

COA No. 33218-7-III

FILED
March 16, 2016
Court of Appeals
Division III
State of Washington

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

ERIK JON CSIZMAZIA,

Appellant.

BRIEF OF APPELLANT

Kenneth H. Kato, WSBA # 6400
Attorney for Appellant
1020 N. Washington St.
Spokane, WA 99201
(509) 220-2237

TABLE OF CONTENTS

I. ASSIGNMENT OF ERROR.....1

 1. The State’s evidence was insufficient to support the conviction for third degree assault of a law enforcement officer.....1

Issue Pertaining to Assignment of Error

 A. Was the State’s evidence insufficient to support the conviction?.....1

II. STATEMENT OF THE CASE.....1

III. ARGUMENT.....3

 A. The State’s evidence was insufficient to support the conviction.....3

IV. CONCLUSION.....11

TABLE OF AUTHORITIES

Table of Cases

State v. Borrero, 147 Wn.2d 353, 58 P.3d 245 (2002).....3

State v. Crenshaw, 98 Wn.2d 789, 659 P.2d 488 (1983).....11

State v. Hutton, 7 Wn. App. 726, 502 P.2d 1037 (1972).....11

State v. Walters, 162 Wn. App. 74, 255 P.3d 835 (2011).....4, 11

State v. Witherspoon, 180 Wn.12d 875, 329 P.3d 888 (2014)...4, 11

Statutes

RCW 9A.36.031(1)(g).....4

I. ASSIGNMENT OF ERROR

1. The State's evidence was insufficient to support the conviction for third degree assault of a law enforcement officer.

Issue Pertaining to Assignment of Error

A. Was the State's evidence insufficient to support the conviction? (Assignment of Error 1).

II. STATEMENT OF THE CASE

Erik Jon Csizmazia was charged by information with third degree assault of a law enforcement officer. (CP 1). The case proceeded to jury trial.

Sergeant Mario Saucedo, employed by the Klickitat County Sheriff's Department, was in charge of inmate security at the jail. (3/4/15 RP 86-87). He was on duty December 26, 2014, around 8 a.m., doing cell fire checks. (*Id.* at 89). The sergeant had contact with Mr. Csizmazia, who was in holding cell 2 since he had issues with another prisoner. (*Id.* at 90). He was to fill out a statement for Sergeant Saucedo. Mr. Csizmazia, however, told him it was the wrong one. (*Id.* at 91). The sergeant intended to just get another form for him to fill out and started backing out of the cell. (*Id.* at 91).

As he walked back, Mr. Csizmazia lunged at him and grabbed his neck with one hand, his shoulder with the other, and

started punching him. (3/4/15 RP 91). All the while, Liz Everson, the control board operator, was watching things transpire on her monitor. (*Id.* at 79-82). Sergeant Saucedo yelled for her to call back-up. (*Id.* at 91). The sergeant and Mr. Csizmazia were fighting. Sergeant Saucedo hit him twice in the head with a cell fire check pipe, to no avail. (*Id.*). Mr. Csizmazia swung his fists and hit Sergeant Saucedo on the side of the head, the nose, and upper lip. (*Id.* at 92). He forced the sergeant out of the holding cell. (*Id.* at 93). Sergeant Saucedo finally took him down, whereupon Mr. Csizmazia hit his head against the door of the print machine room. (*Id.* at 94).

Corrections officer Tim Curran came to help and dragged Mr. Csizmazia to the crisis cell where he gave up and said he was done. (3/4/15 RP 94-96). A lot of blood was on the floor. (*Id.* at 96). Sergeant Saucedo said Mr. Csizmazia was “still pretty wound up.” (*Id.*). EMTs arrived. The sergeant went to the hospital for a closer checkup and Mr. Csizmazia refused treatment. (*Id.* at 97).

Officer Curran testified he heard the call for back-up and knew something was wrong. (3/4/15 RP 101). He could see the sergeant and Mr. Csizmazia in a scuffle on the floor. (*Id.* at 102-03). Officer Curran hit Mr. Csizmazia on the side of the head with

the palm of his hand. (*Id.* at 103). Eventually, he was subdued. (*Id.* at 103-04).

