

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County

Honorable J. Cordell Maddox, Circuit Court Judge

ORIGINAL

RECEIVED
OCT 23 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MATTHEW JACOB (JAKE) EDER,

APPELLANT

APPELLATE CASE NO 2017-002606

INITIAL BRIEF OF APPELLANT

LANELLE CANTEY DURANT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS..... i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE.....2

STANDARD OF REVIEW3

ARGUMENT

The trial court erred in requiring Appellant Eder to pay the full amount, instead of half which Eder was willing to do, of the restitution in the amount of \$3069.80 to the injured party, David Seth Pearce, when Pearce went to Appellant Eder’s home with the intent to “beat” Eder in order to allegedly protect Eder’s wife.4

CONCLUSION.....9

TABLE OF AUTHORITIES

Cases

In re M.B.H., 387 S.C. 323, 692 S.E.2d 541 (2010)..... 3

State v. Slocumb, 412 S.C. 88, 770 S.E.2d 436 (Ct. App. 2015) 3

State v. Vick 384 S.C. 189, 682 S.E.2d 275 (Ct. App. 2009)..... 3

State v. Wilson, 345 S.C. 1, 545 S.E.2d 827 (2001)..... 3

Statutes

South Carolina Code Section 17-25-322 7

Constitutional Provisions

The Fourteenth Amendment to the United States Constitution..... 6

STATEMENT OF ISSUE ON APPEAL

Did the trial court err in requiring Appellant Eder to pay the full amount, instead of half which Eder was willing to do, of the restitution in the amount of \$3069.80 to the injured party, David Seth Pearce, when Pearce went to Appellant Eder's home with the intent to "beat" Eder in order to allegedly protect Eder's wife?

STATEMENT OF THE CASE

On January 21, 2016, the Oconee County Grand jury indicted Matthew Jake Eder on the charge of attempted murder. On December 7, 2015, the Oconee County Grand jury indicted Eder on the charge of domestic violence second degree. On October 30, 2017, Appellant Eder appeared before the J. Cordell Maddox and entered a guilty plea to the lesser charge of assault and battery second degree and to domestic violence second degree. Appellant Eder was represented by Suzanne Earle, and the state was represented by Bethany Blundy. Oct.30, 2017 Tr. 1. The judge sentenced Eder to three years suspended to two years' incarceration with five years' probation on each charge. The sentences were to run concurrently. Oct. 30, 2017 Tr. 17, ll. 1 – 9.

The state informed the court that Eder owed restitution with the assault and battery charge. Oct. 30, 2017 Tr. 4, ll. 1 – 16. The judge ordered that a restitution hearing be held within ninety days. Oct. 30, 2017, Tr. 17, ll. 12 – 16.

On December 11, 2017, Appellant Eder appeared before the Honorable R. Lawton McIntosh for the restitution hearing. Eder was again represented by Suzanne Earle, and the state was represented by Bethany Blundy. Dec. 11, 2017 Tr. 1. The judge ordered Appellant Eder to pay the full amount of the restitution. Dec. 30, 2017 Tr. 6, ll. 16 – 25. On December 12, 2017, the judge issued an order requiring that Eder pay the full amount of \$3069.80. Eder's attorney filed a notice of appeal appealing only the restitution order. This appeal follows.

STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” State v. Vick, 384 S.C. 189, 197, 682 S.E.2d 275, 279 (Ct. App. 2009)(quoting State v. Wilson, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001)). The appellate court is “bound by the trial court’s factual findings unless they are clearly erroneous.” Id. (quoting Wilson, 345 S.C. at 5-6, 545 S.E.2d at 829). The reviewing court “does not re-evaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial court’s ruling is supported by any evidence.” State v. Slocumb, 412 S.C. 88, 91, 770 S.E.2d 436, 438 (Ct. App. 2015). “A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support.” In re M.B.H., 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

ARGUMENT

The trial court erred in requiring Appellant Eder to pay the full amount, instead of half which Eder was willing to do, of the restitution in the amount of \$3069.80 to the injured party, David Seth Pearce, when Pearce went to Appellant Eder's home with the intent to "beat" Eder in order to allegedly protect Eder's wife.

