

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :
 : **CP-41-CR-232-2021**
 v. :
 :
 STEVEN WILLIAMS, : **OMNIBUS MOTION**
 Defendant :

OPINION AND ORDER

Steven Williams (Defendant) was charged on February 22, 2021 with Kidnap to Inflict Injury/Terror¹, two (2) counts of Aggravated Assault², Unlawful Restraint/Serious Bodily Injury³, Terroristic Threats with Intent to Terrorize Another⁴, Coerce/Threat to Commit Crime⁵, False Imprisonment⁶, Recklessly Endangering Another Person⁷, and two (2) counts of Simple Assault⁸. The charges arise from a woman providing law enforcement with a video of Defendant purportedly physically assaulting her in late November or early December 2020. Defendant filed this Motion in Limine to Preclude Evidence on March 26, 2021. This Court held a hearing on the motion on November 19, 2021. In his Motion, Defendant argues that the video showing the assault of the woman allegedly by Defendant should be excluded from trial because its probative value is outweighed by other factors as articulated in the Pennsylvania Rules of Evidence.

Background

At the hearing on this motion, the Commonwealth presented the video of the assault of the victim, marked as Commonwealth's Exhibit 1, and the transcript of the preliminary hearing,

¹ 18 Pa.C.S. § 2901(a)(3).

² 18 Pa.C.S. § 2702(a)(1); 18 Pa.C.S. § 2702(a)(4).

³ 18 Pa.C.S. § 3902(a)(1).

⁴ 18 Pa.C.S. § 2706(a)(1).

⁵ 18 Pa.C.S. § 3906(a)(1).

⁶ 18 Pa.C.S. § 2903(a).

⁷ 18 Pa.C.S. § 2705.

⁸ 18 Pa.C.S. § 2701(a)(1); 18 Pa.C.S. § 2701(a)(3).

marked as Commonwealth's Exhibit 2. At the preliminary hearing, Marissa Dauberman (Dauberman) testified on behalf of the Commonwealth. Dauberman testified that she used to live with Defendant in the city of Williamsport. N.T. 2/18/2021, at 5. At that time, Dauberman classified Defendant as her boyfriend/fiancé. Id. Dauberman stated that she stopped living with Defendant on January 30, 2021 after approximately a year of them residing together. Id. at 5-6. Dauberman noted that the reason she terminated their living arrangement was due to a physical altercation between her and Defendant. Id. at 6-7. During this altercation, only Dauberman and Defendant were home in the apartment they shared. Id. at 7. This incident happened after Thanksgiving but before Christmas in 2020. Id. at 7-8. However, Dauberman could not recall the exact date. Id. at 8.

Dauberman testified that Defendant repeatedly kicked her in the face, beat her with a clothes hanger, stabbed her in the foot, and threatened to have her murdered. Id. at 8. Dauberman also stated that she had a "gashing wound under my eye that was squirting blood" and blood was all over her hands and the floor. Id. at 9. Dauberman testified that Defendant used a steak knife to stab her in the foot. Id. She also noted that Defendant used a curtain rod to beat her about the leg, arm, and neck. Id. 9-10. Dauberman stated that this resulted in many black and blue marks on her body. Id. at 10. Dauberman further testified that the assault lasted approximately an hour and a half. Id. She also said that Defendant did not allow her to leave the apartment so she was not able to get medical treatment for her injuries. Id. She stated that Defendant made her sit on the floor for approximately five (5) to ten (10) minutes and then told her to put a Band-Aid on her injuries. Id. at 11-12. Dauberman testified that she now has a scar on her face and a scar on her foot from the injuries she sustained during this altercation with Defendant. Id. at 12.

Dauberman said that Defendant videotaped the assault on his cellular phone. Id. at 12-13. Dauberman testified to the authenticity of the video and said that it accurately reflected what happened to her and nothing had altered the video footage. Id. at 13. Dauberman stated that she showed the video to Detective Clark on her own phone and provided Detective Clark with a copy. Id. at 18. Dauberman confirmed that it was Defendant speaking in the video and that his feet can be seen in the footage, but not his face. Id. at 14. Detective Loretta Clark (Clark) also testified on behalf of the Commonwealth at the preliminary hearing. Clark stated that, in addition to the videotape, she obtained the white curtain rod, the steak knife, and the shoes Defendant was wearing that Dauberman identified as the objects Defendant used to assault her as evidence for the case against Defendant. Id. at 21.

The video was reviewed by this Court and demonstrates the following. The video is a recording of the original assault video played on a cellular device. The video begins with the image of a young woman sitting on the floor in front of what appears to be a kitchen sink. The woman's left eye is severely bruised and discolored, blood is pouring out of a gash on her face, and more blood is coming out of her mouth. A man's voice, purportedly belonging to Defendant, starts to berate the woman, stating, "I don't fuckin like you. I hate you. I will stab the shit out you right now...I wouldn't give a fuck if you died right here." While the man is talking to her, the woman spits a pool of blood into her hand. Blood is splattered on the floor around her. The man continues to threaten her and at 00:49, the man starts to kick the woman repeatedly. The man threatens to have someone kill her and begins to kick her again in the face. The two start to talk about their relationship wherein the woman purportedly did something to offend the man. At 2:00, the man kicks at the woman once more and his slip-on shoe comes off. The man continues to berate and insult her, even demanding she look into the camera.

