

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
KEVIN FORD	:	
	:	
Appellant	:	No. 517 EDA 2018

Appeal from the Judgment of Sentence February 12, 2018
In the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0005006-2016

BEFORE: GANTMAN, P.J.E., STABILE, J., and STEVENS*, P.J.E.

MEMORANDUM BY GANTMAN, P.J.E.:

FILED AUGUST 19, 2019

Appellant, Kevin Ford, appeals from the judgment of sentence entered in the Philadelphia County Court of Common Pleas, following his jury trial convictions for aggravated assault, conspiracy to commit aggravated assault, simple assault, and conspiracy to commit simple assault.¹ We affirm.

In its opinion, the trial court fully and correctly sets forth the relevant facts and procedural history of this case. Therefore, we have no reason to restate them. Procedurally, on February 13, 2018, Appellant’s trial counsel filed a motion to withdraw, and Appellant filed a *pro se* notice of appeal. Following a hearing on February 27, 2018, the court permitted trial counsel to withdraw. The court appointed appellate counsel on February 28, 2018. On

¹ 18 Pa.C.S.A. §§ 2702(a), 903 (section 2702 related), 2701(a), and 903 (section 2701 related), respectively.

* Former Justice specially assigned to the Superior Court.

July 12, 2018, the court ordered Appellant to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b).² Appellant complied on July 22, 2018.

Appellant raises three issues for our review:

WAS THE EVIDENCE INSUFFICIENT TO SUSTAIN THE GUILTY VERDICT FOR AGGRAVATED ASSAULT (F2) WITH A DEADLY WEAPON, AS THERE WAS NO EVIDENCE THAT APPELLANT INFLICTED OR ATTEMPTED TO INFLICT ANY BODILY INJURY TO [VICTIM] WITH A DEADLY WEAPON (FIREARM), AND AT MOST WAS SEEN TUGGING ON [VICTIM]'S PANTS?

WAS THE EVIDENCE INSUFFICIENT TO SUSTAIN THE GUILTY VERDICT FOR CONSPIRACY TO COMMIT AGGRAVATED ASSAULT (F2) WITH A DEADLY WEAPON, AS THERE WAS NO EVIDENCE THAT APPELLANT ENTERED INTO ANY AGREEMENT WITH ANOTHER TO COMMIT BODILY INJURY TO [VICTIM], WITH A DEADLY WEAPON (FIREARM)?

DID THE TRIAL COURT ERR BY ALLOWING INTO EVIDENCE THE INADMISSIBLE HEARSAY STATEMENT MADE BY [VICTIM] TO [OFFICER ST.] ONGE, AS [VICTIM] WAS NOT UNDER THE STRESS OF EXCITEMENT FROM ANY STARTLING EVENT AT THE TIME THE STATEMENT WAS ALLEGEDLY MADE TO [OFFICER ST.] ONGE, AND THEREFORE DID NOT FALL UNDER THE EXCITED UTTERANCE EXCEPTION?

(Appellant's Brief at 7).

The law on conspiracy provides:

The general rule of law pertaining to the culpability of conspirators is that each individual member of the conspiracy is criminally responsible for the acts of his co-

² The court mistakenly sent the Rule 1925(b) order to trial counsel on July 5, 2018. The court later reissued the Rule 1925(b) order to appellate counsel on July 12, 2018.

conspirators committed in furtherance of the conspiracy. The co-conspirator rule assigns legal culpability equally to all members of the conspiracy. All co-conspirators are responsible for actions undertaken in furtherance of the conspiracy regardless of their individual knowledge of such actions and regardless of which member of the conspiracy undertook the action.

Commonwealth v. Galindes, 786 A.2d 1004, 1011 (Pa.Super. 2001), *appeal denied*, 569 Pa. 691, 803 A.2d 733 (2002) (holding it was unnecessary to determine which of two defendants fired gun; fact that one defendant shot at victim renders other defendant equally criminally responsible).