Relevant Facts

Appellant Eder and Brianna Fanasler were married and lived in Oconee County with their young daughter. On August 6, 2015, Brianna and Eder had a physical altercation in the presence of their young daughter. Brianna suffered a broken nose after Eder allegedly dragged her and slammed her face. Oct. 30, 2017 Tr. 11, ll. 1 – 13.

Brianna then called David Seth Pierce and told him that she was being threatened and physically harmed. Pierce informed law enforcement that he could hear the altercation over the telephone. Pierce then went to Eder's home to fight Eder on behalf of Brianna. Oct. 30, 2017, Tr. 11, ll. 15 – Tr. 12, ll. 1.

The altercation between Appellant Eder and Pierce took place in the yard of Eder's home. At some point, Appellant Eder pulled a knife and stabbed Pierce. Oct. 30, 2017, Tr. 12, ll. 1 – 6.

During the guilty plea, defense counsel told the court that Eder disagreed with some of the facts. However, Pierce did go to Eder's home and started an altercation. Counsel said that they filed a castle doctrine motion, but Eder felt the plea was a "good resolution" for him. Counsel continued to add that Eder understood the elements of self-defense and the castle doctrine. Counsel asked the judge to go along with the state's recommendation of three years suspended to

two years' incarceration followed by five years' probation. Oct. 30, 2017 Tr. 4, ll. 1 – 18; Tr. 12, ll. 8 – Tr. 13, ll. 1.

The judge accepted the guilty pleas and went along with the state's recommendation for sentencing. Oct. 30, 2017 Tr. 16, ll. 21 – Tr. 17, ll. 16.

The restitution hearing was held on December 11, 2017 before the Honorable R. Lawton McIntosh. Dec. 11, 2017 Tr. 1. The state informed the judge that the restitution consisted of medical bills for David Pierce, the injured party, in the amount of \$3069.80. Dec. 11, 2017 Tr. 2, ll. 1 – 17; Tr. 6, ll. 6-7.

The state explained that defense counsel stipulated to the amount of the bills but contested Appellant Eder's liability as to the whole amount. Defense counsel told briefly that the incident happened when Pierce went to Appellant's home with the intention of "beating up" Eder. Pierce said on a video that he was winning until Appellant Eder pulled a knife. The restitution was from medical bills associated with the knife wound. Counsel argued that if Pierce had not gone to Appellant's home and started the fight, there would have been no injuries. Counsel argued that Pierce as the injured party needed to "shoulder some of the burden for that." Dec. 11, 2017 Tr. 2, ll. 13 – Tr. 3, ll. 7.

The judge asked if Eder pled guilty and counsel responded that he did. Counsel explained that Eder was originally charged with attempted murder but pled to the lesser charge of assault and battery second degree. Counsel argued that she had filed a castle doctrine motion and that was when the state made the offer to plead the charge down to the lesser charge. Eder decided he would rather take the offer than take a chance on the attempted murder. Dec. 11, 2017 Tr. 3, ll. 8 – 18.

Before he heard testimony, the judge said that he did not think that he “really needed to take any testimony.” He told defense counsel that he was going to make Eder pay all of it. The judge continued to say: “I think he pled guilty and he got a break but he’s going to have to pay restitution.” Dec. 11, 2017 Tr. 3, ll. 19 – 24.

Then the judge said that he would take testimony just to put it on the record, and he would reserve judgment. Dec. 11, 2017 Tr. 4, ll. 1 – 4.

Appellant Eder explained to the judge what happened during the incident. Eder said that his wife told Pierce that she and Eder were arguing so Pierce came over to fight Eder. Pierce came to Eder’s house and attacked Eder. Eder said that the first thing Pierce did was kick Eder in the groin and then put him in a headlock. Eder just had to get Pierce off of him and that was the reason for the knife. Dec. 11, 2017 Tr. 4, ll. 7 – 25.

