IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. LAWRENCE LEFFALL, III, Appellant.	No. 38974-6-II UNPUBLISHED OPINION

Penoyar, A.C.J. — Lawrence Leffall appeals his attempted second degree rape conviction, arguing that the State failed to present sufficient evidence to prove attempted second degree rape because it failed to show that he took a substantial step towards having sexual intercourse by forcible compulsion of his victim.[1] We disagree and therefore affirm.[2]

We review a claim of insufficient evidence for whether "any rational trier of fact could have found the essential elements of the charged crime beyond a reasonable doubt." *State v. Yarbrough*, 151 Wn. App. 66, 96, 210 P.3d 1029 (2009) (quoting *State v. Rempel*, 114 Wn.2d 77, 82, 785 P.2d 1134 (1990)). A sufficiency challenge admits the truth of the State's evidence and all reasonable inferences therefrom. *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254, *aff'd*, 95 Wn.2d 385, 622 P.2d 1240 (1980).

A person is guilty of second degree rape when he engages in sexual intercourse with another person by forcible compulsion. RCW 9A.44.050(1)(a). "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight, and also means: (1)

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[1] Leffall does not appeal from his unlawful possession of cocaine conviction.

[2] A commissioner of this court initially considered Leffall's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

penetration of the vagina or anus, however slight, by any object when committed on one person by another; and (2) any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another. RCW 9A.44.010(1).

A person is guilty of attempting to commit second degree rape if he intends to commit the crime and takes a substantial step towards its commission. *See* RCW 9A.28.020; *State v. Price*, 103 Wn. App. 845, 851 n. 1, 14 P.3d 841 (2000). In order for conduct to comprise a substantial step, it must be strongly corroborative of the defendant's criminal purpose. *State v. Workman,* 90 Wn.2d 443, 452, 584 P.2d 382 (1978). Any slight act done in furtherance of the crime constitutes an attempt if it clearly shows the design of the defendant to commit the crime. *State v. Nicholson,* 77 Wn.2d 415, 420, 463 P.2d 633 (1969).

Taking the evidence in the light most favorable to the State, on July 28, 2007 Leffall: (1) shut and locked 16-year-old HP's door after entering her apartment; (2) grabbed HP by the neck, choked her and told her "I'm going to do what I want to do. We can do this the hard way or we can do this the easy way," Report of Proceedings (RP) (May 7, 2008) at 148; (3) pulled HP's hair and threw her in a corner; (4) pulled HP's hair and put his hand over her mouth; (5) told HP "not to fight it," RP (May 7, 2008) at 112; (6) took off HP's shirt and touched her breasts and vagina; (7) unzipped his pants and exposed his penis; and (8) tried to move HP's hand toward his penis. In addition, HP testified that she thought Leffall was trying to rape her. A rational trier of fact could have found beyond a reasonable doubt that Leffall took a substantial step towards engaging in "sexual intercourse" by forcible compulsion of HP, as defined in RCW 9A.44.010(1). Substantial evidence supports the jury's verdict finding Leffall guilty of attempted second degree rape.

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Penoyar, C.J.

We concur:

Armstrong, J.

Quinn-Brintnall, J.