

STATEMENT OF ADDITIONAL GROUNDS

FILED
COURT OF APPEALS
DIVISION II

44438-1

STATE OF WASHINGTON RESPONDENT VS. JAMES BRADLEY

2013 SEP 25

STATE OF WASHINGTON (APPELLANT)

ASSIGNMENT OF ERRORS: BY: [Signature] DEPUTY

THE TRIAL COURT ERRED WHEN IT ENTERED A CONVICTION FOR ASSAULT IN THE SECOND DEGREE UPON FALSE STATEMENTS MADE BY THE STATE.

THE TRIAL COURT ERRED WHEN IT ENTERED A CONVICTION FOR ASSAULT IN THE SECOND DEGREE WHEN IT FAILED TO PROVE MY INTENT BEYOND A REASONABLE DOUBT.

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR:

THAT STATE DID NOT PRESENT SUFFICIENT EVIDENCE TO MY INTENT BEYOND A REASONABLE DOUBT.

THE STATE MADE FALSE STATEMENTS IN REGARDS TO THE DEFINITION OF ASSAULT, IN CLOSING ARGUMENTS TO THE JURY.

HERE IS MY STATEMENT.

ON SEPTEMBER 12TH OF 2012, JACE SANCHEZ SHOWED UP AT MY RESIDENCE TO PAY ME FOR SOME CARPENTRY WORK HE HIRED ME TO DO. WHILE PULLING OUT AN ENVELOPE WITH A STACK OF MONEY, HE HANDED ME A PORTION OF THE STACK BUT KEPT SOME OF THE MONEY IN THE ENVELOPE. HE THEN TOLD ME HE COULDN'T AFFORD TO PAY ME ALL HE OWED ME AND WOULD HAVE TO PAY THE REMAINING BALANCE TWO WEEKS LATER. THE SITUATION ESCALATED FROM THERE AND I GRABBED A BASEBALL BAT AND THREATENED TO GET THE REMAINDER OF MY CHECK OUT OF HIS TRUCK IF HE DIDN'T PAY ME. AT NO TIME DID I EVER THREATEN MR. SANCHEZ. AFTER I HIT THE TAIL GATE OF THE TRUCK, I MOVED AROUND TO THE OPPOSITE SIDE OF THE TRUCK THAT MR. SANCHEZ WAS ON. I HIT THE TRUCK TWO MORE TIMES BEFORE MR. SANCHEZ WALKED ACROSS THE STREET AND BEGAN TALKING TO MY NEIGHBOR. EVENTUALLY WHEN I GOT NO RESPONSE FROM HIM, I FOLLOWED HIM ACROSS THE STREET AND TOLD HIM I WANT THE MONEY HE OWED ME. I CONTINUED TO FOLLOW HIM AROUND THE NEIGHBORS CAR TELLING HIM I SAW THE MONEY IN THE ENVELOPE. I KNOW HE HAS IT. HE NEEDS TO PAY ME ALL MY BILLS ARE

DO. FINALLY, HE SAID, "FINE ILL PAY YOU," AND THE INCIDENT DEFUSED FROM THERE. I WALKED BACK TO MY HOUSE. THE NEIGHBOR CALLED THE POLICE. MR. SANCHEZ WALKED UP THE STREET. THE POLICE SHOWED UP AND I WENT INTO CUSTODY WITHOUT INCIDENT. NOW THIS IS A CONDENSED VERSION OF THE INCIDENT HOWEVER, IT HAS THE PERTINATE INFORMATION ABOUT THE INCIDENT INCLUDING I BELIEVE, MY INTENT. THE REASON I BRING THIS UP IS BECAUSE THE DEFINITION OF ASSAULT THAT WAS USED TO CONVICT ME WAS "COMMON-LAW ASSAULT" WHICH STATES:

AN ASSAULT IS AN ACT WITH UNLAWFUL FORCE, DONE WITH THE INTENT TO CREATE IN ANOTHER APPREHENSION AND FEAR OF BODILY INJURY EVEN THOUGH THE ACTOR DID NOT ACTUALLY INTEND TO INFLECT BODILY INJURY.

HOWEVER, A STATEMENT MADE BY THE PROSECUTING ATTORNEY TERRY LANE IN CLOSING ARGUMENTS REBUTTAL (PG 463 OF TRANSCRIPTS) THAT "INTIMADATION" IS STILL ASSAULT, WHEN STATE VS BYRD (1995) CLEARLY STATES INTIMIDATION IS NOT AN ELEMENT OF ASSAULT. THAT WAS A LIE AND MISLEAD THE JURY TO

TO BELIEVE A FALSE DEFINITION OF ASSAULT. HE ALSO SAID THAT MY INTENT WAS NOT A FACTOR WHEN BY DEFINITION, IT CLEARLY IS. THESE TWO STATEMENTS MADE BY THE PROSECUTION (MR. TERRY LANE) WERE INACCURATE DEFINITIONS OF ASSAULT THAT ULTIMATELY WORKED AGAINST ME TO OBTAIN A CONVICTION OF ASSAULT IN THE SECOND DEGREE. THESE ARE THE ERRORS I HAVE FOUND SO FAR. IF MY INTENT WAS IRRELEVANT, I DON'T BELIEVE IT WOULD HAVE BEEN DEFINED AS JURY INSTRUCTION # 22 IN MY CASE. SO I'D LIKE TO GO OVER THAT SUBJECT TO BRING TO LIGHT MY TRUE INTENTIONS.

