

Cite as 2009 Ark. App. 757

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR 09-589

RICHARD LEA COLVIN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered November 11, 2009

APPEAL FROM THE FAULKNER
COUNTY CIRCUIT COURT
[NO. CR-2005-845]

HONORABLE DAVID L. REYNOLDS,
JUDGE

AFFIRMED

COURTNEY HUDSON HENRY, Judge

A jury in Faulkner County found appellant Richard Lea Colvin guilty of aggravated assault, felony fleeing, driving while intoxicated (second offense), first-degree assault, and resisting arrest. As a consequence, appellant received cumulative sentences totaling twelve years in prison. As his sole point on appeal, appellant contends that the evidence is not sufficient to support his conviction for aggravated assault. We affirm.

Tracy McDermott, a police officer in Conway, was the victim of the aggravated assault. On July 14, 2005, Officer McDermott stopped appellant's vehicle after observing him make a U-turn on Highway 64. During the stop, McDermott developed the suspicion that appellant had been drinking, and McDermott requested the assistance of Officer James Presley, who served on the DWI task force. While McDermott wrote a warning ticket,

Presley asked appellant to exit his vehicle. Appellant ignored the officer's request, and abruptly, appellant revved his engine and sped away, turning left onto the roadway. Presley testified that he had to dodge appellant's vehicle when appellant made the sharp left turn.

McDermott, joined by other officers, chased appellant at speeds in excess of 100 miles per hour. Eventually, appellant extinguished his headlights, drove through the front lawn of a business, jumped a curb, and made a U-turn in the parking lot. Soon thereafter, McDermott arrived in the parking lot. McDermott testified that, instead of stopping, appellant accelerated his vehicle and drove toward McDermott's patrol unit. McDermott stated that he knew that appellant was about to hit him, so McDermott tried to position the patrol car to allow the push bar on the front of the vehicle to receive the impact. McDermott testified, however, that he was not able to complete that maneuver in time and that appellant's vehicle struck the patrol car on the front quarter panel of the driver's side with such force that the entire wheel assembly collapsed. Although McDermott's vehicle was disabled, the other officers continued the pursuit of appellant. Ultimately, appellant stopped his vehicle in a shopping center, and the police apprehended him after a foot chase.

Arkansas Code Annotated section 5-13-204(a)(1) (Supp. 2009) provides that a person commits aggravated assault if, under circumstances manifesting extreme indifference to the value of human life, he purposely engages in conduct that creates a substantial danger of death or serious physical injury to another person. A person acts purposely with respect to

his conduct when it is his conscious object to engage in conduct of that nature or to cause the result. Ark. Code Ann. § 5-2-202(1) (Repl. 2006).

In reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the State and consider only the evidence that supports the verdict. *Edmond v. State*, 351 Ark. 495, 95 S.W.3d 789 (2003). We affirm the conviction if substantial evidence exists to support it. *Fairchild v. State*, 349 Ark. 147, 76 S.W.3d 884 (2002). Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other without resorting to speculation or conjecture. *Carmichael v. State*, 340 Ark. 598, 12 S.W.3d 225 (2000).

Appellant contends on appeal that the testimony is insufficient to establish the crime of aggravated assault because the evidence does not indicate that he purposely intended to strike the officer's vehicle. We find no merit in this argument. Under the statute, it is only necessary for the State to show that appellant "manifested extreme indifference to the value of human life and that he purposely engaged in conduct that created a substantial danger of death or serious physical injury." Ark. Code Ann. § 5-13-204(a)(1). In *Neely v. State*, 18 Ark. App. 122, 711 S.W.2d 482 (1986), we held that it is the defendant's *conduct* that must be undertaken purposely, not the intended result, and that so long as the defendant purposely engaged in the required conduct, his intent in doing so is irrelevant. Here, appellant accelerated his vehicle, without his headlights illuminated, and proceeded headlong toward the officer's moving patrol car. These actions manifested an extreme indifference to the value

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of human life and created a substantial danger of death or serious physical injury.

Accordingly, we hold that the jury's verdict is supported by substantial evidence.

Affirmed.

ROBBINS and KINARD, JJ., agree.