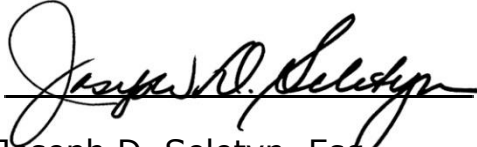
After a thorough review of the record, the briefs of the parties, the applicable law, and the well-reasoned opinion of the Honorable Anne Marie B. Coyle, we conclude Appellant's issues merit no relief. The trial court opinion comprehensively discusses and properly disposes of the questions presented. (**See** Trial Court Opinion, filed December 3, 2018, at 5-11) (finding: **(3)** Officer St. Onge's testimony regarding Victim's post-attack statement satisfied excited utterance exception to rule against hearsay; Victim blurted out statement to Officer St. Onge while on way to hospital for emergency treatment just after being severely beaten; Victim made statement within approximately twenty minutes of attack, while intoxicated and still bleeding from attack wounds; Victim made statement while still under stress of excitement stemming from attack; **(1)** police observed Appellant and his cohort acting together, demonstrating collaborative effort to cause Victim bodily injury; Officer Winscow credibly testified he saw Victim on ground as

Appellant's cohort repeatedly struck Victim in face with handgun while Appellant forcibly removed Victim's pants; Victim suffered multiple injuries, including cuts, bruises, profuse facial bleeding, and eye swelling; both assailants took advantage of Victim, who was in extremely vulnerable, inebriated state; police later recovered handgun Appellant's cohort used to strike Victim from house where both assailants had hidden themselves after attack; analysis deemed handgun to be operable firearm, qualifying as deadly weapon; that Appellant's cohort wielded handgun during attack does not absolve Appellant of guilt for use of deadly weapon during attack; **(2)** direct and circumstantial eyewitness testimony from police officers, investigators, and Victim, along with physical evidence in form of attack weapon, medical records, and photographs, constituted sufficient evidence to convict Appellant of conspiracy to commit aggravated assault; sufficient evidence supported jury's determination Appellant and his cohort entered into agreement to assault Victim, and each assailant actively assisted in attack of Victim; Appellant assisted in attack by removing pants of incapacitated Victim, while cohort struck Victim in face with deadly weapon; Victim suffered significant injuries as result of attack). Accordingly, we affirm on the basis of the trial court opinion.

Judgment of sentence affirmed.

J-S39006-19

Judgment Entered.

A handwritten signature in black ink, reading "Joseph D. Seletyn". The signature is written in a cursive style with a horizontal line underneath it.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 8/19/19

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

COMMONWEALTH OF PENNSYLVANIA)

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

VS.

NO. CP-51-CR-0005006-2016

FILED KEVIN FORD

SUPERIOR COURT
NO.517 EDA 2018

DEC 03 2018

CP-51-CR-0005006-2016 Comm. v. Ford, Kevin
Opinion

Appeals/Post Trial
Office of Judicial Records

OPINION



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Appellant, Kevin Ford, as the above-named Defendant, seeks review of the Order and Judgments of Sentences imposed on February 12, 2018 by the Honorable Anne Marie B. Coyle, Judge of the First Judicial District Court of Common Pleas. In his Statement of Matters Complained of on Appeal, pursuant to Pa. R. P. 1925(b), Defendant claimed that inadmissible hearsay testimony was erroneously admitted as evidence at trial. Additionally, Defendant asserted that the evidence was insufficient to sustain the guilty jury verdicts of Aggravated Assault and Conspiracy. A full and fair review of the record and all evidence demonstrated no reversible trial court error had been committed and that the evidence sufficiently supported the jury verdicts.

PROCEDURAL HISTORY

The underlying charges stem from the arrest of Kevin Ford on February 13, 2016 for his involvement, in concert with Randy Globber, in the violent beating with a gun and stripping of complainant Paul King. Kevin Ford was tried singularly before a twelve member jury as factfinders with the Honorable Anne Marie B. Coyle Judge of the First Judicial District Court of Common Pleas Criminal Division as the presiding jurist commencing on November 15, 2017.

On November 17, 2017, the jury unanimously found Kevin Ford guilty of: (1) Aggravated Assault, under 18 § 2702 §§ A, graded as a Felony of the Second Degree; (2) Conspiracy-Aggravated Assault, under 18 § 903, graded as a Felony of the Second Degree; (3) Simple Assault, under 18 § 2701, graded as a Misdemeanor of the Second Degree; and (6) Conspiracy- Simple Assault, under 18 § 903, graded as a Misdemeanor of the Second Degree.

After review of all completed presentence investigative reports and upon consideration of all relevant data submitted, following a full and fair sentencing hearing held on February 12, 2018, the following sentences were imposed:

Count 1: Aggravated Assault- minimum period of three (3) years state supervised confinement to maximum period of ten (10) years confinement;

Count 2: Conspiracy-Aggravated Assault- minimum period of three (3) years state supervised confinement to maximum period of ten (10) years confinement, to run consecutively to Count 1;

Count 3: Simple Assault- No further penalty: merged with Count 1;

Count 6: Conspiracy- Simple Assault- No further penalty: merged with Count 1.

The resulting aggregate sentence imposed was a minimum period of state supervised confinement of six (6) years to a maximum period of twenty (20) years, with credit to be provided for calculated custodial time served. Rehabilitative conditions were imposed including vocational training, drug and alcohol treatment and participation in anger management counseling. A complete stay away order from the victim, random drug and alcohol testing, and home and vehicle checks were directed.

Following Defendant's *pro se* appellate filing, Daniel Alvarez, Esquire, was appointed on his behalf to perfect the appeal. On July 22, 2018, the defense, by and through appellate counsel, Daniel Alvarez, Esquire, filed a timely 1925(b) Statement of Matters Complained on Appeal, claiming reversible trial court error with the allowance of inadmissible hearsay and insufficiency

of evidence supporting the jury guilty verdicts for Aggravated Assault under 18 § 2702 §§ A, graded as a Felony of the Second Degree and Conspiracy to Commit Aggravated Assault under 18 § 903, graded as a Felony of the Second Degree. The transcribed record did not reveal merit to any appellate claim.

FACTUAL HISTORY

The cumulative evidence introduced at trial established beyond a reasonable doubt that Kevin Ford, in concert with Randy Globber, brutally beat an elderly man, Paul King, in the face and head with a handgun while stripping him of his pants, on the night of February 12, 2016 in a breezeway behind a residential row home property located at 4928 Princeton Ave in Northeast Philadelphia. Trial evidence demonstrated that earlier in the evening of the attack, the victim, Paul King had been drinking alcohol heavily while staying at his friend Joe Dugan's house located at 4928 Princeton Ave, Philadelphia. Paul King testified at trial, contrary to his earlier statements made just after he had been beaten, that he had possessed zero memory of leaving his friend's house or of any events that followed. (N.T. 9/15/2015, p. 34).

Philadelphia police officers testified that they had responded on February 12, 2016 to a radio call report around 11:30 p.m. of a man being assaulted in an alleyway on the 4900 block of Princeton Ave. (Id. at 34). Uniformed Philadelphia Police Officers Matthew Winscom and his partner Officer Chichearo were reportedly the first to arrive. Upon alighting quickly from a marked police vehicle, Officer Chichearo went to the front of the property while Officer Winscom ran to the back of the residences to a rear breezeway or alley area. In that area, Officer Winscom observed a man, later identified as Randy Globber, repeatedly striking the prone, grounded and helpless victim, Paul King, in the face with a silver handgun while another man, later identified as Appellant Kevin Ford, was simultaneously pulling off the victim's pants.

Officer Winscom testified that as he yelled "Police," the two attackers locked eyes with him, stopped the attack and ran directly into the house located at 4928 Princeton Ave. with the silver handgun. Officer Winscom checked the victim to insure stability, radioed for backup to prevent egress from the residence before searching the residence. (Id. at 79-80).

Additional patrol officers discovered Kevin Ford hiding in a back bedroom on the upstairs floor and Randy Globber hiding in the basement near two frightened women of the rowhome located at 4928 Princeton Ave. Officers retrieved the silver handgun from a basement shelf that had been secreted near Mr. Globber's hidden position. This firearm was identified by Officer Winscom as the one he had observed being used to strike the victim. Upon positive identification of both perpetrators by Officer Winscom, both assailants were duly arrested. The recovered handgun was later tested and found to be an operable firearm.

The victim Paul King was transported by responding uniformed patrol officers to nearby Aria Hospital Frankford Division for emergency treatment of "numerous cuts, bruises, bleeding in the face, [and] swelling of the eye." (Id. at 84). Officer Vitali St. Onge testified that as he quickly drove Paul King to the nearby hospital, he excitedly stated, "The guys you got, the taller black dude pulled a silver handgun out on me and pointed at me. I told him, "Are you fucking kidding me? Do it pussy." Then they proceeded to beat on him." (Id. at 65). When Mr. King was at the hospital, police officers attempted to question him further about the incident, but he was visibly intoxicated, verbally abusive and uncooperative. (Id. at 53). Subsequently, at the Northeast Detective Division, the victim gave a cryptic signed statement to investigators who also photographed significant facial and head injuries. At trial, the victim asserted a retaliatory reason as well as alcohol inebriation for his lack of cooperation when he testified that "Probably because I figured I'd take care of it myself." (Id. at 53).

