

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

Vance Hunt,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellant,)	
)	Case No. 20050065-CA
v.)	F I L E D
)	(October 14, 2005)
John Burton,)	
)	2005 UT App 441
Defendant and Appellee.)	

Second District, Ogden Department, 030904184
The Honorable Scott M. Hadley

Attorneys: Rex B. Bushman, Salt Lake City, for Appellant
Michael J. Boyle, Ogden, for Appellee

Before Judges Billings, McHugh, and Orme.

PER CURIAM:

Vance Hunt appeals from a jury verdict in favor of John Burton. Specifically, Hunt argues that there was insufficient evidence to support the jury's conclusion that while Burton assaulted Hunt, the assault did not cause Hunt's alleged injuries.

"A party claiming that the evidence does not support a jury's verdict carries a heavy burden." Von Hake v. Thomas, 705 P.2d 766, 769 (Utah 1985). "To successfully attack the verdict, an appellant must marshal all the evidence supporting the verdict and then demonstrate that, even viewing the evidence in the light most favorable to that verdict, the evidence is insufficient to support it." Id. "Put differently, a party incurs an obligation to marshal all of the evidence that arguably supports the jury's conclusion. This means that it must marshal 'every scrap' of evidence that supports the jury's finding." Harding v. Bell, 2002 UT 108, ¶19, 57 P.3d 1093 (citations omitted). Hunt has wholly failed to meet his burden to marshal the evidence.

Hunt challenges the jury's verdict because while the jury found that Burton committed an assault on Hunt, it did not find

that the assault caused Hunt the injuries or damages he claimed.¹ Instead of marshaling all evidence that supports the jury's verdict, Hunt provides us with the testimony of his own doctor who stated that in his opinion the assault caused the claimed injury. This is not marshaling of the evidence that supports the verdict. The record reveals numerous facts and inferences that would support the jury's verdict. Hunt was required to marshal these facts then explain to the court why they were legally insufficient. Because Hunt has failed to marshal the evidence in support of the jury's conclusion that the assault did not cause his claimed damages, we must assume that the jury's conclusion was supported in the record. See id.

Affirmed.

Judith M. Billings,
Presiding Judge

Gregory K. Orme, Judge

I CONCUR IN THE RESULT:

Carolyn B. McHugh, Judge

¹Hunt does not argue that the jury erred by failing to award him nominal damages. Accordingly, we do not address that issue on appeal.