

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

State of North Dakota,)	Supreme Court No.	20220293
)		
Plaintiff and Appellee,)		
)		
vs.)	Case No. 53-2020-CR-765	
)		
Spencer Matthew Knight,)		
)		
Defendant and Appellant.)		

BRIEF OF DEFENDANT-APPELLANT SPENCER MATTHEW KNIGHT

Appeal from Judgment dated October 3, 2022

In District Court, Williams County, State of North Dakota

The Honorable Joshua B. Rustad

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STATEMENT OF THE ISSUES

¶1 Whether the evidence presented at trial was sufficient to sustain guilty verdicts.

STATEMENT OF THE CASE

¶2 This is an appeal of the Northwest Judicial District Judgment dated October 3, 2022. R263. Spencer Matthew Knight (“Knight”) was charged with the following: 1. Terrorizing; 2. Reckless endangerment; and 3. Simple assault. R1, 2, 3. A trial was held on the reckless endangerment and simple assault charges on June 27, 2022 through June 29, 2022. R234-234. Knight was found guilty of both reckless endangerment and simple assault. R173-174. Judgment was entered on October 3, 2022. R263. Knight filed a notice of appeal on October 4, 2022. R266.

STATEMENT OF FACTS

¶3 On May 18, 2020, Knight was charged with the following: 1. Terrorizing, in violation of North Dakota Century Code Sections 12.1-17-04(1) and 12.1-32-02.1; 2. Reckless endangerment, in violation of North Dakota Century Code Sections 12.1-17-03 and 12.1-32-02.1; and 3. Simple assault, in violation of North Dakota Century Code Sections 12.1-17-01(1) and 12.1-17-01(2)(c). R1, 2, 3. Trial was held on June 27-29, 2022. R234-234.

¶4 KE, a fifteen year old, testified that on May 16, 2020, going into May 17, 2020, KE was at Kota Ray or Dakota Ray Dam, with Wyatt Andreason (“Andreason”), her boyfriend. R234. KE noticed a pickup whipping through the park. R234. Andreason thought this pickup was a black Chevrolet or Dodge. R232. KE and Andreason were in a pickup, with Andreason driving and KE was in the passenger seat. R234. KE and Andreason did not call 911, but decided to take it upon themselves to put their vehicle in the entrance and exit

and block off the entrance and exit. R232, 234. The pickup pulled up alongside KE and Andreason's pickup, on the driver's side. R234. KE identified the passenger and the driver, with the limited description as follows: The passenger was an African American and the driver was white with brown hair. R234. This individual was later identified by counsel for Knight, as Allen ("Allen"). R234.

¶5 Upon this pickup pulling up to Andreason and KE's pickup, Allen asked for directions back to Williston. R234. Andreason gave them directions and instructed the pickup to not come back to the park, and called them assholes, knowing that name calling would escalate the situation. R232, 234. However, when KE was asked if Andreason made any racial slurs, she could not remember, but could remember that it was a heated conversation. R234. KE also recalls the response from Allen was "what did you say? Don't talk to me like that." R234. According to KE, Andreason responded with "Come on. Just get out of here." R234. However, according to Mr. Andreason, he said "I'll talk to you however the fuck I want." R232. According to KE, Allen, who she was only able to identify as "the African American," got out and punched Andreason through the window. R234. Andreason looked over at KE, and when he turned back, Allen had opened Mr. Andreason's door, and they ended up fighting. R234. KE went around the vehicle, and by the time KE got around the vehicle, the driver, who she only identified as the white man with brown hair, was also fighting. R234. The driver was later identified by counsel as Knight. Andreason assumed that after the fight ensued, Knight's hat came off his head. R232.

¶6 KE then pulled a knife and "held the black guy against the truck so he couldn't harm [Mr. Andreason]," with the intent to make him afraid and KE testified that she

intended to use the knife. R234. Allen backed up against the truck and repeated “she’s got a knife.” R234. After there were verbal warnings that “she’s got a knife” and KE intended on using the knife, Knight went around his truck and grabbed a pistol, shot two times in a direction up the road towards the South, and pointed a gun to her head stating “you want to pull knives on people” and KE doesn’t recall what was said after that, but KE gave the knife to the white man. R232, 234. According to LE, Andreason stepped in front of her so the gun was not pointed at her head. R234. Two more rounds were shot, but not in the direction of KE and Mr. Andreason. R234. Knight never once fired the gun towards KE or Mr. Andreason. R232. The driver then gave the knife back, and the driver and passenger went back into their pickup and drove off leaving Andreason and KE, and Allen then shot back twice in the direction of KE and Mr. Andreason. R232, 234.

¶7 Law enforcement was called to scene for an erratic dark GMC pickup, after shots were fired. R234. Corporal Gregory was training Deputy Litten that day, and they were the second law enforcement vehicle on scene, and immediately noticed a Ford pickup parked awkwardly at the front entrance, blocking the access. R234. Corporal Gregory was tasked with processing evidence around the scene. R234. Corporal Gregory located a hat, a hot dog wrapper, and shell casings. R234. The head stamp on the casing indicated it was a Hornady 9 millimeter Luger, which matched with the other shell casings, for a total of seven shell casings. R234. Corporal Gregory also took a photo of a knife, but never retrieved it into evidence nor did he look into who was the owner of the knife. R234.

¶8 After Corporal Gregory was done gathering evidence, he was on a joint call with Deputy Kuchler and Sergeant Prentice, who indicated the suspect vehicle may have been located, but it was a Chevrolet Silverado. R232, 234. Sergeant Prentice located this

Chevrolet Silverado north of a bar across from The Shop. R232. However, Sergeant Prentice believed it was a dark-colored GMC with Louisiana plates. R232. Once Sergeant Prentice located this pickup, he sat across the parking lot and waited for other officers due to the nature of the call, and two males and a female exited around the corner of the building and approached the vehicle, and the males were identified as Allen and Knight. R232. However, Sergeant Prentice's report indicates only two individuals approached the vehicle. R232. At some point, law enforcement allowed the individuals to get into the vehicle, and then instructed them to get out of the vehicle. R232. Corporal Gregory made the decision to instruct Sergeant Prentice to secure the Chevrolet Silverado and detain anyone who was associated with that vehicle. R234. Corporal Gregory assisted in towing the vehicle. R234.

¶9 The vehicle was searched by Detective Bernier, who found a 9 millimeter Smith and Wesson, M & P handgun with a loaded magazine, one in the chamber, and six rounds in the magazine. R232. The bullets were Hornady 9 millimeter Lugers. R232. Sergeant Detective Fry went to the parking lot where Knight was apprehended, helped secure and search the pickup. R232. Knight was ultimately interviewed by Sergeant Detective Fry. R232. Knight admitted that he owned the gun, admitted that they pulled up next to Mr. Andreason, who was being rude to them. R215. Knight does not recall hitting anybody, and does not know if Allen hit anyone either. R215. Knight indicated he was scared that he was going to get stabbed, and he thought her knife hit his hand, so he grabbed the gun, pointed it towards the side and shot the gun towards the side, took the knife, gave it back, and he left. R215. Knight also indicated that he shot the gun towards the side again after he heard gravel behind him right after Andreason got close to him, however he did not ever

point the gun at anyone. R215. However, Knight indicated that he did not drive the vehicle out of there, Allen drove the vehicle after the altercation. R215. Knight is adamant that he was using self-defense and wanted to get out of the situation. R215.

¶10 The State rested and the defense made a rule 29 motion, arguing that the State has not met their burden and the case should not be sent back to the jury. R232. The State responded addressing each charge, arguing that the State has met its burden. R232. The Court denied the motion as the burden has been met for the matter to proceed. R232. The defense proceeded by calling Officer Hinricksen, who arrived on scene, did not speak to KE or Andreason, but admitted it is common for individuals in North Dakota to have a gun in their vehicle whether it is for self protection, hunting, or a hobby. R232.

¶11 Allen testified that they pulled up to Andreason's pickup to ask for directions, and Andreason responded with racial slurs towards Allen. R232. Allen indicated that Andreason opened his door, so he opened his and got out and Andreason made another racial slur so Allen punched him in the mouth. R232. Allen indicated that KE then got out of the pickup and came around with a knife and said "I don't want to hurt you, but I will." R232. Allen testified that KE then was hitting Knight in the forehead with a knife in the other hand. R232. Ultimately, Knight went to get a gun, shot in the ground and instructed them to back up, and again shot the gun towards the ground, instructing KE to drop the knife. R232. Knight picked it up, folded it, and gave it back to them and left. R232. When they left, Allen drove and they went to the bar. R232. There was never a shot fired at anyone. R232.

¶12 Knight testified that he was in Williston working on the pipeline, and that evening, he and Allen were looking for a bonfire party and asked Andreason and KE for directions.

R232. Knight could not hear the full exchange between Allen and Andreason, but recalls hearing Allen indicate that he was not happy with how Andreason was talking to him, and Allen hit him. R232. Once Knight saw the cab light come on in Andreason's pickup, he ran around and was tussling with Andreason and was hit in the head. R232. Once Knight heard there was a knife, he ran and got a gun and yelled at people to stop and shot warning shots in the ground. R232. Knight instructed the knife be handed over, he gave it back, and they turned around to leave. R232. As they turned around to leave, Knight heard somebody behind him so he shot again in the ground. R232. Again, the gun was never pointed at anyone. R232. Knight further indicated that he blacks out in fights, and there are bits and pieces that he does not remember, however is adamant that he never punched Andreason. R232. Knight is further adamant that he was getting the gun to stop whatever was going on. R232. They ultimately left and went and drunk alcohol and doesn't remember anything until he was in the back seat of his pickup and was being yelled at by law enforcement to get out. R232. Knight admitted the gun, the holster, and the hat were all his. R232. The defense rested, and the State had a few rebuttal witnesses. R232.