WHAT WE KNOW FOR SURE IS THAT ALL THE WITNESSES, INCLUDING THE VICTIM ALL UNANIMOUSLY CONCUR, I NEVER HIT MR. SANCHEZ OR SWUNG AT HIM OR THREATENED HIM. I NEVER MADE AN ATTEMPT AT ANYTIME DURING THIS INCIDENT, EVEN THOUGH THERE WERE MOMENTS WHEN I COULD HAVE. THE FACT THAT THE SITUATION ENDED AS SOON AS THE VICTIM AGREED TO PAY ME AGAIN SHOWS MY TRUE INTENT, I JUST NEEDED TO GET PAID. ALTHOUGH I WAS DESPERATE AND NEEDED MY MONEY, MY ACT OF INTIMADATION, WAS NOT

ATTEMPT TO ASSAULT MR. SANCHEZ. DESPITE MY EMOTIONAL OUTBURST, I DIDN'T WANT HIS FEAR, I WANTED MY PAYCHECK. ITS MY BELIEF, THAT THE STATE FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT MY INTENT WAS TO CREATE FEAR AND APPREHENSION OF BODILY INJURY. I WAS CHARGED AND CONVICTED OF MALICIOUS MISCHIEF FOR HITTING THE BAT ON THE BACK OF THE TRUCK, WHICH WAS THE ONLY ACT DONE THAT COULD HAVE GIVEN MR SANCHEZ FEAR. EVEN WHEN HE WAS TOLD BY A WITNESS TO JUST RUN AWAY, HE JUST STOD THERE. BY THIS TIME IT WAS EVADENT MY INTENT WAS NOT TO ASSAULT ANYONE. SPECIFIC INTENT IS AN ESSENTIAL ELEMENT OF ASSAULT. "EVEN WHEN AN ACT IS DONE AND THE RESULT IS REASONABLE APPREHENSION IN ANOTHER, IT IS STILL NOT SUFFECIENT TO CONVICT FOR 2ND DEGREE ASSAULT SINCE THE ACT MUST BE ACCOMPANIED BY ACTUAL INTENT TO CAUSE THAT APPREHENSION. STATE VS. BYRD (1994) ITS MY BELIEF AND SHOULD BE YOURS TOO, THAT THE STATE BELIEVED ITS BURDEN OF PROVING MY INTENT BEYOUND A REASONABLE DOUBT BY MAKING FALSE STATEMENTS OF ASSAULT IN THE CLOSING ARGUMENTS TO THE

JURY. I'M NOT SURE WHY MY PUBLIC DEFENDER NEVER OBJECTED. I DO KNOW THAT AT THE TIME, I WASN'T EDUCATED ON CASE LAW, OR DEFINITIONS, SO I COULDN'T INTERRUPT NOT TO MENTION, IT WASN'T MY PLACE. BUT NOW AFTER SOME RESEARCH, I BELIEVE THERE IS SUBSTANTIAL EVIDENCE TO PROVE MY INTENT AND THAT MY ASSAULT IN THE SECOND DEGREE CONVICTION SHOULD BE OVER TURNED. ATTACHED IS A LIST OF ALL THE DEFINITIONS OF ASSAULT AND I BELIEVE NOW WITH THE EVIDENCE PRESENTED IN THIS BRIEF, YOU'LL SEE I FALL UNDER NONE OF THE DEFINITIONS OF ASSAULT 2. THANK YOU FOR YOUR TIME AND CONSIDERATION.

REVISED CODE
OF WASHINGTON

TITLE. 9A WASHINGTON CRIMINAL CODE

CHAPTER. 9A.36 ASSAULT - - PHYSICAL HARM

SECTION - ASSAULT IN THE SECOND DEGREE (CLASS B FELONY)

9A.36.021

(1) A PERSON IS GUILTY OF ASSAULT IN THE SECOND DEGREE IF HE OR SHE, UNDER CIRCUMSTANCES NOT AMOUNTING TO ASSAULT IN THE FIRST DEGREE:

(A) INTENTIONALLY ASSAULTS ANOTHER AND THEREBY RECKLESSLY INFLECTS SUBSTANTIAL BODILY HARM, OR

(B) INTENTIONALLY AND UNLAWFULLY CAUSES SUBSTANTIAL BODILY HARM TO A UNBORN (VIABLE) CHILD BY INTENTIONALLY AND UNLAWFULLY INFLECTING ANY INJURY UPON THE MOTHER OF A SUCH CHILD, OR

(C) ASSAULTS ANOTHER WITH A DEADLY WEAPON; OR

(D) WITH "INTENT" TO INFLECT BODILY HARM, ADMINISTERS TO OR CAUSES TO BE TAKEN BY ANOTHER, POISON OR ANY OTHER DESTRUCTIVE OR NOXIOUS SUBSTANCE, OR;

(E) WITH INTENT TO COMMIT A FELONY, ASSAULTS ANOTHER; OR

(F) KNOWINGLY INFLECTS BODILY HARM WHICH BY DESIGN CAUSES SUCH PAIN OR AGONY AS TO BE THE EQUIVALENT OF THAT PRODUCED BY TORTURE, OR