

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |   |                             |
|--------------------|---|-----------------------------|
| LEONARD LAMBEY,    | § |                             |
|                    | § | No. 400, 2020               |
| Defendant-Below,   | § |                             |
| Appellant,         | § | Court Below: Superior Court |
|                    | § | of the State of Delaware    |
| v.                 | § |                             |
|                    | § | Cr. ID No. 1809002738(N)    |
| STATE OF DELAWARE, | § |                             |
|                    | § |                             |
| Plaintiff-Below,   | § |                             |
| Appellee.          | § |                             |

Submitted: September 29, 2021  
Decided: October 19, 2021

Before **SEITZ**, Chief Justice; **VAUGHN**, and **MONTGOMERY-REEVES**, Justices.

**ORDER**

This 19<sup>th</sup> day of October, 2021, having considered the briefs and the record below, it appears to the Court that:

(1) A Superior Court jury convicted Leonard Lambey of rape first-degree, kidnapping first-degree, home-invasion, and robbery first-degree. On appeal, Lambey argues that the Superior Court erred when it denied Lambey’s motion for judgment of acquittal for kidnapping because his restraint of the victim, H.H., was incident to the underlying crimes. After careful review of the record, we agree with the Superior Court that the State’s evidence showed substantially greater acts of

restraint than ordinarily incident to the underlying crimes, and we affirm Lambey's convictions.

(2) While walking toward her apartment building from the parking lot, H.H. noticed Lambey, a man she had never met, standing in front of her and staring at her. She said "hi" and Lambey let her pass by. H.H. then walked into her apartment and locked the door. Lambey knocked at the door and forced his way into the apartment and demanded H.H. give him money. H.H. responded she did not have money, and retreated to her bedroom, closing the door behind her. Lambey forced his way into the bedroom by knocking the door off its hinges. Lambey continued to ask for money, and when H.H. said she did not have any, Lambey walked behind her and held a pocketknife to her neck. He demanded that H.H. give him her car keys. When she refused, Lambey strangled her and said he would kill her if she did not release the keys.

(3) H.H. released her keys, and Lambey then instructed H.H. to remove some of her clothes and bend over on the bed. H.H. rubbed his genitals on her, but he was unable to get an erection. Lambey then told H.H. to perform oral sex on him, and he would not hurt her if she did what he asked. H.H. complied, but Lambey was again unable to get an erection, and he told H.H. to put her clothes back on. After she put her clothes on, Lambey put the pocketknife against her neck and directed her

to a small utility closet in the apartment. Lambey told H.H. to kneel in the closet and he closed the closet door, which could not be locked.

(4) Lambey went back to the bedroom, grabbed H.H.'s cell phone, came back to the closet, and told H.H. that if she did not give him the password, he would hurt her. While Lambey was getting the phone, H.H. did not try to escape from the closet because she was scared Lambey would kill her. When he came back to the closet, she gave him the password. Lambey then placed a chair in front of the closet door and left the apartment. After waiting a few minutes, H.H. thought it was safe to come out and she wiggled the door until the chair fell. Once she dislodged the chair and left her apartment, she found a neighbor who helped her call 911. Lambey was arrested by police two days later after they tracked H.H.'s car to a shopping center in Brooklyn, New York.

(5) The State indicted Lambey on charges of first-degree rape, first-degree kidnapping, home invasion, first-degree robbery, first-degree burglary, possession of a deadly weapon during the commission of a felony, theft of a motor vehicle, theft, and criminal mischief. The burglary charge was dropped before trial. At trial Lambey moved for judgment of acquittal on most of the charges, including first-degree kidnapping. The Superior Court denied Lambey's motion and submitted the kidnapping charge to the jury with a specific instruction that the jury could only convict Lambey if they found that the restraint of H.H. was independent of, and not

incident to, the other offenses. After deliberation, the jury acquitted Lambey of the possession of a deadly weapon during commission of a felony charge but convicted Lambey on all remaining charges.

(6) Lambey argues on appeal that the Superior Court should have granted his motion for judgment of acquittal relating to the kidnapping charge. He claims he restrained H.H. during the commission of the robbery, rape, and home invasion, and did so for the purpose of committing those crimes and escaping thereafter. Lambey argues this shows his restraint of H.H. was incident to the underlying crimes. We review the denial of a motion for judgment of acquittal *de novo* to determine “whether any rational trier of fact, viewing the evidence in the light most favorable to the State, could find the defendant guilty beyond a reasonable doubt.”<sup>1</sup>

(7) Kidnapping in the first-degree is the unlawful restraint of another for various purposes enumerated in the statute and the failure to release the victim alive, unharmed, and in a safe place before trial.<sup>2</sup> To show unlawful restraint, the State must establish three elements: “(1) substantial interference with another’s liberty; (2) by movement or confinement; (3) without consent.”<sup>3</sup> To discourage the State from tacking on kidnapping offenses to other charges, we have held that when the movement or confinement is entirely incident to an underlying crime, a kidnapping

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<sup>1</sup> *Wright v. State*, 980 A.2d 372, 376 (Del. 2009).

