

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
WILLIAM M. CHESTNUT,	:	
	:	
Appellant.	:	No. 10 EDA 2018

Appeal from the Judgment of Sentence, January 3, 2017,
in the Court of Common Pleas of Philadelphia County,
Criminal Division at No(s): CP-51-CR-0004413-2014.

BEFORE: BOWES, J., OLSON, J., and KUNSELMAN, J.

MEMORANDUM BY KUNSELMAN, J.:

FILED DECEMBER 18, 2018

William Chestnut appeals from a judgment of sentence entered after a jury convicted him of aggravated assault.¹ We affirm.

Around midnight on February 7, 2014 Chestnut was waiting for the victim in this matter, Harold Jackson, outside of a neighborhood deli. Chestnut was familiar with Jackson because Chestnut formerly dated Jackson's girlfriend. Without provocation, Chestnut sprayed a liquid chemical in Jackson's face, causing major burns and facial scarring. Chestnut followed Jackson home as he fled the assault and continued the attack. Jackson suffered burning pain, swelling, puss, and peeling for two months following the attack, and he now has permanent, serious disfigurement and scarring on his cheeks and chin.

¹ 18 Pa.C.S.A. § 2702(a)(1).

On October 6, 2016 a jury found Chestnut guilty of aggravated assault and possession of an instrument of crime. On January 3, 2017 Chestnut, a third strike offender, was sentenced to 50 to 100 years' imprisonment for the aggravated assault charge, and two and a half to five years' imprisonment for possession of an instrument of crime.

Chestnut raises a single issue on appeal. He maintains the trial court erred in finding him guilty of aggravated assault when the evidence only showed that he was guilty of inflicting bodily injury. Chestnut's Brief at 3.

Our standard of review for a challenge to the sufficiency of the evidence requires us to determine whether the evidence admitted at trial, with all reasonable inferences viewed in the light most favorable to the Commonwealth as verdict winner, is sufficient to establish every element of the convicted offense beyond a reasonable doubt. ***Commonwealth v. Collins***, 703 A.2d 418, 420 (Pa. 1997). Circumstantial evidence must be considered equally with direct evidence, and the Commonwealth may sustain its burden by relying on circumstantial evidence alone. ***Commonwealth v. Davalos***, 779 A.2d 1190, 1193 (Pa. Super. 2001). The Commonwealth's established facts and circumstances need not preclude the possibility of innocence. ***Commonwealth v. Dargan***, 897 A.2d 496, 503 (Pa. Super. 2006). If the evidence allows a fact-finder to reasonably determine that all necessary elements are established, then the evidence will be deemed to support the verdict. ***Davalos***, 779 A.2d at 1193.

An individual is guilty of aggravated assault if he or she “attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly, or recklessly, under circumstances manifesting extreme indifference to the value of human life.” 18 Pa.C.S.A. § 2702(a)(1). The General Assembly has defined serious bodily injury as “[b]odily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member.” 18 Pa.C.S.A. § 2301.

A simple assault, combined with surrounding circumstances, may be sufficient to support a finding that an assailant attempted to inflict serious bodily injury, therefore elevating the attack to an aggravated assault. ***Commonwealth v. Alexander***, 383 A.2d 887, 889 (Pa. 1978). If the evidence does not show serious bodily injury was inflicted, an aggravated assault conviction can be sustained only if the evidence indicates the attack was accompanied by the intent to inflict serious bodily injury. ***Id.*** Requisite intent for aggravated assault is met when the fact-finder concludes that the accused intended the natural and probable consequences of his or her actions. ***Commonwealth v. Rosado***, 684 A.2d 605, 608 (Pa. Super. 1996).

Here, the trial court concluded that the Commonwealth proved beyond a reasonable doubt that Chestnut was guilty of aggravated assault. Trial Court Opinion, 12/12/17 at 4. The trial court found that the victim’s face was permanently disfigured, and, in the alternative, if the victim had not suffered permanent scarring and disfigurement, Chestnut attempted to cause serious

bodily injury to the victim. This attempt was enough to sustain Chestnut's conviction. Trial Court Opinion, 12/12/17 at 4. In short, Chestnut, "sought to cause Mr. Jackson significant harm and succeeded in his attempt to do so." Trial Court Opinion, 12/12/17 at 4. We agree the evidence supported Chestnut's conviction.

Chestnut argues that "[t]his [C]ourt should vacate Mr. Chesnut's conviction... because the evidence showed that the injuries sustained were, at most, bodily injury," and did not constitute serious bodily injury. Chestnut's Brief at 7. However, Chestnut undoubtedly caused Jackson to suffer serious bodily injury. Chestnut's attack caused disfigurement and scarring to Jackson's chin and cheeks. These injuries were serious and permanent.

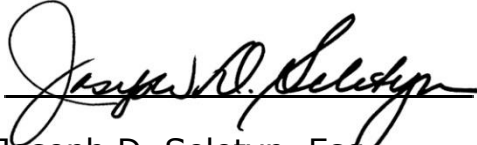
As the trial court correctly observed, even if Chestnut's attack did not cause serious, permanent disfigurement, Chestnut's conviction must still be sustained because his actions constituted an *attempt* to cause serious bodily injury. Trial Court Opinion, 12/12/17, at 4 (emphasis added). Chestnut's use of a caustic liquid chemical as a weapon demonstrated actions consistent with an attempt to cause serious bodily harm. These actions supported the fact-finder's conclusion that he "intended the natural and probable consequences" of spraying a caustic chemical into another person's face. ***See Rosado, supra.***

After reviewing all of the evidence admitted at trial, in the light most favorable to the Commonwealth, we conclude that every element of aggravated assault was established beyond a reasonable doubt.

J-S64034-18

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Joseph D. Seletyn". The signature is written in a cursive style and is positioned above a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/18/18