IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYRONE GUINN,	)	
	)	No. 313, 2005
Defendant Below,	)	
Appellant,	)	Court Below: Superior Court
	)	of the State of Delaware in
v.	)	and for New Castle County
	)	
STATE OF DELAWARE,	)	Cr. A. No. IN04111482
	)	ID #0411013992
Plaintiff Below,	)	
Appellee.	)	

Submitted: December 21, 2005
Decided: February 28, 2006

Before **STEELE**, Chief Justice, **BERGER** and **JACOBS**, Justices

ORDER

This 28th day of February, 2006, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) In May, 2005, a Superior Court judge denied defendant-appellant Tyrone Guinn's motion for a judgment of acquittal on three counts of Assault in a Detention Facility. The jury returned a guilty verdict on the first assault count and a not guilty on the third count. The trial judge entered a not guilty verdict on the second count. Guinn now appeals his conviction on the first count, claiming that the trial judge erroneously denied his motion for a judgment of acquittal on that count because the State did not present sufficient evidence that he intended to assault Correctional Officer Malcolm Shannon. Because the evidence did create a

triable issue of fact regarding Guinn's intent, the trial judge properly denied Guinn's motion. Accordingly, the judgment of the Superior Court is AFFIRMED.

(2) On June 30, 2004, Correctional Officers Malcolm Shannon and Neil Stevens brought Guinn, an inmate in the maximum security unit of the Delaware Correctional Center, to a small, caged exercise yard. The officers then escorted Ernest Hill, another inmate, to the shower. As the officers and Hill passed the exercise yard on the way to the shower, Guinn and Hill had a brief conversation. Immediately thereafter, Shannon was hit in the side of the head by fluid composed of urine and feces. Although neither officer saw Guinn throw the fluid, he was the only person present in the yard, and Stevens saw Guinn holding a small container. Guinn was charged with assault in a detention facility for striking Shannon with the bodily fluid. After a trial in the Superior Court for New Castle Count, a jury convicted Guinn of that charge.[1]

(3) The jury convicted Guinn of a violation of 11 *Del. C.* §1254(c), which provides that "[a]ny person who, being confined in a detention facility, intentionally strikes with urine, feces or other bodily fluid a correctional officer…shall be guilty of a class D felony." Although the fluid struck Shannon,

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[1] The indictment also charged Guinn with one count of assault against Stevens for hitting him with a small amount of fluid (Count II) and another count of assault for struggling with Stevens while handcuffed (Count III). The jury found Guinn not guilty of Count III, but was "hung" as to Count II. Without objection from the State, the trial judge entered a not guilty verdict on Count II.

Guinn argues that the State failed to present sufficient evidence to prove that he intended to strike Shannon. Where a defendant argues that the evidence is insufficient to support the verdict against him, we inquire whether, after reviewing the evidence and all reasonable inferences to be drawn therefrom in the light most favorable to the State, "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."[2]

(4) Guinn argues that the State failed to present sufficient evidence to meet the burden on the question of intent because: (i) the State's witnesses (the officers) testified that they thought Guinn had aimed at Hill because neither Shannon nor Stevens had any previous problems with Guinn; (ii) neither officer personally saw Guinn throw the fluid, precluding them from testifying about whether he threw it aimlessly or directly at a certain target; (iii) a jury cannot infer intent from mere proximity; and, (iv) the "inconsistent" jury verdict (finding Guinn guilty of assaulting Shannon, but being unable to reach a conclusion with respect to Stevens) demonstrated the jury's confusion about how to apply the State's allegedly insufficient evidence to the *mens rea* element of intent.[3]

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[2] *Dixon v. State*, 567 A.2d 854, 857 (Del. 1989).

[3] The "inconsistent" jury verdict may very well have demonstrated the jury's weighing of the facts in the case or might have been a result of jury lenity. While Shannon testified that he was "covered all over the side of my face and my hair and on my clothes" with urine and feces, Stevens testified that he had "a little bit on my right pant."

(5) Guinn's arguments lack merit. In determining whether a defendant had the requisite intent to commit a crime, a jury may infer that a person intends the natural and probable consequences of his actions.[4] The trial judge found that there was sufficient evidence from which the jury could infer Guinn's intent to strike the officers, and left the matter for the jury to decide. The record supports that conclusion.

(6) Guinn threw a container of bodily fluid at three men in close proximity, two of whom were correctional officers. Most of the fluid hit Shannon in the head. Whether Guinn primarily intended to hit Shannon, Hill, or both, is a question of fact that the trial judge properly allowed the jury to decide. Certainly under these circumstances, a rational trier of fact could conclude that the natural and probable consequence of throwing feces and urine in the direction of three people (two of whom were corrections officers) in close proximity would be that any one or all of them would be struck, including Shannon. Because the State presented sufficient evidence from which a jury could infer intent, the Superior Court properly denied Guinn's motion for a judgment of acquittal.

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[4] *See* 11 *Del. C.* § 306(c)(1) ("…A person is presumed to intend the natural and probable consequences of the person's act."); *see also Plass v. State*, 457 A.2d 362, 365 (Del. 1983). Although Guinn argues that a jury cannot find intent based on proximity or from testimony that the officers believed Guinn intended to aim at Hill, Guinn fails to cite any Delaware case law to support his proposition. Delaware, by statute, allows a jury to infer intent to commit a crime from the surrounding circumstances.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice