

Cite as 2011 Ark. App. 376

ARKANSAS COURT OF APPEALSDIVISION I
No. CACR10-1012

DAVID OCKERMAN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered MAY 25, 2011APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT, FIRST
DIVISION
[NO. CR2009-314]HONORABLE MARION A.
HUMPHREY, JUDGE

AFFIRMED

JOSEPHINE LINKER HART, Judge

The circuit court convicted David Ockerman of criminal attempt to commit first-degree battery. Ockerman now argues that the State's evidence was insufficient to support his conviction because it did not strongly corroborate his criminal purpose. We affirm.

According to the abstract of the trial testimony, Officer Ryan Baker testified that around 2:00 a.m., he was dispatched to a disturbance in a "custody battle" at a mobile-home park. Baker received information from one of the occupants of a residence that Ockerman—for whom there were felony arrest warrants—was inside the residence. Baker drew his weapon and attached a flashlight to it.

Baker entered a back bedroom and noticed a lump in a mattress. Suspecting that a person was trying to hide between the mattress and the box springs, Baker lifted the mattress with his left hand and rested it on his right shoulder. Ockerman was lying on his stomach

Cite as 2011 Ark. App. 376

facing away from Baker with his hands tucked underneath him. Baker identified himself as a police officer and ordered Ockerman to show his hands. Baker stood next to Ockerman, and when Ockerman started to raise up, Baker saw the serrated blade of a knife coming back at him in a slashing motion. Baker held his left arm up to protect his face and fired a round. Ockerman struck Baker's left forearm as Baker fired. Baker fired a total of four rounds.

Ockerman was then sitting with his back against the wall with the knife still in his hand. Baker ordered him to put the knife down. Ockerman raised up, and Baker thought that Ockerman was coming at him. Baker fired five more times. After that, Ockerman fell back and screamed that he had dropped the knife. Baker handcuffed Ockerman after he saw that Ockerman's hands were free.

A “person commits battery in the first degree if . . . [w]ith the purpose of causing serious physical injury to another person, the person causes serious physical injury to any person by means of a deadly weapon.” Ark. Code Ann. § 5-13-201(a)(1) (Supp. 2009). Further, a “person commits the offense of criminal attempt if, acting with the kind of culpable mental state otherwise required for the commission of the offense, the person purposely engages in conduct that constitutes a substantial step in a course of conduct intended or known to cause the particular result.” Ark. Code Ann. § 5-3-201(b) (Repl. 2006). The conduct is not a “substantial step” unless it is “strongly corroborative of the person's criminal purpose.” Ark. Code Ann. § 5-3-201(c).

At trial, Ockerman argued that the State's evidence failed to corroborate his intent. In his brief on appeal, he asserts that the State failed to show that he “engaged in conduct

Cite as 2011 Ark. App. 376

that strongly corroborates an intent to cause serious physical injury to Officer Ryan Baker by means of a deadly weapon.” Particularly, Ockerman asserts that the “recitation of events” by Baker was “inherently impossible,” as “Ockerman was shot nine times in the back,” and thus, “reasonable minds could not be compelled to conclude beyond speculation that Ockerman engaged in any action designed to cause serious physical injury to Baker.” Ockerman notes his own testimony that he was shot nine times, including three in the hip, two in the back of the thigh, two in his calf, once in his chest, and once in his arm.

A conviction must be supported by substantial evidence, which is evidence of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or another, forcing the mind to pass beyond speculation or conjecture. *Forrest v. State*, 2010 Ark. App. 686. The finder of fact determines the credibility of the witnesses; testimony is not disregarded on appeal after the finder of fact has given it full credence unless it is inherently improbable, physically impossible, or so clearly unbelievable that reasonable minds could not differ thereon. *Id.*

Baker testified that Ockerman raised up and slashed backward at him with a serrated knife while Baker stood next to him, causing Baker to protect his face with his left arm, which Ockerman struck. Despite Ockerman’s assertion to the contrary, we cannot say that Baker’s testimony was inherently improbable, physically impossible, or so clearly unbelievable that reasonable minds could not differ thereon.

Affirmed.

GLADWIN and ABRAMSON, JJ., agree.