<sup>2</sup> 11 *Del. C.* § 783A.

<sup>3</sup> *Wright*, 980 A.2d at 375.

conviction cannot stand.<sup>4</sup> We adopted a test for cases where a kidnapping charge accompanies an underlying offense such as robbery, rape, or assault.<sup>5</sup> A trial judge should decide whether the kidnapping charge and underlying charge are independent enough from one another to justify submitting the kidnapping charge to the jury.<sup>6</sup> To do this, the judge “must determine, as a matter of law, if the evidence of restraint proves that there was ‘much more’ (substantial) interference with the victims liberty than is ordinarily incident to the underlying crime.”<sup>7</sup>

(8) The restraint ordinarily incident to robbery, rape, and home invasion is only the restraint necessary to accomplish the respective crime.<sup>8</sup> When Lambey restrained H.H., he went beyond what was necessary to accomplish the robbery, rape, and home invasion in this case. Forcing H.H. into a closet at knifepoint, blocking the closet door with a chair, and threatening to hurt her was more restraint than necessary to accomplish the robbery. Lambey had already made H.H. comply with his demands when taking the car keys and committing the rape. All Lambey needed to do to compel H.H. to give him the phone and her car was tell her to give

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<sup>4</sup> *Weber v. State*, 547 A.2d 948, 958–59 (Del. 1988).

<sup>5</sup> *Id.* at 959.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Wright*, 980 A.2d at 378–79 (holding that duct taping a man’s hands and feet and moving him inside a building was not restraint ordinarily incident to robbery because it was unnecessary to accomplish the robbery); *Coleman v. State*, 562 A.2d 1171, 1180 (holding that Coleman’s act of forcing the victim into her car and forcing her to drive to a location he intended to rape her at was unnecessary to accomplish the rape and therefore not ordinarily incident to rape).

him the phone and car keys. And Lambey had committed the rape and home invasion before he started moving H.H. to the closet, so his restraint of H.H. was also unnecessary to accomplish those crimes. Because Lambey's restraint of H.H. was more than was necessary to accomplish the robbery, rape, or home invasion, the restraint was a substantial interference with H.H.'s liberty that was more than ordinarily incident to the underlying crimes.

(9) Further, in *Cruz v. State*, we held that even though the restraint of the victim was continuous, the fact that each movement of the victim by the perpetrator was necessary to commit a different crime showed that the restraint could not be ordinarily incident to any of the underlying crimes.<sup>9</sup> Here, Lambey continuously restrained H.H. while he was in the apartment. Lambey first restrained H.H. to commit the home invasion and robbery when he broke into her house, threatened her with the pocketknife, strangled her, and demanded her car keys. After this, Lambey continued to restrain H.H., but for a different purpose—to commit the rape. Then, Lambey continued to restrain H.H. by moving her into the closet to steal her phone and escape. Even though Lambey's restraint of H.H. was continuous, it was done to commit different crimes, just like the restraint of the victim in *Cruz*. Thus, Lambey's restraint of H.H. was a substantially greater interference with H.H.'s liberty than is ordinarily incident to robbery, rape, or home invasion.

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<sup>9</sup> 628 A.2d 83, 1993 WL 227080 at \*4–5 (Del. June 4, 1993) (TABLE).

(10) Finally, Lambey was charged with violating 11 *Del. C.* § 783A(3), which says a person is guilty of kidnapping if that person unlawfully restrains another person “to facilitate the commission of any felony or flight thereafter[.]” Lambey claims that charging him with this crime is an admission by the State that the purpose of restraining H.H. was not to kidnap her—it was to commit the other felonies and escape. We have already rejected this argument because it would nullify the kidnapping statute.<sup>10</sup> The Superior Court correctly denied Lambey’s motion for judgment of acquittal on the kidnapping charge.

NOW, THEREFORE, it is hereby ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.  
Chief Justice

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<sup>10</sup> *Wright*, 980 A.2d at 377 (rejecting the argument that the State conceded, in its information, that the defendant restrained the victim to facilitate a robbery-and that therefore the restraint was incidental to the robbery-because it would nullify the kidnapping statute).