

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

v.

**RHONDA HATCHETT,
Defendant**

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**CR: 748-2012
CRIMINAL DIVISION**

OPINION AND ORDER

The Defendant filed an Omnibus Pretrial Motion on June 7, 2012. A hearing on the Motion was held October 1, 2012. Transcripts of the Preliminary Hearing held on April 23, 2012 before Magisterial District Judge Jon Edward Kemp were submitted to the Court for purposes of deciding this Motion.

Background

Rhonda Hatchett (Defendant) and Shirley Gray (Gray) were inmates at State Correctional Institution Muncy. On November 23, 2011, at approximately 6:15 AM, the Defendant and Gray, both of whom were cellmates, woke up for prison count. According to Gray, after prison personnel counted the Defendant and Gray, the Defendant sat down on the toilet and began to light a cigarette.¹ Gray, who is a non-smoker, asked the Defendant if she could wait until she left for breakfast. The Defendant shouted, “we on f---ing lockdown, bitch. Don’t tell me what to do.” The Defendant then began to advance on Gray while pulling a comb out of her pocket. Gray initially believed the Defendant was attempting to punch her but realized she was actually cutting her with the comb. The Defendant cut Gray repeatedly on the face and arms. Gray indicated she received injuries to her face, shoulder, arms, chest, and stomach.

¹ The Defendant and gray had an ongoing disagreement about smoking in the cell.

At the hearing, Correctional Officer Loretta Day (Day) testified that she heard screaming while she approached the cell that housed the Defendant and Gray. Day stated that she witnessed the Defendant hitting Gray with a comb that had a razor blade attached to it and that blood was flying as a result of the Defendant's swipes on Gray. Day told the Defendant to put the weapon down but she responded by stating that the incident was Day's fault because she had not moved the Defendant from the cell. While waiting for assistance to subdue the Defendant, Day estimated that the attack with the weapon lasted two (2) to three (3) minutes. The Defendant, while still looking at Day and away from Gray, swung back at Gray's face and cut her nose. The Defendant then snapped the comb in half and threw the razor into the toilet. The Tuesday before the incident, the Defendant requested that she be transferred out of the cell. The Defendant stated that, "if you don't, something's gonna happen and it won't be pretty." Day reported the request but did not have the actual authority to approve the transfer.

Trooper James Wool (Wool) testified that the weapon was a comb commonly referred to as a rattail comb. The comb was plastic and had a long handle attached to it. A razor blade was attached to the comb with band aids. The Commonwealth submitted photographs of Gray's alleged injuries as exhibits. Three (3) of the photographs submitted to the Court showed a cut to Gray's right side nose/nostril and face. The cut may be the result of one long slash across the face or two separate strikes. Another photograph showed a gash to Gray's left hand thumb. The gash is located near where the thumb meets the palm of Gray's hand. The Defendant was subsequently charged with Assault by Prisoner with Deadly Weapon and Simple Assault.

Omnibus Motion

The Defendant argues that the Commonwealth has failed to establish a *prima facie* case of Assault by Prisoner with Deadly Weapon, which is a Felony 2 offense. The Defendant has

conceded that sufficient evidence was presented for Count 2, Simple Assault. Assault by Prisoner with Deadly Weapon is defined as:

A person who is confined in or committed to any local or county detention facility, jail or prison or any State penal or correctional institution or other State penal or correctional facility located in this Commonwealth is guilty of a felony of the second degree if he, while so confined or committed or while undergoing transportation to or from such an institution or facility in or to which he was confined or committed intentionally or knowingly, commits an assault upon another with a deadly weapon on instrument, or by any means or force likely to produce serious bodily injury.

18 Pa.C.S. § 2703(a). “Serious bodily injury” is defined 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 bodily member or organ.” 18 Pa.C.S. § 2301.

A person acts intentionally if “it is his conscious object to engage in conduct of that nature or to cause such a result.” 18 Pa.C.S. § 302(b)(1)(i). A person acts “knowingly” if “he is aware that his conduct is of that nature or that such circumstances exist.” 18 Pa.C.S. § 302(b)(1)(ii). The defendant’s intent to inflict serious bodily injury is to be determined by a case-by-case basis. The circumstances surrounding the attack are probative of intent.

Commonwealth v. Caterino, 678 A.2d 389 (Pa. Super. 1996).

In Dailey, the defendant punched the victim twice in the face with a closed fist. Commonwealth v. Dailey, 828 A.2d 356, 357 (Pa. Super. 2003). The impact of the punches caused the victim’s glasses to break. Id. The victim received a cut on his nose, swelling around his left eye, and bruising. Id. The Superior Court of Pennsylvania determined there was sufficient evidence to sustain the defendant’s conviction of Assault by a Prisoner. Id. at 362.

Here, the Court finds that the Commonwealth did present a *prima facie* case of Assault by Prisoner with Deadly Weapon. As conceded by Defense Counsel, the Defendant was an inmate at SCI Muncy at the time of the incident. In addition, the weapon used during the crime

was deadly. The Defendant attached a razor to a comb using band aids. The weapon was sturdy enough for the Defendant to take multiple swipes at Gray. Further, the Defendant used the weapon on Gray's face and head areas. See also Commonwealth v. Johnson, 326 A.2d 315 (Pa. 1974) (finding that a two-by-four is a deadly weapon when used to strike someone in the head); Commonwealth v. Prenni, 55 A.2d 532 (Pa. 1947) (determining that a broom handle used to inflict head injuries is a deadly weapon).

Finally, the Commonwealth has presented a *prima facie* case that the Defendant acted knowingly and/or intentionally. Prior to the incident, the Defendant told Day in regards to transferring her to another cell, "if you don't, something's gonna happen and it won't be pretty." During the attack the Defendant told Day that it was her fault for not transferring her to another cell. The facts indicate that the Defendant had planned the attack on Gray. In addition, the Defendant swung at Gray's face with the razor while looking away. The Defendant appeared not to know where she was going to strike Gray and could have easily hit her eyes instead of her nose. If the injury occurred to the Defendant's eyes they would have been greatly and likely permanently impaired. Finally, the Defendant attacked Gray for a prolonged amount of time. Day estimated that the Defendant used the weapon on Gray for two (2) to three (3) minutes and also that Gray received injuries to her face, shoulder, arms, chest, and stomach. To establish a *prima facie* case the Commonwealth need not prove the charge beyond a reasonable doubt but only show probable cause that the Defendant committed the crime. Therefore, the Commonwealth has established a *prima facie* case against the Defendant on the charge of Assault by Prisoner with Deadly Weapon.

ORDER

AND NOW, this ____ day of October, 2012, based upon the foregoing Opinion, the Court finds that the Commonwealth has established a *prima facie* case for the Defendant's charge of Assault by Prisoner with Deadly Weapon. Therefore, the Defendant's Omnibus Motion is DENIED.

By the Court,

Nancy L. Butts, President Judge

xc: DA (AC)
Ronald Travis, Esquire
Gary Weber