Throughout the exchange, the woman's face is swelling up and her right eye becomes bruised. At 3:39, the man hits the victim in the face while calling her a bitch. The man hurls insults at her for another few minutes of the video while recording her sitting on the floor and crying. At 5:57, the man kicks her at least twice in the face and kicks her again at approximately 7:01. Near the end of the video, the man threatens to stab the woman in the foot if she does not answer a question. She begins to answer but the video ends before she finishes.

Analysis

Defendant argues that the video is too prejudicial to be shown to the jury at trial and should be precluded from the evidence the Commonwealth can present. "The court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." Pa.R.E., Rule 403. Admission of evidence "is within the sound discretion of the trial court...Admissibility depends on relevance and probative value." Commonwealth v. Fransen, 42 A.3d 1100, 1106 (Pa. Super. 2012). "Evidence, even if relevant, may be excluded if its probative value is outweighed by the potential prejudice." Id. To support the exclusion of evidence for prejudice, "a tendency to suggest decision on an improper basis or divert the jury's attention away from its duty of weighing the evidence impartially" is required. Commonwealth v. Wright, 961 A.2d 119, 151 (Pa. 2008). "The function of the trial court is to balance the alleged prejudicial effect of the evidence against its probative value...." Commonwealth v. Parker, 882 A.2d 488, 492 (Pa. Super. 2005), *affirmed on other grounds*, 919 A.2d 943 (Pa. 2007). The court is not required to "sanitize a trial to eliminate all unpleasant facts from the jury's consideration where those facts are relevant to the issues at hand and form part of the history and natural development of the

events and offenses for which the defendant is charged.” Commonwealth v. Dillon, 925 A.2d 131, 141 (Pa. 2007). “Evidence is relevant if it logically tends to establish a material fact in the case, tends to make a fact at issue more or less probable or supports a reasonable inference or presumption regarding a material fact.” Commonwealth v. Drumheller, 808 A.2d 893 (Pa. 2002) (quoting Commonwealth v. Stallworth 781 A.2d 110, 117 (Pa. 2001)).

Defendant believes the video should be precluded at trial because its probative value is outweighed by the gruesome nature of the video. Defendant contends that the graphic nature of the video will inflame the jury, resulting in misleading the jury members, unfair prejudice, and confusion. Defendant believes that any probative value the video may contain would be seriously outweighed by prejudice if viewed by the jury. Defendant also argues that he is not visible in the video of the alleged incident. The Commonwealth asserts that Defendant failed to include any case law in his motion to support his preclusion argument. The Commonwealth strongly emphasizes that the court is not required to sanitize evidence for the jury. Furthermore, the Commonwealth argues that the victim and Clark authenticated the video at the preliminary hearing during their testimony. The Commonwealth relies on Smith v. Morrison, 47 A.3d 131 (Pa. Super. 2012) to support their argument in favor of allowing the video to be shown at trial. In Smith, a property dispute between brothers resulted in a lawsuit. Id. at 134. One issue on appeal was the trial court’s admittance of “irrelevant, highly inflammatory, and prejudicial matters” regarding one of the brother’s treatment of his mother and the transfer of her property. Id. The Superior Court ultimately held that the appellant failed to show how the contested testimony was “irrelevant or prejudicial” and therefore the Court could not find that “the evidence was so prejudicial as to divert the jury’s attention away from its duty of weighing the evidence impartially.” Id. at 137.

In the case *sub judice*, this Court does not believe the probative value of the video is outweighed by any potential prejudice the Defendant may face. Although the nature of the video is violent and unsettling, the probative value of the video far outweighs the unpleasantness of the footage. Namely, Clark testified that the only other physical evidence she collected for this case were the various objects that Defendant allegedly used to physically assault the victim. As such, there is little risk of presenting cumulative evidence. This video provides relevant evidence of the purported attack and directly correlates to the issues the jury has to decide at trial as required. The courts in this Commonwealth have previously upheld the introduction of graphic images at trial where the evidence assists the jury in their deliberation. See Commonwealth v. Foster, 317 A.2d 188 (Pa. 1974); Commonwealth v. McCarty, 2013 WL 11271549 (Pa. Super. 2013).

This Court thinks it is possible for the jury to consider this evidence impartially along with any other evidence that may be presented. Although the content of the video is violent, Defendant is similarly charged with violent offenses against the alleged victim. Simply because the video creates a challenge for Defendant's trial strategy does not require preclusion by this Court. Even though Defendant's assertion that his face is not visible in the footage is factually accurate, the jury has other means of identification available to them to discern who the videographer may be and weigh the evidence accordingly. Furthermore, the victim and Clark testified as to the authenticity of the video. The Court is not required to preclude all disconcerting evidence when its probative value is this significant and directly related to the majority of the offenses listed against Defendant in this matter. Therefore, the video shall not be precluded from trial for its relevancy to the issues.

Conclusion

The Court finds that the probative value of the video in question outweighs any potential prejudice. Therefore, the video footage shall not be precluded from evidence at trial.

ORDER

AND NOW, this 3rd day of January, 2022, based upon the foregoing Opinion, Defendant's Motion in Limine to Preclude Evidence is **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: DA (MS)
Christian Lovecchio, Esquire
Law Clerk (JMH)