

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 02-10,908
:
:
vs. : CRIMINAL DIVISION
: Petition for Writ of Habeas Corpus
JEFFREY LEE HETZEL, :
Defendant :

OPINION AND ORDER

Defendant has been charged with aggravated assault, two counts of simple assault and two counts of harassment in connection with an incident which occurred on May 15, 2002. In the instant Petition for Writ of Habeas Corpus, filed June 3, 2002, Defendant seeks to have the Court dismiss the charge of aggravated assault. Argument on the Petition was scheduled for June 21, 2002, but at the time of argument, counsel agreed to have the Court decide the Petition based upon a transcript of the preliminary hearing, which was furnished to the Court at that time.

Defendant contends the charge of aggravated assault should be dismissed for two reasons: the Commonwealth failed to present evidence of a serious bodily injury, and failed to present evidence of an intent to cause serious bodily injury.

The Court agrees the evidence presented at the preliminary hearing failed to show serious bodily injury. A review of the preliminary hearing transcript indicates the victim testified that he was stabbed by Defendant with a screwdriver in the upper right forehead while someone else held him. The victim testified to the wound having bled and to it having hurt, but there was no evidence of a serious bodily injury as that is defined by the Crimes Code.¹ The Commonwealth need not show that a serious bodily injury occurred, however, in order to support the charge of aggravated assault.

¹ Serious bodily injury is defined in the Crimes Code as bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any

Commonwealth v Galindes, 786 A.2d 1004 (Pa. Super. 2001). It is sufficient for the Commonwealth to show an attempt to cause serious bodily injury. As discussed below, the Court finds such an attempt was shown.²

With respect to Defendant’s contention that the Commonwealth failed to show an intent to cause serious bodily injury; the Court does not agree. Intent can be inferred from the circumstances surrounding an incident, Galindes, supra, and in the instant matter, the evidence showed that Defendant intentionally stabbed at the victim’s face with a screwdriver, striking him in the upper right forehead, while someone else held him. The evidence also shows that after Defendant struck the victim, he said “next time I’ll f. . . .g kill you.” The Court believes the evidence of an intentional striking in and about the head and face area with a sharp object such as a screw driver, which could have caused extremely serious bodily injury, is sufficient to support an inference of an intent to cause such injury.

The evidence presented having been sufficient to support the charge of aggravated assault, Defendant’s Petition for Writ of Habeas Corpus is without merit.

ORDER

AND NOW, this 27th day of June, 2002, for the foregoing reasons, Defendant’s Petition for Writ of Habeas Corpus is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA
PD
Gary Weber, Esq.

bodily member or organ. 18 Pa. C.S. Section 2301.
² “Attempt” is defined by the Crimes Code as “with intent to commit a specific crime”, a person does any act which constitutes a substantial step toward the commission of that crime. 18 Pa. C.S. Section 901(a).