IN THE SUPREME COURT OF THE STATE OF DELAWARE

ERIC B. WILLIAMS,	)	
	)	No. 251, 2002
Defendant Below,	)	
Appellant,	)	Court Below: Superior Court
	)	of the State of Delaware in
v.	)	and for Kent County
	)	
STATE OF DELAWARE,	)	Cr. A. Nos. IK01-02-0650,
	)	IK01-04-0026 and 0027
Plaintiff Below,	)	Cr.ID No. 0102014399
Appellee.	)	

Submitted: January 28, 2003
Decided: April 9, 2003

Before **VEASEY**, Chief Justice, **HOLLAND** and **STEELE**, Justices.

O R D E R

This 9th day of March 2003, upon consideration of the briefs of the parties, it appears to the Court as follows:

1. A grand jury indicted Eric B. Williams on charges of Rape in the First Degree,[1] Attempted Rape in the First Degree,[2] and Kidnapping in the First Degree.[3] In January 2001, a Superior Court jury returned a verdict of not guilty of Rape in the First degree, guilty of the lesser included offense of Assault in the Third Degree, not guilty of the Attempted Rape in the First Degree, guilty of the lesser included offense of Assault in the Third Degree, and guilty of Kidnapping in

[1] 11 *Del. C. §* 773.
[2] 11 *Del. C. §* 531.
[3] 11 *Del. C. §* 783A(4).

the First Degree. In his appeal Williams raised two issues: (i) Whether the trial judge erred by denying Williams' Motion for Judgment of Acquittal based on Insufficiency of the Evidence on the kidnapping charge, and (ii) whether the trial judge erred by denying Williams' proposed *voir dire* question addressing potential racial bias. After completion of the initial briefing, we remanded to the Superior Court requesting that the trial judge make findings of fact and reach conclusions of law that would explain the basis for submitting the charge of Kidnapping in the First Degree to the jury.

3. On November 21, 2002, the trial judge issued his Findings of Fact and Conclusions of Law. The trial judge found the following facts: Williams grabbed the victim on her way home, held the victim by her throat, covered her mouth, dragged her through a field, pulled her through a gate, and then assaulted her.[4] After making these findings, the trial judge cited *Weber v. State*[5] for the proposition that the trial judge must make an initial determination that the kidnapping was independent of and not merely incidental to the underlying crime. The trial judge also noted *Weber's* instruction that there must be sufficient evidence to establish substantial interference with the victim's liberty while the

[4] *State v. Williams*, Del. Super., I.D. No. 0102014399, (November 21, 2002).
[5] 547 A.2d 948, 957-58 (Del. 1988).

interaction occurred and not simply that which could ordinarily be incident to the underlying crime.[6] Based on this precedent, the trial judge concluded:

> In the case at bar, defense counsel asked that this Court make the initial determination that the restraint in the case was "much more" interference with the victim's liberty than is ordinarily incidental to the rape. In response to the inquiry this Court stated that "although the unlawful sexual charges may have taken place in a very minuscule amount of time, the restraint probably took place more than as alleged by the facts here. It probably took *more* than a minuscule amount of time. Therefore, *you have to view it as separate and apart*. Having carefully reviewed the written transcript of the jury trial, this Court remains convinced that there is sufficient factual support in the record for a separate kidnapping charge. Specifically, the record reflects the following facts – the victim was accosted and grabbed by the throat, then against her will she was forcibly taken across a field and through a gate before the assault occurred. As a matter of law, these facts demonstrate that there was "much more" interference than was ordinarily incident to the offense of rape, since the defendant could have committed the rape without removing the victim to a different location.[7]

4. The standard of review in assessing an insufficiency of evidence claim is whether any rational trier of fact, viewing the evidence in the light most favorable to the State, could find a defendant guilty beyond a reasonable doubt. In making this determination, the court does not distinguish between direct and circumstantial evidence.[8]

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[6] *Id* at 959.
[7] *State v. Williams*, Del. Super., I.D. No. 0102014399, (November 21, 2002) (emphasis in the original).
[8] *Monroe v. State*, 652 A.2d 560, 563 (Del. 2001).

5. We believe that the trial judge sensibly determined that when a person is abducted from a public street, dragged forcefully across a field, maneuvered through a gate into a fenced yard to a more secluded location, pushed to the ground and then assaulted, that "there was 'much more' (substantial) interference with the victim's liberty than is ordinarily incident to the underlying crime" of assault or attempted rape.[9] Clearly a rational fact finder could find Williams guilty of Kidnapping in the First Degree if those facts are believed. We believe that the trial judge properly submitted Kidnapping in the First Degree to the jury and therefore properly denied Williams' Motion for Judgment of Acquittal.

6. Williams further claims that the trial judge denied his constitutional right to a fair trial under the federal and Delaware constitutions when he modified Williams' proposed racial bias *voir dire* question. The question Williams posed read:

> The alleged victim of this offense is a White Female. The Defendant is a Black Male. Do you have any prejudice, however slight, against the Defendant or personal beliefs against sexual relations between a man and a woman of different races, which may effect [sic] your ability to render a fair and impartial verdict?[10]

The trial judge modified the question to read:

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[9] *Weber*, 547 A.2d at 959; s*ee also, Broughton v. State*, 768 A.2d 467 (Del. 2001) (finding "substantial interference" with the victim's liberty where the defendant "dragged her through the laundromat and into a storage room at the back of the building"); *Tyre v. State*, 412 A.2d 326 (Del. 1980) (stating that the movement of the victim from a public thoroughfare to the more secluded, partially hidden culvert is clearly sufficient to support the restraint element of the offense).

[10] Appellant's Op. Br. at 24.

> The alleged victim of this offense is of a different race than the defendant. Do you have any prejudice, however slight, against the Defendant or personal beliefs against sexual relations between a man and a woman of different races, which may effect [sic] your ability to render a fair and impartial verdict?[11]

9. We review claims of constitutional violations *de novo*.[12] With respect to any inquiry into possible racial prejudice, "the trial judge retains discretion as to the form and number of questions on the subject."[13]

10. Williams argues that our Constitutions mandate a race specific question because a member of the jury panel may have been prejudiced against Williams if the prospective juror knew that the victim was white, but not prejudiced if the victim were of another race. We recently held in *Filmore v. State* that a trial judge must "question prospective jurors about racial prejudice when: (1) the defendant stands accused of a violent crime; (2) the defendant and victim are members of different racial groups; and (3) the defense attorney specifically requests the trial court to question the jurors during *voir dire* concerning potential racial prejudice."[14] However, this rule does not require that the trial judge "adopt verbatim the question submitted by the defense counsel."[15] The trial judge's question must "only inquire to a degree necessary to ensure the defendant is

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[11] *Id.*
[12] *Filmore v. State*, 813 A.2d 1112, 1116 (Del. 2003).
[13] *Feddiman v. State*, 558 A.2d 278, 283 (1989) (quoting *Riley v. State*, 496 A.2d 997, 1007 (Del. 1985)).
[14] *Filmore*, 813 A.2d at 1116-1117.
[15] *Id*. at 1117, n16.

afforded all the rights he is entitled to under the federal Constitution and the Constitution of this State."[16]

11. The trial judge correctly determined that an inquiry into racial bias must be made. By asking the *venire* whether any member had any prejudice, however slight, that would affect their impartiality where the victim is of a different race than the defendant adequately covers the areas of racial inquiry discussed in *Feddiman* and *Filmore*. Accordingly, the trial judge did not err by modifying the proposed *voir dire* question.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Justice

[16] *Id*.