7} Wright first contends that the State failed to introduce sufficient evidence to establish that he acted knowingly.

{¶8} R.C. 2903.11(A)(1) provides that “[n]o person shall knowingly *** [c]ause serious physical harm to another or to another’s unborn.” R.C. 2901.22(B) provides that “[a] person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist.”

{¶9} The evidence viewed in the light most favorable to the State indicated that Wright became angry at Bernath and approached her vehicle while stopped at a traffic light. Bernath could not hear anything Wright was saying as he stood outside her driver-side window. She thought he might need directions so she rolled down her window. Wright used some obscenities and then punched her in the face twice before she could respond. Bernath described the blows as landing on the whole left side of her face. She testified that immediately after the punches, it was as if “a faucet of blood was turned on *** [a]nd he turned and walked away calmly, like he didn’t have a care in the world.” This evidence would allow a rational trier of fact to find beyond a reasonable doubt that Wright acted knowingly in causing harm to Bernath. *Jenks*, 61 Ohio St.3d at paragraph two of the syllabus.

Serious Physical Harm

{¶10} Wright further contends that the State failed to introduce sufficient evidence to prove that Bernath suffered serious physical harm as a result of his conduct.

{¶11} R.C. 2901.01(A)(5) defines “serious physical harm to persons” as:

“***

“(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;

“(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.”

{¶12} Bernath testified that when Wright punched her, in addition to bleeding profusely, she suffered a gash across two-thirds of her eyebrow that was so deep that bone was visible. She also had a fractured orbital socket, a broken nose and her left eye swelled completely shut. The gashes required 31 stitches. Her broken nose caused a large indentation and required surgery to address breathing issues. Dr. James Lewis, a supervising surgeon at Summa hospitals, testified that although the surgery did not require cutting, it did require general anesthesia and the insertion of instruments into the nose to manipulate the bones. Bernath now has a permanent indentation on the bridge of her nose. She suffered dizziness and headaches and was unable to get out of bed for three days. Bernath testified that she experienced pain worse than childbirth. At the time of trial, Bernath still suffered numbness in parts of her face. Viewed in the light most favorable to the State, the testimony at trial would allow a rational trier of fact to find beyond a reasonable doubt that Wright caused serious physical harm to Bernath. *Jenks*, 61 Ohio St.3d at paragraph two of the syllabus.

{¶13} Accordingly, Wright’s assignment of error is overruled.

III.

{¶14} Wright’s assignment of error is overruled. The judgment of the Summit County Court of Common Pleas is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

CARLA MOORE
FOR THE COURT

CARR, J.
DICKINSON, P. J.
CONCUR

APPEARANCES:

J. REID YODER, Attorney at Law, for Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney, and HEAVEN R. DIMARTINO, Assistant Prosecuting Attorney, for Appellee.