

FILED
Court of Appeals
Division II
State of Washington
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No. 51071-5-II

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

State of Washington, Respondent

v.

Michael D. Harris, Appellant.

APPELLANT'S OPENING BRIEF

Appeal from Pierce County Superior Court 17-1-00625-6

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Rules

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Introduction

Michael Harris was prosecuted for violating a no-contact order between himself a black woman. At trial, the person the state presented as the protected party was white. No reasonable jury could find Harris guilty of violating a no-contact order with a person of a different race than the alleged protected party. The verdict should be reversed.

Assignments of Error

1. There was insufficient evidence for the jury to convict.
2. The protective order violated due process because it gave insufficient notice of who the protected party was.

Issues Pertaining to Assignments of Error

1. The protective order that Michael Harris allegedly violated prohibited contact with a black female. Harris was convicted for having contact with a white woman. Was the evidence sufficient to convict where the victim was a different race than the protected party?
2. Does it violate due process to have a no-contact order that does not specific the correct race of the protected party?

Statement of the Case

A jury found Michael Harris guilty of one count of violating a domestic violence court order (RCW 26.50.110(5)). CP 469. On July20,

2017, he was sentenced. He received an exceptional sentence of 36 months. CP 474.

On July 12, 2013, the King County Superior Court entered a domestic violence no-contact order between a black male, Michael Harris, and a black woman, Laurel Harris. CP 501. The order expires on July 12, 2018. CP 501.

Early in the morning of February 12, 2017, Michael Harris was arrested for violation of a no-contact order. At trial, the state presented a witness as the protected party. That witness was named Laurel Harris, but was a white woman.

The parties appeared for trial on July 6, 2017. RP 2. While Harris' counsel did not object to continuing the trial due to a lack of a courtroom, Harris personally objected. RP 2. To avoid Harris' objection, the court called the case to trial and then recessed until a courtroom was available. RP 2-4. As the parties discussed trial on July 6, 2017, Harris told the court that he pleaded "common law jurisdiction" and that he rescinded "any and all signatures, audio and any other instruments used from the past, present for they were all done in the threat of duress, coercion and possible loss of life." RP 8. He requested that "all answers from all present here today under penalty of perjury, 26 United States Code 6065." RP 8. He stated he was "a sovereign private citizen, private human being who is blessed, protected and judged by only God, my Lord and savior." RP 8.

At a pretrial hearing, Harris objected through counsel that the prior convictions did not specify that he was pleading guilty to a court order. RP

21. The trial court found the prior convictions, from Lakewood Municipal Court, were issued pursuant to RCW 10.99. RP44. Harris pleaded guilty to those charges, and on that basis, the trial court found that they were predicate violations. RP 44.

Prior to trial on July 10, the court heard a motion to suppress. Criminal Rule 3.5; RP 28. Harris sought to suppress his statements to an officer at the time of his arrest. The officer testified as follows:

At about 1:15 in the morning, the officer had “rolled up” on Harris as he walked down the street. RP 49-50. This included activating his emergency lights. RP 50. Only the officer and Harris were on the street. RP 50. The officer ordered that Harris put his hands on the car’s roll bar. RP 50. Harris was handcuffed and searched by an armed officer. RP 50.

Miranda warnings were read to Harris, but Harris was never asked if he waived his right to remain silent or his right to an attorney. Without pause, the officer continued from the warning to his questioning. RP 50.

The court found that there was “no indication that the defendant did not understand [his] rights,” and “no indication that the defendant ever invoked his rights.” RP 52. Although the court found that Harris did not affirmatively waive his rights, he “did answer questions only after being advised his Miranda rights.” RP 52. The court denied the motion to suppress.

After the 3.5 hearing, Harris again asserted his rights as a sovereign citizen. 53-55. The trial then began.

As at the 3.5 hearing, the officer who arrested Harris testified that he gave Harris Miranda warnings, that Harris acknowledged those warnings, and that the officer then began asking questions. RP 205. Harris allegedly told the officer that “he was just over at his wife’s house and that she had assaulted him before he left.” RP 206. He said that his wife’s name was Laurel. RP 206. When asked about a no-contact order, he said he believed there was no longer a no-contact order between the parties. RP 206.

The protective order was then made an exhibit. RP 206; CP 501. In the space above “race” on the form, the order indicates that it protects someone whose race is “B,” or black.

When Laurel Harris testified, she explained that she is white, not black. RP 232; 248.

After the state rested, Harris moved to dismiss. RP 234. Harris argued that “there was a protective order protecting Laurel Harris from Michael Harris,” and that order protects a black woman. RP 234-35. In contrast, the pretrial no-contact order in the present case lists Laurel Harris as white. RP 236. The court overruled Harris’s objection, finding that it is “within the realm of possibility that the jury could conclude that it was a scrivener error.” RP 236.

Argument

A. Standard of review

When the sufficiency of the evidence is challenged in a criminal case all reasonable inferences from the evidence must be drawn in favor of the state and interpreted most strongly against the defendant. After viewing the evidence in the light most favorable to the state, the court determines whether any rational trier of fact could have found guilt beyond a reasonable doubt. *State v. Ward*, 148 Wn.2d 803, 815, 64 P.3d 640 (2003).

B. The evidence was insufficient to convict Harris

The protective order Harris was convicted of violating protected a black woman named Laurel Harris. Harris was convicted of having contact with a white woman. No rational jury could convict based on the difference between the order and the alleged victim.

Harris is a common last name among both black and white Americans. <https://names.mongabay.com/data/1000.html>. A search of Facebook or Google for “Laurel Harris” turns up hundreds, possibly thousands, of people.

As our courts have recognized, a conviction for violating a no-contact order “cannot be obtained without producing the order[,] as it will identify the protected person . . .” *City of Bothell v. Kaiser*, 152 Wn. App. 466, 475, 217 P.3d 339 (2009).

Because the no-contact order that Harris allegedly violated identified someone of a different race than his wife, it was reasonable for Harris to assume that the order did not prohibit contact between himself and his wife. It was unreasonable, in turn, for the jury to convict Harris of a crime against a black female when the witness who testified was white.

C. Harris had insufficient notice that he was not to have contact with a white woman

Criminal defendants have a “a right to be fully informed of the nature of accusations against them . . .” *Kaiser*, 152 at 471. The “due process clause of the fourteenth amendment to the United States Constitution requires statutes to provide fair notice of the conduct they proscribe.” *State v. Watson*, 160 Wn.2d 1, 6, 154 P.3d 909 (2007).

Here, the protective order issued by King County told Harris not to have contact with a black female. As a result, Harris did not have sufficient notice that he could have contact with a white woman by the same, common name.

D. No costs of appeal should be assessed

The trial court found Harris indigent. CP 495-96. He is presumed indigent throughout the appeal. RAP 14.2; RAP 15.2. He requests that the Court not assess costs against him.

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Conclusion

The verdict should be reversed and the case remanded for a new trial.

Respectfully submitted on December 26, 2017

s/ Harry Williams IV
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Certificate of Service

On December 26, 2017, I served all parties by electronic service,
and served a paper copy by U.S. mail to

Michael D. Harris #244703
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Shelton WA 98584

I declare under penalty of perjury of the laws of the State of
Washington that the foregoing is true and correct.

Dated December 26, 2017 in Seattle, Washington.

s/Harry Williams IV, WSBA #41020

LAW OFFICE OF HARRY WILLIAMS LLC

December 26, 2017 - 1:06 PM

Transmittal Information

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