Mr. Csizmazia testified in his own behalf. He acknowledged he had seven convictions from 2003 to December 2014. (3/4/15 RP 115-16). He said he grabbed Sergeant Saucedo by his arms so he would not get tazed. (*Id.* at 121-22). Mr. Csizmazia did not put his hands around the sergeant's neck. (*Id.* at 222). He blocked Sergeant Saucedo's fists, which then deflected back and hit the sergeant's face. (*Id.* at 122-24). Mr. Csizmazia had a headlock on him. (*Id.* at 124-25). Officer Curran had the cell fire check pipe, not Sergeant Saucedo. (*Id.*).

Mr. Csizmazia had no objections or exceptions to the court's jury instructions. (3/5/15 RP 143). He was convicted as charged. (*Id.* at 165). He was sentenced within the standard range. (CP 47, 70). This appeal follows. (CP 56).

III. ARGUMENT

A. The State's evidence was insufficient to support the conviction.

The State has the burden of proving the elements of a crime beyond a reasonable doubt. *State v. Borrero*, 147 Wn.2d 353, 364, 58 P.3d 245 (2002). In a sufficiency challenge, the evidence must

be viewed in a light most favorable to the State to determine whether any rational trier of fact could find the crime's essential elements beyond a reasonable doubt. *State v. Witherspoon*, 180 Wn.2d 875, 883, 329 P.3d 888 (2014). Such a challenge admits the truth of the State's evidence. *Id.*

To convict a person of the crime of third degree assault of a law enforcement officer, the State must prove the defendant intentionally assaulted a law enforcement officer in the State of Washington. RCW 9A.36.031(1)(g). Those essential elements of the offense were reflected in the to-convict instruction, no. 7. (CP 39). Intent was defined in instruction 9: "A person acts with intent or intentionally when acting with the objective or purpose to accomplish a result which constitutes a crime." (CP 41).

The question to be answered is whether Mr. Csizmazia had the intent to assault Sergeant Saucedo. *State v. Walters*, 162 Wn. App. 74, 82, 255 P.3d 835 (2011). Over the State's objection, the court gave a "self-defense" instruction so intent was already an issue. (3/5/15 RP 140-41; CP 42). But the challenge here is not to the credibility determination of the jury as to self-defense; rather, it is to the capacity of Mr. Csizmazia to form the intent necessary for a finding of guilt. *Walters, supra*.

Mr. Csizmazia's testimony is the best evidence of his inability to do so. When asked about his educational background, he said:

I received a – my undergraduate degrees at the University of Utah in business management and anthropology and graduated with honors – the business honors society whose mission it is to provide consultancy services globally to nations and multinationals involved in international and intranational business. It's a full service consultancy service and the year I was inducted a junior in college there was one other person in the United States who was inducted and two more globally and since then I received an honorary doctorate in most the universities in the United States and around the world including honorary doctorates of medicine and all sciences I received doctorates because the induction requires that you speak fluently in all foreign languages and know the law codes for all different countries, criminal and civil. (3/4/15 RP 110-11).

Mr. Csizmazia offered that he held the Guinness world record for honorary doctorates and he had so many that "[t]o say that figure in court would be – make me look like a liar." (3/4/15 RP 111). Yet, the trial court had found him indigent. (12/29/14 RP 7).

In identifying the pain medications he was taking, he testified:

I've broken every bone in my body at least twice and I have a replaced hip from multiple times of being broken and dislocated in Tae Kwon Do, wind surfing and snowboarding. In the old days the

snowboarding bindings kind of sucked and the binding fell off and wrenched it and went flying off of a run, wrapped my legs around an electricity pole like ten feet up . . . (3/4/15 RP 111-12).

