

FILED
Jun 19, 2015
Court of Appeals
Division III
State of Washington

NO. 32786-8-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON, Respondent

v.

JAVIER SANCHEZ, Appellant

APPEAL FROM THE SUPERIOR COURT
FOR BENTON COUNTY

NO. 14-1-00124-3

BRIEF OF RESPONDENT

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I. RESPONSE TO ASSIGNMENT OF ERROR

- A. **Sufficient evidence to support a conviction for Escape in the Second Degree was presented at trial.**

II. STATEMENT OF FACTS

The defendant pled guilty on November 27, 2013, to Unlawful Possession of a Controlled Substance in Benton County Superior Court Cause No. 13-1-01152-6. RP 09/09/2014¹ at 9-10. As a result of said plea, the defendant was sentenced to ten months in jail that the court determined the defendant could serve on the Benton County Jail Work Crew Program. *Id.* at 10. The court gave the defendant a report date of December 10, 2013, to sign up for the Work Crew Program. *Id.*

The defendant signed up for the Work Crew Program on December 10, 2013, but failed to report to begin the program despite repeated attempts by the Work Crew Coordinator to contact the defendant. *Id.* at 24-28. The defendant remained whereabouts unknown and out of compliance with the Benton County Jail Work Crew Program until he was arrested on an outstanding warrant on February 6, 2014, and brought to the Benton County Jail. *Id.* at 28. Due to his failure to comply with the terms and conditions of the Work Crew Program, he was disqualified from the

¹ Referring to the transcript by court reporter John McLaughlin.

program and served his ten-month jail sentence in the Benton County Jail. *Id.* at 24, 28-29.

The defendant was charged by Information with Escape in the Second Degree on January 31, 2014. CP 1-3. The matter proceeded to jury trial on September 9, 2014, wherein the defendant was found guilty of Escape in the Second Degree and sentenced to 20 months in prison on October 2, 2014. CP 57-67. The defendant filed this timely appeal.

III. ARGUMENT

A. There was sufficient evidence to support a conviction for Escape in the Second Degree as the Benton County Jail Work Crew Program is a detention facility program.

When considering facts in a challenge to sufficiency of the evidence, courts will draw all inferences from the evidence in favor of the State and against the defendant. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). A reviewing court will reverse a conviction for insufficient evidence only where no rational trier of fact could find that all elements of the crime were proven beyond a reasonable doubt. *Id.* A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254 (1980), *aff'd*, 95 Wn.2d 385, 622 P.2d 1240 (1980).

The defendant in the instant matter asserts that the State did not prove the Escape in the Second Degree charge beyond a reasonable doubt because the Benton County Jail Work Crew Program does not qualify as a detention facility. However, the Court has previously addressed this issue in *State v. Peters*, 35 Wn. App. 427, 667 P.2d 136 (1983). In *Peters*, the defendants also contended that because RCW 9A.76.010(3) defines a “detention facility” as “any place used for the confinement of a person,” one could not be guilty of second degree escape “from a detention facility,” RCW 9A.76.120(1)(a), unless he or she escaped from a *place* of confinement. *Peters*, 35 Wn. App at 430. The defendants in *Peters* claimed they did not escape from any *place* where they were confined because they were out on a furlough and therefore could not be convicted of second degree escape. *Id.*

However, the Court in *Peters* held that, “a ‘detention facility’ is ‘any place used for the confinement of a person ... in any work release, furlough, or other such facility or program.’ The term ‘place’ thus encompasses any area in which a person is permitted to go or remain according to the terms of his work release, furlough or comparable program.” *Id.* at 430-31 (quoting RCW 9A.76.010(3)(e)). A comparable program would be the Benton County Jail Work Crew Program. Thus, a person who, while on work release, furlough or work crew, is not within

the area where he is authorized to be at a particular time, or a person who has remained in an area where he was authorized to go beyond the time permitted him, has escaped “from a detention facility.” *See State v. Yallup*, 25 Wn. App. 603, 608 P.2d 651 (1980), *overruled on other grounds by State v. Danforth*, 97 Wn.2d 255, 643 P.2d 882 (1982).

At trial in the instant matter, the jury was provided Instruction No. 6, which states: “A person commits the crime of escape in the second degree when he knowingly escapes from a detention facility.” CP 49. The jury was also provided Instruction No. 8, which contained the definition of “detention facility” as follows: “Detention facility means any place used for the confinement of a person arrested for, charged with, or convicted of an offense or in any work release, furlough, or *other such facility or program.*” CP 51 (emphasis added). The Benton County Jail Work Crew Program would qualify as “other such facility or program” of the Benton County Jail detention facility and thus the jury’s verdict was properly rendered on the facts presented at trial.

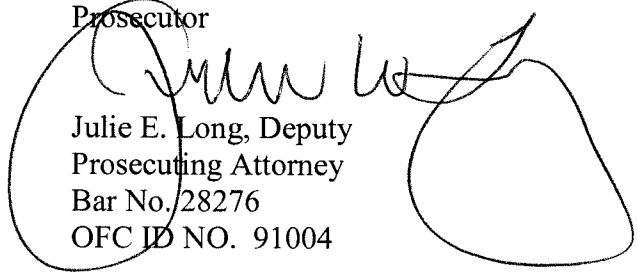
IV. CONCLUSION

Based upon the aforementioned rationale, the defendant’s appeal should be denied and his conviction affirmed.

RESPECTFULLY SUBMITTED this 19th day of June, 2015.

ANDY MILLER

Prosecutor

A handwritten signature in black ink, appearing to read "Julie E. Long", is written over the typed name and title. The signature is enclosed within a large, hand-drawn oval.

Julie E. Long, Deputy
Prosecuting Attorney
Bar No. 28276
OFC ID NO. 91004

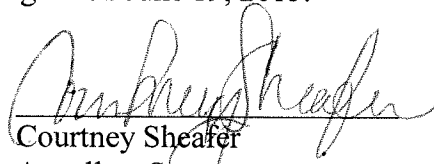
CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this day I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

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Signed at Kennewick, Washington on June 19, 2015.


Courtney Sheaffer
Appellate Secretary