Cite as 2010 Ark. App. 673

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR 10-118

Opinion Delivered October 6, 2010

MATTHEW RAY BECKMANN APPELLANT	APPEAL FROM THE BENTON COUNTY CIRCUIT COURT [NO. CR-08-338-2]
V.	HONORABLE DAVID S. CLINGER, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

COURTNEY HUDSON HENRY, Judge

Appellant Matthew Ray Beckmann pled guilty to second-degree forgery, third-degree domestic battering, and resisting arrest. Following a bench trial, the Benton County Circuit Court found appellant guilty of first-degree criminal mischief. For these offenses, the circuit court sentenced appellant as an habitual offender to twenty years' imprisonment in the Arkansas Department of Correction followed by an eight-year suspended imposition of sentence, as well as two concurrent one-year terms in the Benton County jail. For reversal, appellant challenges the sufficiency of the evidence supporting his first-degree criminal mischief conviction. We affirm.

Deputy Michael John Wedgewood with the Benton County Sheriff's Office testified that, on November 26, 2007, he responded to a domestic disturbance involving appellant striking his girlfriend, Jennifer Horton, with a broom handle. Deputy Wedgewood arrived

at appellant's house, and Deputy Paul Bevilacqua arrived as Deputy Wedgewood's backup officer. The two officers proceeded to the house and knocked on the door. When no one answered, they began to search the property for appellant. At that time, Horton pulled into the driveway, and the officers questioned her about the evening's events.

Horton stated that she lived at the home and gave consent for the officers to search for appellant. Inside, Deputy Wedgewood noticed that household items stood in disarray. Deputy Bevilacqua testified that shelves were knocked into the kitchen, and he saw blood in the kitchen and on a hallway wall. Deputy Bevilacqua also saw a broken broom lying in the foyer area. The officers walked outside, spoke with Horton, and heard Horton's cell phone ring. When the officers learned that it was appellant calling Horton from the home phone, Deputy Wedgewood proceeded to the back of the house where he could hear appellant talking in a nearby field. The officer advised Horton to remain on the line and to coax appellant inside. Appellant walked out of the field, hung up his phone, crawled across the barbed-wire fence, and approached both officers. Appellant became tense and aggravated when Deputy Wedgewood handcuffed him, and the deputy assured appellant that he was only being detained for an investigation. As Deputy Wedgewood placed a second handcuff on appellant, he became agitated and verbally protested. Deputy Bevilacqua held appellant at taser point, as appellant became increasingly belligerent. The officers escorted him toward the police car, and Deputy Wedgewood noted that appellant's level of anger increased as they approached the vehicle in the front yard.

Deputy Wedgewood patted down appellant and asked him to spread his legs to allow the officer to check for weapons. At that time, Horton walked toward the police car, and upon seeing her, appellant became enraged. Appellant began screaming and yelled louder as the officer completed the pat-down. Deputy Wedgewood escorted appellant to the rear of his vehicle, where Deputy Bevilacqua opened the door for Deputy Wedgewood to place appellant inside the police cruiser. When appellant saw Horton, standing approximately ten to fifteen feet from the car, he cursed at her and denied hitting her. Deputy Wedgewood, who could not contain appellant, deployed a taser on appellant's back. Appellant felt the effects of the taser, tightened up, and stopped for a moment. Afterward, appellant continued his tirade against Horton. Deputy Wedgewood attempted to get appellant into the car, but appellant resisted. Deputy Bevilacqua then applied peroneal strikes to appellant's legs. During the struggle, Deputy Wedgewood tasered appellant a second time, and appellant fell to the ground. In an attempt to gain control of appellant, Deputy Wedgewood fell on top of him and grabbed his head and neck. According to Deputy Wedgewood, appellant became angry, kicked both officers, and kicked his police vehicle, causing dents to the door and the fender. When appellant kicked the police door shut, Deputy Bevilacqua jumped on appellant's legs to gain control of him. Deputy Wedgewood reacted, reminded appellant that he kicked both officers and the car, and ordered appellant to calm down. Appellant stopped resisting, and the officers helped him to his feet. However, upon seeing Horton, appellant again exploded into anger. Deputy Wedgewood tasered appellant a third time, and appellant collapsed into the

police car. Deputy Wedgewood later took photographs of his vehicle and documented the damage to the passenger-side, rear-quarter panel, and the fender.