DISCUSSION

It is claimed within the Statement of Matters Complained of on Appeal, that inadmissible hearsay testimony had been erroneously admitted as trial evidence and that the evidence had not sufficiently sustain the jury's guilty verdicts of Aggravated Assault under 18 § 2702 §§ A, graded as a Felony of the Second Degree and Conspiracy to Commit Aggravated Assault under 18 § 903, graded as a Felony of the Second Degree. The appellate claims fail, however, because the transcribed record of all proceedings reflected a full and fair trial had been conducted and that the jury verdicts had been supported by cumulative competent proof of guilt.

I. Hearsay testimony had been properly admitted into evidence as “excited utterance” and prior inconsistent statement hearsay exceptions.

The initial claim recited was that the trial court had abused its discretion by allowing hearsay testimony into evidence over defense objection. The only referenced admission concerned sworn hearsay testimony that had been elicited from uniformed Philadelphia Police Officer Vitali St. Onge. Officer St. Onge stated that, as he quickly drove the bleeding injured victim to the nearby hospital, the victim excitedly blurted out that “The guys you got, the taller black dude pulled a silver handgun out on me and pointed at me. I told him, “Are you fucking kidding me? Do it pussy.” (Id at 65.) This form of hearsay testimony was properly admitted as an exception to the evidentiary rules preventing the admission of hearsay as an excited utterance and as a previous inconsistent statement made by the victim, conflicting with his trial testimony.

It is well settled that the admissibility of evidence is a matter addressed to the discretion of the trial court and may be reversed on appeal only upon a showing that the court abused its discretion. *Commonwealth v. Lukowich*, 875 A.2d 1169 (Pa. Super. 2005); *Commonwealth v. Dillon*, 863 A.2d 597, 600 (Pa. Super. 2004) (en banc); *Commonwealth v. Richter*, 711 A.2d 464, 466 (Pa. 1998); *Commonwealth v. Kubiak*, 379 Pa. Super. 402, 550 A.2d 219 (1988). An abuse of

discretion is not merely an error of judgment, but rather, is the overriding misapplication of the law, or the exercise of judgment that is manifestly unreasonable, or the result of bias, prejudice, ill-will or partiality, as shown by the evidence or the record. *Kubiak* at 409. An abuse of discretion may be found where the trial court admits 1) irrelevant evidence that is prejudicial to the defendant, or 2) evidence the probative value of which is outweighed by its prejudicial impact or its tendency to suggest a decision on any improper basis. *Commonwealth v. Shain*, 324 Pa. Super. 456, 471 A.2d 1246 (1984). Even logically relevant evidence may be inadmissible if the prejudicial impact of the evidence outweighs its probative value. *Commonwealth v. Ulatoski*, 472 Pa. 53, 371 A.2d 186 (1977); *Commonwealth v. Clark*, 280 Pa. Super. 1, 421 A.2d 374 (1980). The determination of whether the prejudice outweighs the probative value rests, like the admission of relevant evidence, within the discretion of the trial court. *Ulatoski*, 472 Pa. at 63 n.11; *Clark*, 280 Pa. Super. at 7.

This Court was well within its discretion to rule that certain testimony was admissible under the excited utterance hearsay exception. An excited utterance is a "statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition." Pa.R.E. Rule 803(2). The excited utterance exception requires an event or condition to be startling. Pa.R.E. Rule 803(2). Under this exception, an excited utterance: (1) need not describe or explain the startling event or condition; it need only *relate* to it; and (2), need not be made contemporaneously with, or immediately after, the startling event. It is sufficient if the stress of excitement created by the startling event or condition persists as a substantial factor in provoking the utterance. Pa.R.E. Rule 803(2).

In the instant matter, Police Officer St. Onge's testimony regarding the victim's blurted statements made on the way to the hospital for emergency treatment just after being severely

beaten, easily qualified as an excited utterance hearsay exception. (N.T. 11/16/17, p. 63-65). Officer St. Onge had escorted the freshly wounded and still bleeding victim to the nearby hospital within approximately twenty minutes after he had been attacked and was still inebriated. Officer St. Onge, had duly memorialized the victim's comments that same evening upon return to the Northeast Detective Division. At trial, Officer St. Onge read from his memorialized statement verbatim on the record as follows: "The guys you got, the taller black dude pulled a silver gun out on me and pointed at me. I told him, 'Are you' -- and excuse my language -- he stated, "'Are you fucking kidding me? Do it, pussy.'" The Officer then testified that Mr. King had told him that the two men "proceeded to beat on him." (Id at 65.)

