

Commonwealth Of Kentucky

Court Of Appeals

NO. 1999-CA-002094-MR

IKE DANIEL WILLIAMS

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE THOMAS L. CLARK, JUDGE
ACTION NO. 99-CR-00276

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING
** **

BEFORE: DYCHE, EMBERTON, AND MILLER, JUDGES.

MILLER, JUDGE: Ike Daniel Williams brings this appeal from a judgment of the Fayette Circuit Court dated August 25, 1999, entered upon a jury verdict. We affirm.

On March 8, 1999, the Fayette County Grand Jury returned an indictment against appellant charging him with first-degree assault, a Class B felony. Kentucky Revised Statutes (KRS) 508.010. The indictment charged that on or about January 4, 1999, in Fayette County, Kentucky, Williams intentionally caused serious physical injury to one Delores Goggins by shooting her with a gun. The case came on for trial on July 15, 1999.

The jury returned the guilty verdict underlying the judgment from which this appeal is prosecuted.

As of the date of the incident, there had been for some four years an ongoing relationship between Williams and Goggins. On that night, Anthony Canada, Williams' nephew, came to Williams' home. Goggins was present. Canada threatened to strike Goggins for abusing Williams. Williams suffered from a gunshot wound inflicted some ten years in the past. It appears he was at least partially confined to a wheelchair. Goggins responded to Canada's threats by denying that she had mistreated Williams in any way. After Canada had departed the home, Goggins went into the kitchen for a cup of water. When she returned from the kitchen, she felt a sharp burning pain. The next thing she remembered was being in Williams' bedroom. She had been shot. An examination at the University of Kentucky Medical Center revealed her to have a blood alcohol level of .187. Williams admitted shooting Goggins, but claimed that he did so because she emerged from the kitchen with a knife. Goggins denied this. No knife was found at the scene. The jury convicted Williams of assault under extreme emotional distress. KRS 508.040.

The sole issue on appeal is whether it was error to deny Williams' motion for a directed verdict based upon his claim of self-protection. KRS 503.050(1). That statute provides as follows:

The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.

There is ample evidence in the record to support the conclusion that Goggins, at least on some occasions, maltreated Williams. Notwithstanding this, we think the failure to produce a knife or any other weapon to support Williams' claim of self-defense deprived him of such defense as a matter of law. We think the issue was properly submitted to the jury. See West v. Commonwealth, Ky., 780 S.W.2d 600 (1989); Townsend v. Commonwealth, Ky., 474 S.W.2d 352 (1971).

ALL CONCUR.

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