After the State filed a felony information, appellant pled guilty to third-degree domestic battering and resisting arrest. On September 15, 2009, the circuit court conducted a bench trial on appellant's first-degree criminal mischief charge. The State called Detective Wedgewood; Detective Paul Bevilacqua; Brian Meshell, the manager of Bob Morey's Auto Body, who testified that the damage to the police car amounted to $1,339.39 in repairs; and Larry Laramore, the owner of Advanced Collision Center, who estimated the repair costs totaled $1,036.03. Jennifer Horton, the defense's sole witness, testified that she believed appellant did not intentionally damage the officer's car. Following the bench trial, the circuit court found appellant guilty of first-degree criminal mischief and sentenced him as an habitual offender to twelve years' imprisonment on the criminal mischief charge, a fine, court costs, and an additional period of eight years of suspended imposition of sentence conditioned upon good behavior and compliance with the court's conditions. Additionally, the court sentenced appellant to two concurrent one-year terms in the county jail for third-degree domestic battering and resisting arrest. Appellant timely filed his notice of appeal.

For the sole point on appeal, appellant argues that the circuit court erred in denying appellant's motion to dismiss and that the State failed to introduce evidence that supported appellant's conviction for first-degree criminal mischief. Specifically, appellant asserts that the

evidence merely established that he struggled with the police officers rather than purposely caused damage to the officer's vehicle.

A person commits the offense of first-degree criminal mischief if he purposely and without legal justification destroys or causes damage to any property. Ark. Code Ann. § 5-38-203 (Repl. 2006). A person acts purposely with respect to his conduct or a result thereof when it is his conscious object to engage in conduct of that nature or to cause such a result. Ark. Code Ann. § 5-2-202(1) (Repl. 2006). It is not enough to show merely that the property was damaged or destroyed, for one essential element of this crime is that the damage was willfully caused and not accidental. *McGill v. State*, 60 Ark. App. 246, 962 S.W.2d 382 (1998) (modifying the circuit court's finding of first-degree criminal mischief to second-degree criminal mischief because appellant fishtailed his car, thereby displaying reckless, rather than purposeful, behavior resulting in the damage of another's car). This crime is a class C felony if the amount of actual damage to the property is $500 or more.

The test for determining the sufficiency of the evidence is whether the verdict is supported by substantial evidence, direct or circumstantial. *Woodson v. State*, 2009 Ark. App. 602, ___ S.W.3d ___. Evidence is substantial if it is of sufficient force and character to compel reasonable minds to reach a conclusion and pass beyond suspicion and conjecture. *Id.* On appeal, we view the evidence in the light most favorable to the State, considering only that evidence that supports the verdict. *Id.* In considering the evidence, we will not weigh

the evidence or assess the credibility of witnesses, as those are questions for the finder of fact. *Woods v. State*, 363 Ark. 272, 213 S.W.3d 627 (2005).

Viewing the evidence in the light most favorable to the State, we conclude that the evidence supported appellant's criminal mischief conviction. Here, Deputy Wedgewood testified that appellant, throughout his struggle with the officers, was "flailing," "kicking," and "trying to resist." As Deputy Wedgewood deployed the second taser, he and appellant went to the ground, and appellant "kicked the door shut." According to Deputy Bevilacqua, appellant kicked the officers and the police car after Deputy Wedgewood administered the second taser. Deputy Bevilacqua further testified that he jumped on appellant's legs after appellant kicked the door shut. With Deputy Bevilacqua on top of his legs, appellant kicked as high as the car's quarter panel, and appellant became "locked in between this frame and another frame."

Deputy Bevilacqua's testimony refuted appellant's theory that he could not control his kicking; rather, the deputy testified that the taser's electricity causes one's muscles to become rigid. After appellant felt the effects of the second taser, appellant continued kicking the officers and the car. Thus, this testimony reveals appellant's intent to cause damage to the vehicle and that his actions were not accidental. Further, Brian Meshell and Larry Laramore estimated the value of repairing the vehicle between $1,036 and $1,339, which is well above the $500 statutory requirement for a class C felony. Therefore, we hold that substantial evidence supports appellant's criminal mischief conviction. Accordingly, we affirm.

Affirmed.

GRUBER and BAKER, JJ., agree.