The statement at issue was said by the declarant, Paul King, under the stress of excitement, very shortly after being viciously attacked by two men in an alleyway. Therefore, it had easily qualified as an excited utterance exception to the hearsay rule. Moreover, this statement would have also been deemed admissible as a prior inconsistent statement of the victim contrary to his combative testimony at trial pursuant to Pa.R.E. Rule 613. Thus, the inadmissibility claim lacked any merit.

II. Sufficient evidence supported the guilty verdicts for Aggravated Assault and Conspiracy.

The Statement of Errors asserted that the "evidence was insufficient to sustain the guilty verdicts for aggravated assault (F2) with a deadly weapon, as there was no evidence that Appellant inflicted or attempted to inflict any bodily injury to complainant with a deadly weapon (firearm), and at most was seen tugging on complainant's pants." Similarly, it was claimed that the "evidence was insufficient to sustain the guilty verdict for conspiracy to commit aggravated assault (F2) with a deadly weapon, as there was no evidence that Appellant entered into any agreement with another to commit bodily injury to complainant Paul King with a deadly weapon (firearm)." These claims

similarly failed for lack of merit because guilt for each offense had been proven beyond a reasonable doubt.

In reviewing the sufficiency of evidence, an appellate court considers “whether the evidence presented at trial was sufficient to establish all elements of the crime beyond a reasonable doubt.” *Commonwealth v. Burton*, 2 A.3d 598 (Pa.Super. 2010). The appellate court views all the evidence and reasonable inferences therefrom in a light most favorable to the Commonwealth as verdict winner. *Id.* Where there is sufficient evidence to enable the trier of fact to find every element of the crime has been established beyond a reasonable doubt, the sufficiency of the evidence claim must fail. *Id.* The evidence established at trial need not preclude every possibility of innocence and the fact-finder is free to believe all, part, or none of the evidence presented.” *Commonwealth v. Feliciano*, 2013 PA Super 117, 67 A.3d 19.

a. Sufficient evidence supported the Aggravated Assault conviction.

A person may be convicted of Aggravated Assault graded as a second-degree felony if he “attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon.” 18 Pa. Cons. Stat. Ann. § 2702(a)(4). “Bodily injury” is statutorily defined as “[i]mpairment of physical condition or substantial pain.” And “deadly weapon” is defined to include any firearm, device “designed as a weapon and capable of producing death or seriously bodily injury,” or device or instrument used in a manner “calculated or likely to produce death or serious bodily injury.” Taken together, the “minimum conduct” sufficient to sustain a §2702(a)(4) conviction is an attempt to cause another person to experience substantial pain with a device capable of causing serious bodily injury. As a practical and legal matter, an offender can do so only by attempting to use physical force against another person.

An "attempt" to commit Aggravated Assault is found where an accused who possesses the required specific intent, acts in a manner which constitutes a substantial step toward perpetrating a serious bodily injury upon another." *Commonwealth v. Gray*, 867 A.2d 560, 567, 2005 Pa. Super 22 (Pa.Super. 2005), *appeal denied*, 583 Pa. 694, 879 A.2d 781 (2005). An intent ordinarily must be proven through circumstantial evidence and inferred from acts, conduct, or attendant circumstances. *Commonwealth v. Fortune*, 68 A.3d 980, 984 (Pa. Super. Ct. 2013).

In the instant case, both men had been observed by responding police officers violently acting together, and in so doing, demonstrated a concentrated collaborated clear intent and deliberate effort to cause at least bodily injury to the victim. Officer Winscom credibly and convincingly testified at trial that as he ran to the back of residential block properties, he saw the victim on the ground, as Randy Glober was repeatedly striking him in the face with a silver handgun while Kevin Ford was simultaneously, and forcibly removing the motionless victim's pants. (See N.T. 9/15/2015, p. 79).

This observed concerted vicious behavior not only confirmed both assailant's specific intent to cause bodily injury, but proved that the goal of that conspiracy had been accomplished. Paul King's resulting injuries included numerous cuts, bruises, profuse facial bleeding and eye swelling. These injuries had been well documented with medical records, photographic evidence and direct eyewitness testimony of the responding officers. (*Id.* at 84, et al.). Moreover, it was also well proven that both assailants had taken advantage of this victim, who by all accounts, was in an extremely vulnerable inebriated state. One can only infer that far more serious injuries or death would have resulted, but for the responsibly brave actions of law enforcement to save this victim.

