

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,	)	
	)	No. 65613-9-I
Respondent,	)	
	)	DIVISION ONE
v.	)	
	)	UNPUBLISHED OPINION
OSCAR FERNANDEZ-GARCIA,	)	
B.D. 09/20/92,	)	
	)	
Appellant.	)	FILED: June 27, 2011

Grosse, J. — Intentionally disrupting a lawful assembly without lawful authority constitutes disorderly conduct. Here, such intent can be inferred from the totality of the circumstances when Oscar Fernandez-Garcia and another student continued to engage in fighting in the hall after a teacher directed them to stop. The disruption caused students to be late and delayed the start of classes at the high school. We affirm.

**FACTS**

James Johnson, a mathematics teacher at Lake Washington High School, was in his classroom preparing for his first period class when a student came in and told him there was a fight in the hallway. Johnson directed his student teacher to call the office and he went out into the hallway where he observed a female student interposing herself between Fernandez-Garcia and James Buhl to stop them from fighting. Several students were gathered around the fight. Buhl and Fernandez-Garcia were still fighting when the tardy bell rang and the size of the crowd of students watching kept increasing. Fernandez-Garcia and Buhl would back away from each other, appearing to stop the altercation, but

then one of them would move toward the other and they would continue the altercation. The fight did not end until three teachers came together and managed to separate the two. By that time the number of watching students had doubled. When the fight ended, the students dispersed and went to their first period classes. Johnson returned to his classroom and his class started five minutes late.

Dathan Turnpaugh, a student at Lake Washington High School, testified that he left the cafeteria after the first bell rang to attend his chemistry class. Turnpaugh observed a handful of students gathered around to watch the fight. He also stopped to watch, but when it ended he was able to get to class before the tardy bell rang.

Buhl testified that he was fighting in the school hall that morning and that fighting was against school rules. Buhl was aware that students had gathered around them and that a teacher had yelled for them to stop. Nevertheless, the two continued to fight.

The State charged both students with disorderly conduct. After the State's case was presented, and during closing argument, Fernandez-Garcia moved to dismiss arguing that there was insufficient evidence to establish intent to disrupt a lawful assembly. The court denied the motion, finding that this fight in the school hallway during school hours while students were lawfully proceeding to their first period class constituted disorderly conduct. The court noted that the combatants had "reengaged, repeatedly" as a crowd gathered around them, despite attempts to break the fight up. The court found that

attending class is a lawful assembly and that class started late because of the fight.

Fernandez-Garcia appeals.

### ANALYSIS

A person is guilty of disorderly conduct if he intentionally disrupts a lawful assembly of persons without lawful authority. RCW 9A.84.030(1)(b). Fernandez-Garcia argues that the trial court did not make a finding that he had an intention to disrupt and that the State produced insufficient evidence to find him guilty of intentionally disrupting a lawful assembly. He contends that the State must show that he acted with the specific intent to disrupt an assembly or meeting. But Fernandez-Garcia mischaracterizes the trial court's ruling. In its oral ruling the court stated:

I am also satisfied beyond a reasonable doubt that the -- the actions of the Respondents, both were, in fact, disruptive. And -- my only -- the -- the only reasonable inference that I can draw from the time this happened, the nature of the event, **is that it was intentionally disruptive.** Respondents -- the testimony is that this was a fight. This was not some -- like, like, someone bumped into the other and were -- were busily apologizing and still a crowd gathered. They continued to engage in activity as the crowd around them, according to the testimony of the teacher, increased in size. And the -- it's clear that there was no lawful authority to be doing any of this. There's also -- I'm also satisfied beyond a reasonable doubt that the actions of the Respondents were disruptive, one, because a crowd gathered around them, and two, because, according to at least one of the witnesses, the teacher, caused his class to start late.<sup>[1]</sup>

The oral findings of the court are incorporated in the findings of fact and conclusions of law.<sup>2</sup> Thus, it is clear that the trial court found that Fernandez-

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<sup>1</sup> (Emphasis added.)

<sup>2</sup> "In addition to these written findings, the Court incorporates all of its oral

Garcia was intentionally disruptive.

Fernandez-Garcia next argues that there was insufficient evidence to find that he intentionally disrupted the lawful assembly of students and classes—the essential elements of the crime. The standard of review is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.<sup>3</sup>

Whether a particular act constitutes disorderly conduct depends largely on the facts in the particular case. Courts should not only consider the nature of the particular act, but also the time and place that it occurred as well as the surrounding circumstances. There is a presumption that an actor intends the natural and foreseeable consequences of his or her actions.<sup>4</sup> “[T]he specific criminal intent of the accused may be inferred from the conduct where it is plainly indicated as a matter of logical probability.”<sup>5</sup>

Applying those principles to the case at bar, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt from the evidence and the inferences to be drawn therefrom. Here, the fighting itself was plainly disruptive. The fact that it occurred in a hallway of the school at a time when students were proceeding to their classes and after the class bell and tardy bell rang out, coupled with the fact that the fight stopped and started at least three times after a teacher directed them to stop, amply supports the

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findings and conclusions as reflected in the record.”

<sup>3</sup> State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

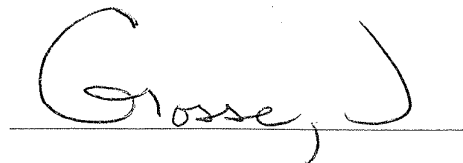
<sup>4</sup> State v. Perez-Cervantes, 141 Wn.2d 468, 481, 6 P.3d 1160 (2000).

<sup>5</sup> State v. Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99 (1980).

inference that Fernandez-Garcia intended to disrupt. Johnson's testimony that his class started late supported the trial court's finding that Fernandez-Garcia's fight disrupted student traffic, impeding the timely start of classes.

RCW 9A.08.010(1)(a) provides that "[a] person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes a crime." Fernandez-Garcia argues that his intent to fight does not equate with intent to impede the students' ability to get to class in a timely manner. But that begs the question. Countless court cases have inferred intent from the actions of the doer. See, for example, State v. Hoffman<sup>6</sup> (firing a weapon at a victim sufficient to find intent to kill) and State v. Missieur<sup>7</sup> (evidence sufficient to find intent to manufacture where defendant worked in concert with another to acquire the pseudoephedrine). Here, Fernandez-Garcia knew that the bells signaled the start of class and that his actions were attracting a crowd, including students and teachers, who would otherwise be in class, yet he continued to fight despite a teacher's direction to stop.

The trial court is affirmed.

A handwritten signature in cursive script, reading "Grosse, J.", is written above a horizontal line.

WE CONCUR:

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<sup>6</sup> 116 Wn.2d 51, 84-85, 804 P.2d 577 (1991).

<sup>7</sup> 140 Wn. App. 181, 185-86, 165 P.3d 381 (2007).

Sperry, J.

Cox, J.