Getting back to his medications, Mr. Csizmazia explained:

I contracted malaria in it was either as a kid in British Columbia because we lived in the swamp region or when I went down to Costa Rica in '93 there was an outbreak. So, prescriptions are for (inaudible) but also for adult ADD medication because I'd had numerous strokes. My first stroke in the third grade. I had a severe stuttering problem through junior in college when I developed what was called – well, I completely cured mine. I offer that on the internet. It's a full cure for stutters. It's a very easy method and so my prescriptions are for adderal or Ritalin and or Dexedrine and actually of the – I'm the highest on the list in the state for preapproved medical marijuana card. (*Id.* at 112).

Mr. Csizmazia related he had possible stroke and seizure issues as well as anxiety disorder for which he was taking medication. (3/4/15 RP 112). In addition, he said several doctors had suggested he had bipolar disorder. (*Id.*) Mr. Csizmazia had been in 9 to 13 mental health hospitals. (*Id.*) He spoke of even more medical issues:

The diagnosis I have is quite recently there's nine different types of strokes and I've suffered from all nine of them so I've like bring (inaudible) I call it Christopher Walken Head and most of my friends are mostly senior citizens or people who have had, you know, the problems. (3/4/15 RP 114).

He testified psychiatric issues resulted from the strokes:

On the psychiatric issues well I had a bad case of early onset Alzheimer's three or four or five years ago where I couldn't remember my name oftentimes or the date or I sign multiple sheets of paper. I'd have to keep looking back at the paper and look at name, date and have to look back and every page I didn't know what the name and date was again. That was relatively cured. That condition, I took Dexedrine for three to six months and I tried to write every day and finally my ability from college to write came back. And I also used medical marijuana as well using that with the Dexedrine helped to bring and brought my brain function back and I would trail off during sentences and never remember what I was talking about or forget and you know never could get the word I needed to say. If I was a senior citizen I very well could have been hospitalized for Alzheimer's. I've since repairs mostly back from that, but another condition I suffer from is I suffer from a blood disorder called porphyria. There are eight different types of porphyria and I mine is the fifth type and all other blood that goes through the liver breaks down and you get new blood. My blood there are three complex chemicals that gain memory and change as they go through the liver and it causes a – I know it sounds bizarre but it causes schizophrenic like conditions and it's an ancient disorder supposedly from Transylvania as Csizmazia is ancient Hungarian for riding boot maker so Hungary is right next to Transylvania and it's weird. I know you guys don't believe in that stuff but it's ancient Hungarian for magic riding boot maker and the condition causes a schizophrenic like condition in me where I see visions and things and for a long time they thought I had schizophrenia or something I mean but now the last couple of times I went to Eastern State or the last time I was there and the recent mental health evaluation I had they – they describe it as or I now have that condition and they refuse to give me any medication at all for it. (3/4/15 RP 114-15).

When asked about his seven prior convictions, Mr.

Csizmazia digressed:

I would like to point something else out in this also it's hard to imagine that when I graduated from the university I began a secret program. I don't mention much about it, but I've been an undercover officer for twenty-three years now and I've been an undercover officer in the State of Washington for – for – four about fourteen and a half years now and I'm in the process of busting many illegal prison practices, jail practices, justice practices and quite a few other things that are wrong with America that I noted as a little kid in the third grade. So, they took me out of school after two and a half weeks in the third grade and put me in the library for the rest of the year because I finished everything. And I was always thinking I am going to have to work with the system or am I going to have to fight the system to change to fix these things and I often thought I would have to work with the system, but as it turns out I am taking the other path. (3/4/15 RP 115-16).

He admitted he had been convicted of possession of a controlled substance with intent to deliver in 2003, second degree burglary in February 2006, third degree assault in November 2007, harassment threat to kill in April 2008, second degree malicious mischief in November 2009, first degree malicious mischief in May 2011, and harassment threat to kill in December 2014. (3/4/15 RP 116). But he also said he was not guilty in any of those cases and he had been since exonerated in all of them. (*Id.*). When asked

again by defense counsel whether he had nonetheless been convicted of those crimes, Mr. Csizmazia then said yes. (*Id.*). When explaining his exoneration, he noted the judge in the Green River Killer case presided over his first exoneration, but several police officers had gone to Spokane and killed the judge at a university function. (3/4/15 RP 117).