¶13 The State called Detective Fry again, who indicated that Allen and Knight never indicated in their interviews of any racial slurs being made by Andreason, and that Allen blamed Knight in commencing the physical altercation. R232. Andreason also testified on rebuttal that he did not use any racial slurs of any sort towards Allen, however he admitted to calling Allen names. R232.

¶14 The jury went into deliberation, asked questions, and continued with deliberation. R233. The jury was unable to reach a verdict as to the charge of terrorizing, despite efforts in working towards reaching a verdict. R233. However, the jury returned guilty verdicts

to the crimes of reckless endangerment and simple assault. R233. The Court found a hung jury on the terrorizing charge, and as a result declared a mistrial as to that charge. R233. The state later moved to dismiss the charge of terrorizing, with prejudice. R238, 244. Judgment was entered on October 3, 2022, where Knight was sentenced to five years at the Department of Corrections with three years suspended and credit for time served in relation to reckless endangerment, and thirty days at the Department of Corrections with credit for time served. R263. Knight filed a notice of appeal on October 4, 2022. R266.

LAW AND ARGUMENT

I. The Standard of Review.

¶15 This Court's standard of review for challenges to sufficiency of the evidence is as follows:

When the sufficiency of evidence to support a criminal conviction is challenged, this Court merely reviews the record to determine if there is competent evidence allowing the jury to draw an inference reasonably tending to prove guilt and fairly warranting a conviction. The defendant bears the burden of showing the evidence reveals no reasonable inference of guilt when viewed in the light most favorable to the verdict. When considering insufficiency of the evidence, we will not reweigh conflicting evidence or judge the credibility of witnesses A jury may find a defendant guilty even though evidence exists which, if believed, could lead to a verdict of not guilty.

State v. Kinsella, 2011 ND 88, ¶7, 796 N.W.2d 678 (citing State v. Wanner, 2010 ND 121, ¶9, 784 N.W.2d 154) (quotations omitted). "A reversal is warranted only if, after viewing the evidence and all reasonable evidentiary inferences in the light most favorable to the verdict, no rational factfinder could have found the defendant guilty beyond a reasonable doubt. " State v. Vantreece, 2007 ND 126, ¶14, 736 N.W.2d 428 (citing State v. Keller, 2005 ND 86, ¶50, 695 N.W.2d 703). Standard of review on appeal is the same whether sufficiency of evidence is questioned on motion for judgment of acquittal at close of state's

case, at close of evidence, or after return of guilty verdict. State v. Lambert, 539 NW.2d 288, ¶ 89 (N.D. 1995).

II. The Evidence Presented at Trial was Insufficient to Sustain the Guilty Verdicts.

¶16 “After the prosecution closes its evidence or after the close of all the evidence, the court on the defendant's motion must enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction.” N.D.R.Crim. P. 29(a). “The court may reserve decision on the motion, proceed with the trial If the court reserves decision, it must decide the motion on the basis of the evidence at the time the ruling was reserved.” N.D.R.Crim.P.29(b).

¶17 Pursuant to North Dakota Century Code, Section 12.1-17-03:

A person is guilty of an offense if he creates a substantial risk of serious bodily injury or death to another. The offense is a class C felony if the circumstances manifest his extreme indifference to the value of human life. Otherwise it is a class A misdemeanor. There is risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized.

¶18 In the present case, Knight testified that once he heard there was a knife, he ran and got a gun and yelled at people to stop and shot warning shots in the ground. R232. Knight instructed the gun to be handed over, and even gave it back, and they turned around to leave. R232. Knight and Allen both testified that the gun was never pointed at anyone. R232. Knight is adamant that he was getting the gun to stop whatever was going on. R232. There is no evidence to support that Knight ever intended to create a risk of injury or death or indifference towards either KE or Andreason in fear, but rather was defending himself and wanted the altercation to stop.

¶19 Pursuant to North Dakota Century Code, Section 12.1-17-01(1):

1. A person is guilty of an offense if that person:
 - a. Willfully causes bodily injury to another human being; or
 - b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.

¶20 Knight testified that he did not recall hitting Andreason. R232. In fact, KE testified that Knight was also fighting, but never testified as to what he was doing, whether it was yelling, or that he threw a punch, or was holding someone down, etc. R234. Knight is adamant that there is not sufficient evidence to find him guilty of simple assault. There were no videos presented to confirm or address any conflicting testimony, and it is Knight's position that without this crucial evidence, he cannot be found guilty.

CONCLUSION

¶21 Knight respectfully requests that this Court reverse and remand.

Dated this 29th day of November, 2022. /s/ Laura Ringsak
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CERTIFICATE OF COMPLIANCE

The undersigned certifies that the Appellant brief contains 12 pages consisting of the cover page through the conclusion and signature block and complies with the page limits outlined in North Dakota Rules of Appellate Procedure Rule 32(a)(8)(A).

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CERTIFICATE OF SERVICE

A true and correct copy of BRIEF OF APPELLANT was electronically filed with
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