The state responded that they had “contentions with the castle doctrine hearing.” It was the state’s position that the wife had called Pierce for help and that was when Pierce went there. Dec. 11, 2017 Tr. 5, ll. 24 – Tr. 6, ll. 5. Defense counsel told the court that Eder was willing to pay half of the requested restitution. Dec. 11, 2017 Tr. 3, ll. 1 – 7.

The judge ordered that Appellant Eder pay the full amount of the restitution. Dec. 11, 2017 Tr. 6, ll. 16 – 20.

Eder’s attorney filed the notice of appeal.

Discussion

The Fourteenth Amendment to the United States Constitution provides that no state shall deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

South Carolina Code Section 17-25-322 provides:

(B) In determining the manner, method, or amount of restitution to be ordered, the court may take into consideration the following:

- (1) the financial resources of the defendant and the victim and the burden that the manner or method of restitution will impose upon the victim or the defendant;
- (2) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;
- (3) the anticipated rehabilitative effect on the defendant regarding the manner of restitution or the method of payment;
- (4) any burden or hardship upon the victim as a direct or indirect result of the defendant's criminal acts;
- (5) the mental, physical, and financial well-being of the victim.

The judge at the restitution hearing made his decision for Appellant Eder to pay the full amount of restitution without following the law as provided in Section 17-25-322. Dec. 11, 2017 Tr. 3, ll. 19 – 24. Although the statute says that the court may consider the five requirements, the five requirements provide for a fair process to determine restitution.

The judge asked no questions and received no information as to the financial resources of the defendant or the injured party, Pierce, as stated in the first requirement. Neither did the judge inquire into the ability of Eder to pay on an installment basis. No evidence was presented as to the anticipated rehabilitative effect on the defendant concerning the restitution or method of payment, and any hardship on the victim due to Eder's actions. Finally, the judge did consider the well-being of the victim. Dec. 11, 2017, Tr. 2, ll. 1 – Tr. 7, ll. 9.


The judge did allow Eder to tell his side of what happened. but only after the judge had made his decision. Dec. 11, 2017 Tr. 3, ll. 19 – Tr. 4, ll. 25. The only question the judge asked

was if Eder pled guilty and was a knife used. Dec. 11, 2017, Tr. 3, ll. 1 – Tr. 5, ll. 5. Although the judge said he would listen to testimony and put it on the record, the transcript is clear that the judge made his decision when he heard that Eder entered a guilty plea. Dec. 11, 2017 Tr. 33, ll. 1 – 24.

The state admitted that they had “contentions” with the castle doctrine hearing so they made the plea offer to Eder. That should have signaled the judge that the state’s case was weak. Appellant Eder was willing to pay half of the restitution which was reasonable considering that the victim, Pierce, went to Eder’s home and became involved in a marriage situation. Pierce should assume some responsibility for interfering. For each party to pay half of the restitution was the only fair solution.

CONCLUSION

Based on the above, the Restitution Order should be vacated, and the case remanded for the issuance of a new order requiring Appellant to pay only one-half of the restitution.


LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

This 23rd day of October, 2018.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
OCT 23 2018
SC Court of Appeals

Appeal from Oconee County

Honorable J. Cordell Maddox, Circuit Court Judge

THE STATE,

RESPONDENT,

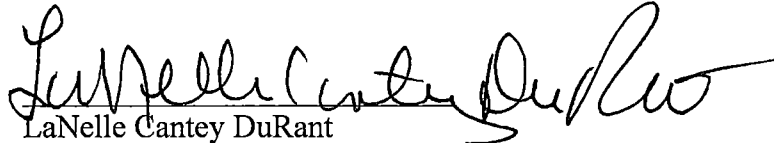
V.

MATTHEW JACOB (JAKE) EDER,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Initial Brief of Appellant and Designation of Matter in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Initial Brief of Appellant and Designation of Matter have been served on Matthew Jacob (Jake) Eder, at 109 Evonshire Dr., Anderson, SC 29621, this 23rd day of October, 2018.


LaNelle Cantey DuRant
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 23rd day of October, 2018.

 (L.S)

Notary Public for South Carolina

My Commission Expires: September 27, 2028