Asked about the fellow inmate with whom he had an issue, Mr. Csizmazia testified it was “Jeff from Guam,” whose family had committed half the murders in Guam over the last 400 years. (3/4/15 RP 118). Jeff had also killed 81 people in Klickitat County and threatened to kill four or five of Mr. Csizmazia’s friends, so he wrote a statement asking the sheriff to detain Jeff from leaving. Mr. Csizmazia insisted all Jeff needed was a rabies shot because family on his mother’s side had contracted rabies. (*Id.*).

Mr. Csizmazia said it was his blood on the floor:

Well I have a very rare blood. It looks like thick tomato soup with cream. It’s not runny and it turns brown because of the porphyria so it was my blood. I am one of eight or nine people in the world right now that has the condition. It’s extremely rare. (3/4/15 RP 127).

When asked if there was anything else he wanted everyone to know, Mr. Csizmazia explained:

It was – my grandfather is General Max Bitts, who after World War II was commander of the defense of the western sea board and for nine years he was the rear admiral, which is the highest position in NATO and that's on my mother's side, Bitts, and my father's side, Csizmazia, my dad began in the Hungarian army at the age of six and at the age of twelve he became a captain of the army and a couple few years later he was the number one front line unit in the Hungarian army and he holds Guinness records himself for his academic achievements and for his (inaudible) so on the U.S. and the allied side I am descended from the top most ranking commanders in real skills. My grandfather General Max Bitts graduated valedictorian from West Point, was captain of the football team and he never lost a game and he engineered 100% of the equipment used in the DA landing and worked for Boeing and built the airfields from Alaska to Guam. (*Id.* at 127-28).

On cross examination, the State elicited from Mr. Csizmazia he had been the elected sheriff of Klickitat County for the past 9 years. (3/4/15 RP 129). He also held five citizenships from countries around the world. (*Id.*).

Mr. Csizmazia's testimony speaks for itself. He was found competent to stand trial, but that is an entirely separate issue from guilt. (3/5/15 RP 131). With his long history of mental health issues and his "testimony" that so tellingly reveals them, there is no evidence, even when viewed in a light most favorable to the State,

from which the jury could find the essential element of intent beyond a reasonable doubt. *Walters, supra*. This is not a case of diminished capacity or an insanity defense, which were neither pleaded nor raised. See *State v. Crenshaw*, 98 Wn.2d 789, 659 P.2d 488 (1983). It is a case of insufficiency of the evidence.

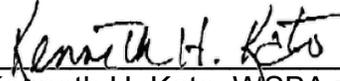
Mr. Csizmazia simply is not functioning or “living” in a normal world., Indeed, he is housed in the special offender unit at Monroe Correctional Complex for this third degree assault. The jury cannot resort to guess, speculation, or conjecture to find facts. *State v. Hutton*, 7 Wn. App. 726, 728, 502 P.2d 1037 (1972). Yet, that is what the jury necessarily resorted to in finding Mr. Csizmazia intended to assault the sergeant. No rational trier of fact could find the essential element of intent in light of Mr. Csizmazia’s testimony. *Witherspoon*, 180 Wn.2d at 883. In his world, he could not form the intent necessary to convict. Our world should recognize that. The conviction must be reversed and the charge dismissed.

IV. CONCLUSION

Based on the foregoing facts and authorities, Mr. Csizmazia respectfully urges this Court to reverse his conviction and dismiss the charge.

DATED this 16th day of March, 2016.

Respectfully submitted,



Kenneth H. Kato, WSBA #6400
Attorney for Appellant
1020 N. Washington
Spokane, WA 99201
(509) 220-2237

CERTIFICATE OF SERVICE

I certify that on March 16, 2016, I served a copy of the Brief of Appellant by USPS on Erik Csizmazia, # 859970, PO Box 777, Monroe, WA 98272; and by email, as agreed, on David Quesnel at sharis@co.klickitat.wa.us.

