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STATE OF CONNECTICUT *v.* FERDINAND R.*
(SC 18918)

Rogers, C. J., and Palmer, Zarella, Eveleigh and McDonald, Js.

Argued October 28—officially released December 17, 2013

Martin Zeldis, public defender, for the appellant
(defendant).

Nancy L. Chupak, senior assistant state's attorney,
with whom, on the brief, were *David I. Cohen*, state's
attorney, and *Maureen Ornousky*, senior assistant
state's attorney, for the appellee (state).

Opinion

PER CURIAM. The defendant, Ferdinand R., appeals from the judgment of the Appellate Court, which affirmed the trial court's judgment of conviction, rendered after a jury trial, of sexual assault in a spousal relationship in violation of General Statutes § 53a-70b.¹ On appeal, the defendant claims that the Appellate Court incorrectly determined that § 53a-70b requires the defendant to have only a general intent to commit the act that constituted a violation of the statute. We disagree with the defendant and, accordingly, affirm the judgment of the Appellate Court.

The relevant facts and procedural history giving rise to this appeal are set forth in the decision of the Appellate Court. "After a few weeks of dating, the defendant married the victim on April 13, 2007. . . . At the time of the marriage, the victim worked as a live-in housekeeper in New York City. This required her to be in New York Monday through Friday, and occasionally on weekends. Typically, however, the victim spent weekends with the defendant at his apartment [in the city of Stamford]. At the end of her work week, the victim would travel by train from New York to Connecticut, and the defendant would pick her up at the [local] train station. During the week, the two would talk to each other on the telephone almost every day. On July 15, 2007, the victim's employment contract ended, and she began working for a new employer in New York City on July 16, 2007. She also moved in with the defendant.

"Almost immediately after they married, the defendant began treating the victim differently. More specifically, he became more possessive and jealous of the victim and began indicating that he thought that she was being unfaithful. This attitude shift toward the victim manifested in several incidents over the next two months. First, on July 13, 2007, when the victim asked the defendant to take her to the train station, the defendant grabbed a knife, put it in her hand and forced her to hold it to his chest. The victim told the defendant that she would not hurt him, and the defendant eventually took her to the train station.

"On July 19, 2007, a burst pipe in [a] New York train station delayed the victim's return to Connecticut. When she finally arrived home late that night, the defendant refused to accept her explanation for returning so late. The defendant smashed a plate, picked up a knife and followed the victim into the living room, where he pushed her onto a table and cut her arm. When the victim accused him of cutting her and making her bleed, the defendant cut the palm of his own hand. The victim did not seek medical treatment or contact the police.

"The next incident occurred on July 28, 2007. A family that the victim had met while working for her former employer invited her to have lunch with them. Upon

hearing this from the victim, the defendant went into the kitchen, got a knife and put the knife against her neck. The victim attempted to explain who the family was and tried to invite the defendant to join them. The defendant refused and would not let the victim spend time with the family until they came to the apartment and met with him. When they arrived, the family invited the defendant to join them; the defendant agreed and went to lunch with them and the victim.

“One additional episode occurred before the events that led to the defendant’s arrest. On August 22, 2007, the victim arrived at the apartment after work [and] before the defendant. The victim called the defendant’s sister and asked her to talk to the defendant about his increasingly threatening behavior. The victim was fearful of the defendant because he had been making threats, telling her to ‘watch out.’ The victim was still on the telephone with the sister when the defendant came home. When the victim asked the defendant to speak with his sister, he took off his belt and struck her with it two times. The victim pleaded with the defendant to stop, and she put the sister on speakerphone; the defendant relented when the sister threatened to call the police. The victim again did not contact the police regarding the incident.

“The events that led to the defendant’s arrest [on the charge of sexual assault in a spousal relationship] began the morning of September 14, 2007. After the victim got out of the shower, the defendant followed her into the living room and accused her of having an affair with her former employer in New York. The defendant then picked up the victim, saying that they should have sex. The victim told the defendant that she did not want to have sex and indicated that she was too tired and needed to go to work. Despite her protests, the defendant carried her into the bedroom, put her on the bed and proceeded to have sex with her. During . . . intercourse, the victim cried out and told the defendant that she did not want to have sex with him, but the defendant did not stop. Following intercourse, the victim got dressed, and the defendant drove her to the train station so that she could get to work.

“During the day, the defendant called the victim to apologize, saying that he did not like what had happened. The victim remained upset by the incident, however, and halfway through the day she called the justice of the peace who had performed their marriage ceremony to ask where the nearest ‘domestic violence office’ was. The justice of the peace met the victim at [a] train station and gave her directions to the nearest domestic violence crisis center. The staff at the crisis center told the victim that she had to go to the police, and the victim did so later that day. When she went to the police station, the victim told the police that [the defendant] had started to beat her. The police tried to

convince her to give a statement, but she refused and returned home in a taxi.

