

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

STATE OF WASHINGTON,	)	No. 66131-1-I
	)	
Respondent,	)	
	)	
v.	)	
	)	
ARTURO RAMIREZ SOTO,	)	UNPUBLISHED OPINION
(d.o.b. 01/25/92)	)	
	)	
Appellant.	)	FILED: July 18, 2011
	)	

Ellington, J. — Arturo Ramirez Soto was convicted of second degree assault and malicious mischief in juvenile court. He appeals the adjudication because the court failed to cite specific evidence of certain elements in the oral findings and because the written findings and conclusions were belatedly filed. We find no error and affirm.

BACKGROUND

One night in July 2009, 19-year-olds Ricky Shiplett and Matt Cecil were walking their bikes near Greenlake when they were confronted by a juvenile male they both knew as Johnny Dawson-Harris. Dawson-Harris appeared intoxicated and asked them for money and beer. When Shiplett and Cecil repeatedly stated they had none, Dawson-Harris became more aggressive and looked ready to strike Cecil. In response, Cecil punched Dawson-Harris, apparently knocking him out.

Dawson-Harris's several companions rushed over and a physical altercation ensued. Shiplett was punched in the face multiple times. Several minutes later, two friends of Shiplett and Cecil came to their aid. Michael Burge tried to pull one of the youths off of Shiplett and Ryan Ira ran to Cecil to see if he was okay.

When able to extract themselves from the fray, Shiplett, Cecil, Ira, and Burge ran to Burge's sports utility vehicle (SUV). They were chased by several of the individuals who had been fighting with them, including Ramirez Soto. As Cecil jumped into the cargo area of the vehicle with his bike and attempted to close the rear hatch, Ramirez Soto and four or five others grabbed his bike and tried to pull it out of the SUV. Ramirez Soto punched Cecil in the eye, but Cecil was able to get the hatch shut.

Burge attempted to drive away, but the car was surrounded and it was impossible to leave the scene without running someone over. Meanwhile, Ramirez Soto and others banged on the rear hatch window. They eventually broke it, sending shards of glass into Cecil's eye.

In a successful attempt to lure the aggressors away from the car, Shiplett jumped out of the SUV and started running backwards away from the vehicle. A group of five or six males followed him to a nearby residential lawn, where he tripped and fell. The group, including Ramirez Soto, surrounded Shiplett and began kicking and stomping him multiple times in the head, face, and torso. After several blows, Shiplett lost consciousness.

Burge, Cecil, and Ira drove a few houses away and called 911. Ira gave

detailed descriptions of four of the males. A few minutes later, when sirens could be heard, the group of attackers fled from the scene.

When police arrived, they observed Shiplett wandering near the scene of the assault. He was visibly dazed, with multiple lacerations on his face, and was unable to answer basic questions. After his transport to Harborview, Shiplett was diagnosed with nasal fractures and a lip laceration. His nasal passage was so damaged that a nasal canula had to be inserted into his mouth instead.

Cecil told police at the scene that Ramirez Soto was one of the assailants. Later, Ira and Burge also identified Ramirez Soto as a member of the group that attacked Shiplett.

The State charged Ramirez Soto with malicious mischief in the third degree and two counts of assault in the second degree. The State alleged that Ramirez Soto, together with others, assaulted Shiplett and Cecil, causing serious bodily harm to both, and broke the window of Burge's car. The juvenile court found Ramirez Soto guilty of malicious mischief and the second degree assault on Shiplett, but not guilty of the assault on Cecil.

### DISCUSSION

Ramirez Soto asserts the court failed to find the State had proven every element of the crime of assault in the second degree. Specifically, Ramirez Soto contends that while the court found he intentionally assaulted Shiplett, it did not find that Ramirez Soto "thereby recklessly inflict[ed] substantial bodily harm."<sup>1</sup> Therefore,

---

<sup>1</sup> RCW 9A.36.021(1)(a).

Ramirez Soto argues, the State failed to prove the charged offense.

In a trial for a juvenile offense, the court is required to enter its decision on the record, including the evidence relied upon by the court in reaching its decision.<sup>2</sup> In addition to entering an oral ruling identifying the evidence relied upon, the court must enter a written ruling if the adjudication is appealed.<sup>3</sup>

Here, the court found the State could not prove Ramirez Soto committed second degree assault with respect to the initial stages of the altercation because Ramirez Soto could have been acting in defense of Dawson-Harris, or it might have been a case of mutual combat. However, the court found “beyond a reasonable doubt that [Ramirez Soto] did, together with others . . . intentionally assault and, thereby, recklessly inflict . . . substantial bodily harm upon Richard Shiplett”<sup>4</sup> by “kicking him numerous times” while he “lay defenseless on the ground.”<sup>5</sup> “[W]hether [Shiplett’s] injuries stemmed from falling backward on the ground while [Ramirez Soto] was chasing him or the kicking, the court finds that at least some of those substantial injuries were caused by the kicking. In any event, [Ramirez Soto] was the actor; it was intentional, it was malicious.”<sup>6</sup>

The court concluded, “[T]he testimony is very clear and I have no doubt that all of the

---

<sup>2</sup> JuCR 7.11(c); RCW 13.40.130(4); State v. Litts, 64 Wn. App. 831, 835, 827 P.2d 304 (1992).

<sup>3</sup> JuCR 7.11(d).

<sup>4</sup> Report of Proceedings (July 22, 2010) at 650.

<sup>5</sup> Id. at 655.

<sup>6</sup> Id. at 656.

elements have been met . . . with respect to [a]ssault in the [s]econd [d]egree on Richard Shiplett.”<sup>7</sup>

Ramirez Soto faults these findings because the court did not specify the factual basis for the element of “recklessly causing substantial bodily injury.” He does not dispute that Shiplett suffered substantial bodily injury, but suggests the injuries might have occurred in the first part of the altercation before he retreated to Burge’s vehicle. Such an inference is inconsistent with the court’s finding that the injuries were caused either “from falling backward on the ground while [Ramirez Soto] was chasing him or the kicking.”<sup>8</sup>

Ramirez Soto also contends the court failed to specify the evidence on which it relied to find that he caused the injuries recklessly. The argument is without merit. A person acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur, and that disregard is a gross deviation from conduct that a reasonable person would exercise in the same situation.<sup>9</sup> The court found that Ramirez Soto and others kicked and stomped on Shiplett while he lay defenseless on the ground. Recklessness is the only reasonable inference from this evidence.

Ramirez Soto finally argues the court’s failure to timely file written findings requires reversal. But this is so only if Ramirez Soto can demonstrate prejudice or some form of tailoring of the findings to address the issues raised in the appellant’s brief.<sup>10</sup> He has made no attempt to show prejudice, and we see no evidence of

---

<sup>7</sup> Id. at 654.

<sup>8</sup> Id. at 656.

<sup>9</sup> RCW 9A.08.010(c).

No. 66131-1-1/6

tailoring.

Affirmed.

Edmonton, J.

WE CONCUR:

Becker, J.

Grosse, J.

---

<sup>10</sup> State v. Taylor, 69 Wn. App. 474, 477, 849 P.2d 692 (1993).