

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D20-0608

CANDIE LYNN WALKER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Escambia County.
Stephen A. Pitre, Judge.

August 12, 2021

LONG, J.

Ms. Walker appeals a judgment and sentence for attempted first degree murder and solicitation to commit first degree murder. We affirm on all grounds and write only to clarify the law of principals as it applies to this case. Ms. Walker argues her trial counsel provided ineffective assistance and that it is apparent from the face of the record. She claims her counsel failed to object to the court's principal jury instruction. But because the instruction was properly given, Ms. Walker's counsel was not ineffective for failing to object.

This Court set out the underlying facts in her daughter's case, *Fine v. State*:

From the age of six, Fine lived with her father. But when she turned sixteen, she moved in with her mother, Candie Walker. Walker, unlike Fine's father, allowed Fine to drive without a license, date anyone she wanted to date, and skip school.

After Fine began living with her mother, Walker confided in Fine that she wanted J.C. dead because J.C. was dating Walker's ex-husband. Walker persuaded Fine to kill J.C. In preparation for the murder attempt, Walker gave Fine a disguise to wear during the attack on J.C. Fine then obtained a machete to use as the murder weapon.

Soon after, Fine went to J.C.'s home. As she approached the front door, Fine tried to cover her face and hair to conceal her identity, but she decided not to wear the mask she brought with her. When J.C. came out to her front porch to smoke a cigarette, Fine attacked her with a machete. J.C. screamed for help. J.C.'s twelve-year-old daughter, J.S., ran outside and tried to protect her mother. Fine attacked J.S. with the machete, too. Fine then fled the scene on foot. J.C. suffered several lacerations to the right side of her body, including her kneecap, arm, and face. J.S. suffered an acute laceration that almost severed her thumb from her left hand.

After the victims called the police and reported Fine as the attacker, the police detained Fine and transported her to the police station for interrogation. During questioning, Fine confessed to the murder attempt. She admitted that she attacked J.C. and J.S. with a machete. She told the police that Walker threatened to ground her if she did not kill J.C. Fine told investigators that her boyfriend drove her to J.C.'s house. After the attack, Fine fled the scene on foot. And then she and her boyfriend abandoned the vehicle used to drive to J.C.'s house. Fine

then called her grandmother and asked her to pick her up.

Based on Fine's confession, investigators searched the grandmother's car. They found a long machete, a hoodie, gloves, and a mask—all covered in blood. Fine continued to assist the police with the investigation and her cooperation led to the arrest of several co-defendants. She also agreed to testify at her mother's trial. Fine's testimony was instrumental in obtaining convictions against her mother.

46 Fla. L. Weekly D548 (Fla. 1st DCA Mar. 11, 2021).

Ms. Walker claims the principal jury instruction should not have been given because her actions did not meet the legal requirements to be a principal to Fine's offense. We disagree and find it was appropriate. Florida's principal statute states:

Whoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, *counsels*, hires, or otherwise *procures* such offense to be committed, and such offense is committed or is attempted to be committed, is a principal in the first degree and may be charged, convicted, and punished as such, whether he or she is or is not actually or constructively present at the commission of such offense.

§ 777.011, Fla. Stat. (2018) (emphasis added). The law of principals at common law was different, but the legislature undertook to abolish the common law understanding in its adoption of section 777.011 in 1957. *State v. Dene*, 533 So. 2d 265, 266 (Fla. 1988). This is not to say the common law does not inform our understanding of the statute, *cf. Williams v. State*, 46 Fla. L. Weekly D727d (Fla. 1st DCA Mar. 31, 2021), but only to the extent that it assists the Court in interpreting statutory terms to “mean what they conveyed to reasonable people at the time they were written.” Scalia & Garner, *Reading Law: The Interpretation of Legal Texts* 16 (2012).

To this end, the definitions of counsel and procure at the time the statutory language was adopted in 1957 do not meaningfully differ from today and fit Ms. Walker’s conduct in this case. *See Counsel*, Black’s Law Dictionary (4th ed. 1951) (“Advice given by one person to another in regard to a proposed line of conduct.” And further explaining that “[t]he words ‘counsel’ and ‘advise’ may be, and frequently are, used in criminal law to describe the offense of a person who, not actually doing the felonious act, by his will contributed to it or procured it to be done.”); *Procure*, Black’s Law Dictionary (4th ed. 1951) (“[T]o cause a thing to be done; to instigate; to contrive, bring about, effect or cause.”).

The evidence presented at trial showed that, though Ms. Walker was not present at the time of the incident and did not actively support the crime’s commission as it occurred, she provided *counsel* for the offense. The evidence also demonstrated that she *procured* the commission of the offense.

“The principals instruction may be given if the evidence adduced at trial supports such an instruction.” *McGriff v. State*, 12 So. 3d 894, 895 (Fla. 1st DCA 2009). Here, the evidence supported the trial court’s decision to give the principal instruction and an objection would have been without merit.

AFFIRMED.

BILBREY and NORDBY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Philip J. Massa of Philip J. Massa, P.A., West Palm Beach, for Appellant.

Ashley Moody, Attorney General, and David Welch, Assistant Attorney General, Tallahassee, for Appellee.