“When the victim exited the taxi in front of the apartment, the defendant was waiting for her outside on the second floor veranda. He demanded that she come to him. Noticing that his face was very red and that he seemed very upset, the victim refused and asked if she could go back to New York or sleep outside. The defendant repeated his demand that she come to him, and the victim turned and started to run away down the street. The defendant ran outside and chased her, catching up to her when she fell down and hurt her knee. The defendant then forcibly picked her up and began carrying her back to the apartment. The victim begged the defendant to let her go and yelled out for someone to call the police, saying that the defendant would beat and kill her. A neighbor who was walking home from a friend’s house saw what was happening and heard the victim’s cries for help; he went back to his friend’s house and called the police.

“The police arrived shortly thereafter and found the victim and the defendant in the middle of the street. The officers separated the two, taking the defendant into custody and taking the victim back to the police station. At the station, the victim gave a sworn statement to the police that included details about the problems that she and the defendant had been having and a description of the events of that morning.

“The state [thereafter] charged the defendant with failure to register as a sex offender in connection with [an] . . . unrelated conviction and sexual assault in a spousal relationship. The defendant pleaded guilty to failure to register as a sex offender. The court denied the defendant’s motion for a judgment of acquittal during the jury trial on the spousal sexual assault charge, and the jury returned a verdict of guilty [as to that charge]. The court rendered judgment of guilty in accordance with the defendant’s plea and the jury verdict, and sentenced the defendant to five years incarceration for failure to register as a sex offender and twenty years incarceration for sexual assault in a spousal relationship, to be served consecutively to each other, for a total effective sentence of twenty-five years incarceration.” (Footnote omitted.) *State v. Ferdinand R.*, 132 Conn. App. 594, 595–99, 33 A.3d 793 (2011).

The defendant appealed to the Appellate Court, claiming, inter alia, that courts “should interpret [§ 53a-70b] to require proof beyond a reasonable doubt that [the defendant] . . . acted with the specific intent to commit the act of sexual assault” *Id.*, 599–600. The defendant argued that “marriage is different” and thus that courts should “consider § 53a-70b in light of its history and purposes, and [in light of] fundamental differences between the act of sex between strangers or acquaintances and the act of sex between spouses.”

(Internal quotation marks omitted.) *Id.*, 600. The Appellate Court rejected this claim because the plain language of the statute did not require specific intent. See *id.*, 600–601. Specifically, the Appellate Court observed that the operative language of § 53a-70b is identical in all material respects to that of General Statutes § 53a-70 (a) (1),² which defines sexual assault in the first degree by force or threat of force. *Id.*, 602. The Appellate Court thus concluded that, because § 53a-70 (a) (1) requires proof of only general intent; see *State v. Smith*, 210 Conn. 132, 136, 554 A.2d 713 (1989); § 53a-70b similarly requires only that the defendant have a general intent to commit the act that constituted a violation of the statute. See *State v. Ferdinand R.*, *supra*, 132 Conn. App. 602–603.

We thereafter granted the defendant’s petition for certification to appeal, limited to the issue of whether “the Appellate Court properly determine[d] that . . . § 53a-70b requires that the defendant have a general intent to commit the act that constituted a violation of the statute” *State v. Ferdinand R.*, 303 Conn. 933, 36 A.3d 693 (2012). After examining the record and briefs and considering the arguments of the parties, we are persuaded that the judgment of the Appellate Court should be affirmed because the Appellate Court properly determined that § 53a-70b requires proof of only general intent.

The judgment of the Appellate Court is affirmed.

* In accordance with our policy of protecting the privacy interests of victims of sexual assault, we decline to use the defendant’s surname or to identify the victim. See General Statutes § 54-86e.

¹ General Statutes § 53a-70b provides in relevant part: “(b) No spouse or cohabitor shall compel the other spouse or cohabitor to engage in sexual intercourse by the use of force against such other spouse or cohabitor, or by the threat of the use of force against such other spouse or cohabitor which reasonably causes such other spouse or cohabitor to fear physical injury. . . .”

The defendant also was convicted, in accordance with his plea of guilty, of the crime of failure to register as a sex offender in violation of General Statutes § 54-253 (a). The defendant has not appealed from the portion of the judgment pertaining to this charge.

² General Statutes § 53a-70 (a) provides in relevant part: “A person is guilty of sexual assault in the first degree when such person (1) compels another person to engage in sexual intercourse by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person which reasonably causes such person to fear physical injury to such person or a third person”