

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

COLLINS S. WILLIAMS, JR.,

Appellant.

No. 42866-1-II

UNPUBLISHED OPINION

Penoyar, J. — A jury convicted Collins Williams, Jr., of third degree assault. He appeals, arguing that the State did not present sufficient evidence of his intent and that the trial court erred by finding that he had the present or future ability to pay legal financial obligations. We affirm.¹

FACTS

On August 23, 2011, Olympia Police Officer Bryan Henry arrested Williams. Henry patted down and frisked Williams for weapons. During that process, Williams was “yelling, cursing, using curse words.” Report of Proceedings (RP) (Nov. 7, 2011) at 15. Williams “didn’t make any real threats toward us, but basically he was upset and angry.” RP (Nov. 7, 2011) at 15. When Henry asked Williams to sit in the back of the patrol car, Williams “became resistive at that point and kind of braced himself in the door corner pocket of the patrol car, would not want to sit down with our repeated efforts to try to get him to sit down in the patrol car for transport.” RP (Nov. 7, 2011) at 15. Only after using a Taser on Williams was Henry able to get Williams into the back seat of the patrol car. Henry transported Williams to the Olympia City Jail sallyport. Before Henry started to process Williams into the jail, Williams slammed his forehead into a

¹ A commissioner of this court initially considered Williams’s appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

wooden wall in the sallyport. Henry explained to Williams that he needed to calm down and that he was going to do another pat-down and frisk. He did not remove Williams's handcuffs. He stood directly behind Williams and started to conduct the pat down and frisk. When he reached into Williams's right pants pocket and waist area, "Williams suddenly lurched backwards with his head, and at that point the back of his head contacted the front forehead of [Henry] on the right side, right above [his] eye." RP (Nov. 7, 2011) at 23. A surveillance camera recorded Williams's action. Other officers restrained Williams. Henry reported that the effect of Williams's action was "it wasn't severe [enough] to where it would knock me out, but I felt some pain." RP (Nov. 7, 2011) at 28.

The State charged Williams with third degree assault. Henry testified as described above and the recording was played for the jury. Williams did not call any witnesses and did not testify. The jury found Williams guilty as charged. At sentencing, the State asked the trial court to impose the following legal financial obligations: \$500 victim assessment, \$200 court costs, and \$100 DNA collection fee. Williams's counsel asked the court to waive all non-mandatory fees because Williams was indigent. The court imposed the legal financial obligations the State requested. Williams's judgment and sentence provides that "[t]he court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein." Clerk's Papers at 4.

ANALYSIS

First, Williams argues that the State failed to present sufficient evidence from which the jury could find that he acted with intent when the back of his head struck Henry's forehead. The evidence is sufficient if, when viewed in a light most favorable to the State, it permits any rational

trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). “A claim of insufficiency admits the truth of the State’s evidence and all inferences that reasonably can be drawn therefrom.” *Salinas*, 119 Wn.2d at 201.

In order to find Williams guilty of third degree assault, the jury had to find beyond a reasonable doubt that he “[a]ssault[ed] a law enforcement officer . . . who was performing his or her official duties at the time of the assault.” RCW 9A.36.031(1)(g). All three definitions of criminal assault include intent. *State v. Walden*, 67 Wn. App. 891, 893-94, 841 P.2d 81 (1992). Intent can be “inferred as a logical probability from all the facts and circumstances.” *State v. Wilson*, 125 Wn.2d 212, 217, 883 P.2d 320 (1994). Given Williams’s verbal combativeness upon being his arrested, his physical resistance to being placed in the patrol car and his physical outburst once at the jail, a rational trier of fact could infer that when he suddenly jerked his head backward, knowing that Henry was directly behind him, he acted with intent to have his head strike Henry. The State presented sufficient evidence.

Second, Williams argues that the trial court erred by finding that he had the current or likely future ability to pay the legal financial obligations the court imposed because no evidence in the record supported that finding. *State v. Bertrand*, 165 Wn. App. 393, 404, 267 P.3d 511 (2011). Before making such a finding, the trial court must “[take] into account the financial resources of the defendant and the nature of the burden” imposed by the legal financial obligations. *Bertrand*, 165 Wn. App. at 404 (quoting *State v. Baldwin*, 63 Wn. App. 303, 312, 818 P.2d 1116, 837 P.2d 646 (1991)). After hearing Williams’s plea that non-mandatory legal financial obligations² not be imposed because of his indigence, the court imposed them anyway.

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Thus, the court took into account Williams's financial resources and the burden of the legal financial obligations before imposing them. The court complied with the requirements of *Bertrand* when imposing the legal financial obligations.

We affirm Williams's judgment and sentence.

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 in accordance with RCW 2.06.040, it is so ordered.

Penoyar, J.

We concur:

Hunt, J.

Van Deren, J.

² The \$500 victim assessment is required by RCW 7.68.035. The \$100 DNA collection fee is required by RCW 43.43.7541. The imposition of court costs is discretionary. RCW 10.01.160.