The "deadly weapon" element identified within § 2702(a)(4) had also been established because the silver handgun that police officers had observed in the striking hands of Randy Glober,

had been recovered and identified after investigators searched the same house where both assailants had run and hidden themselves. This silver handgun was subsequently analyzed by firearms experts and deemed to be an operable firearm capable of causing serious bodily injury or death qualifying as a deadly weapon.

Appellant's contention that he should be absolved of guilt, because he was not the individual who had been observed physically handling the deadly weapon during the attack, ignores well-established legal tenants concerning complicity of an accomplice and conspirator. Both men jointly and intentionally and vigorously preyed upon this man to cause bodily injury with the concerted use of a deadly weapon. Thus, the jury returned a justifiable verdict of guilty for Aggravated Assault.

b. Sufficient evidence supported the Conspiracy conviction.

The Statement of Errors recited the assertion that insufficient evidence existed to sustain the conviction of Conspiracy with the goal as alleged within the charging Bills of Information of Aggravated Assault. Under the related and charged provisions of Aggravated Assault, 18 Pa.C.S.A. § 2702(a)(4), a person is deemed guilty of Aggravated Assault, if he "attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon."

A defendant will be deemed guilty of the crime of Aggravated Assault as an accomplice or conspirator if it is proven beyond a reasonable doubt that the defendant possessed the requisite *mens rea* to commit the criminal act and committed an overt act to further the goal of the conspiracy. Section 903 of the Pennsylvania Crimes Code sets forth the crime of conspiracy:

(a) Definition of conspiracy. —A person is guilty of conspiracy with another person or persons to commit a crime if with the intent of promoting or facilitating its commission he:

(1) agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or

(2) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime. 18 Pa.C.S. § 903.

A person is a conspirator if “the defendant: 1) entered into an agreement to commit or aid in an unlawful act with another person or persons; 2) with a shared criminal intent; and 3) an overt act was done in furtherance of the conspiracy.” *Commonwealth v. Devine*, 26 A.3d 1139, 1147 (Pa.Super.2011). “The conduct of the parties and the circumstances surrounding such conduct may create a web of evidence linking the accused to the alleged conspiracy beyond a reasonable doubt.” *Id.* The conspiratorial agreement “can be inferred from a variety of circumstances including, but not limited to, the relation between the parties, knowledge of and participation in the crime, and the circumstances and conduct of the parties surrounding the criminal episode.” *Id.*

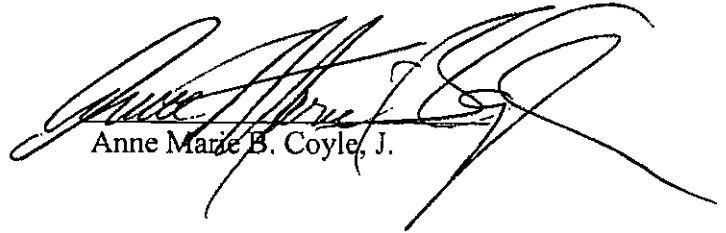
In the instant matter, Appellant’s conspiratorial agreement with the intended goal to cause bodily injury to this victim along with his qualifying overt actions had been concretely proven to this jury by the introduction of competent, convincing and credible trial evidence. The corroborating body of proof presented included direct and circumstantial eyewitness testimony from the police officers, investigators and the complainant coupled with physical evidence of the confiscated firearm, medical records and photographic documents. There was sufficient evidence to reasonably support the jury’s determination that each attacker had voluntarily entered into an agreement to assault Paul King and each actively assisted in the attack. Kevin Ford’s vigorous assistance came in the form of stripping the pants off of the incapacitated victim as he was being struck about the face with a deadly weapon wielded by Randy Globber. Significant injuries resulted during this interrupted assault. The conspiratorial *mens rea* elements of agreement, and overt actions had been soundly satisfied. Thus, the jury returned a justifiable verdict of guilty for the charged offense of Conspiracy to Commit Aggravated Assault graded as a second degree felony.

CONCLUSION

In reviewing the entire record, this Court found no harmful, prejudicial, or reversible error. Accordingly, the judgment of the trial court should be affirmed.

By the Court,

DATE: 12-3-2018



Anne Marie B. Coyle, J.