

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

SCOTT BROWN,	:	NO. 09 – 02,570
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
	:	
AARON RITTER,	:	
Defendant	:	Non-jury Trial

OPINION AND VERDICT

Before the Court is Plaintiff’s claim of malicious prosecution and Defendant’s counterclaim of assault and battery and request for punitive damages. A trial was held on October 22, 2012. The matter is now ripe for decision and the Court enters the following:

FINDINGS OF FACT

1. Plaintiff, Scott Brown (“Brown”), resides at 36 Ritter Ridge Road, Unityville, PA 17774.
2. Defendant, Aaron Ritter (“Ritter”), resides at 322 Ritter Hill Road, Muncy, PA 17756.
3. Ritter belongs to a hunting club which leases land for the purpose of hunting on it, which land adjoins the property owned by Brown. Brown hunts on his property.
4. About a year prior to the incident in question, Ritter was sitting in his truck while the truck was parked along the road, on Brown’s property. Brown approached Ritter and the two had an argument about Ritter and his family and friends hunting on Brown’s property. Brown called the Game Commission and reported Ritter’s actions.
5. On December 6, 2008, Ritter was driving by the property on which his hunting club hunts, and saw a hunter (wearing orange) whom he believed to be on the property. Ritter drove across the property (through a field) in order to confront the hunter. Ritter was not carrying a weapon.

6. The hunter referred to above was Brown. Brown believed he was on his own property. Brown was carrying a rifle.
7. After parking his vehicle, Ritter walked up to Brown and confirmed his identity. He asserted to Brown that Brown was on the hunting club's leased property. Brown asserted that he was on his own property. Each demanded that the other leave. A very heated, curse-ridden argument ensued.
8. As Ritter was turning to leave, he heard something and turned back slightly. At that moment, he was struck on the left hand and in the left eye by the butt of the rifle. Ritter then left and returned to his residence.
9. Brown deliberately struck Ritter with the rifle. Ritter had not threatened or attempted to strike Brown.
10. The rifle strike caused Ritter a severely swollen and bruised left eye, multiple cuts above his left eye, and a bruised, swollen and cut left hand. The wounds took one to two months to heal and Ritter missed two weeks of work. He incurred medical expenses of \$593.42 and lost wages of \$1043.50. His sweatshirt was stained; he estimates the value at \$7.00.
11. Ritter reported the incident to the Pennsylvania State Police.
12. After an investigation by the police, Brown was charged with aggravated assault and other offenses. After a preliminary hearing, the charges were held for court, but before trial, the charges were withdrawn by the District Attorney's office.
13. Brown incurred legal fees for his defense of the charges.
14. Brown's financial status can be classified as "middle class" for purposes of assessing punitive damages.

DISCUSSION

Brown's claim of malicious prosecution requires that he prove: (1) that the underlying proceedings terminated in his favor; (2) that Ritter caused those proceedings to be instituted without probable cause; and (3) malice. *See Junod v. Bader*, 458 A.2d 251 (Pa. Super. 1983). Ritter's claim of assault requires that he prove that Brown intended to cause an imminent apprehension of a harmful or offensive bodily contact, *See Sides v. Cleland*, 648 A.2d 793 (Pa.

Super. 1994), and his claim of battery requires proof of an intentional harmful or offensive contact. See Paves v. Corson, 765 A.2d 1128 (Pa. Super. 2000), *reversed in part on other grounds in Paves v. Corson*, 801 A.2d 546 (Pa. 2002). The claims thus correlate: if it is found that Brown did hit Ritter with the rifle intentionally, Ritter was not without probable cause to initiate the prosecution of Brown.

Although Brown testified that he merely held the rifle up in front of himself to “block” Ritter and that Ritter contacted the rifle as he was coming toward Brown, the court finds such testimony not credible. The severity of Ritter’s wounds belies Brown’s contention and, in any event, the court finds credible Ritter’s testimony that he was struck as he was turning away. Therefore, Ritter has established intentional contact. Further, the contact was clearly harmful as Ritter suffered injury to his eye and hand. Ritter thus established a battery and is entitled to compensable damages for both economic and non-economic loss. The economic loss was evidenced by documentation showing medical expenses of \$593.42 and wage loss of \$1043.50, as well as by testimony that the sweatshirt Ritter was wearing at the time was damaged by bloodstains and that it has a value of \$7.00. Non-economic loss comprised pain and suffering, inconvenience and loss of enjoyment of life.

Brown’s claim for malicious prosecution cannot be sustained, as noted above: based on the battery, Ritter *did* have probable cause to initiate the prosecution.

Finally, with respect to Ritter’s claim for punitive damages, Ritter must show that Brown’s conduct was outrageous, that is, that it was done with a bad motive or with a reckless indifference to his interests. See SVH Coal, Inc. v. Continental Grain Co., 587 A.2d 702 (Pa. 1991). Considering the animosity Brown demonstrated toward Ritter and the intentional nature of the act, as well as the fact that Ritter was struck in the eye and could have suffered significantly more damage to his eye had his left hand not deflected the blow as it did, the court finds Brown’s conduct outrageous such as supports an award of punitive damages.

Accordingly, the Court draws the following:

CONCLUSIONS OF LAW

1. Ritter is not liable to Brown for malicious prosecution.

2. Brown is liable to Ritter for assault and battery.
3. Brown is liable to Ritter for punitive damages.

VERDICT

AND NOW, this 24th day of October 2012, for the foregoing reasons, the Court finds in favor of Defendant and against Plaintiff on Plaintiff's claim for malicious prosecution; in favor of Defendant and against Plaintiff on Defendant's claim for assault and battery and against Plaintiff and in favor of Defendant on Defendant's claim for punitive damages. Defendant is hereby awarded \$6000.00 compensatory damages and \$12,000.00 punitive damages.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Christian Lovecchio, Esq.
John Pietrovito, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson