

SUPREME COURT OF NEW HAMPSHIRE

State v. Cunningham

159 N.H. 103 (2009) (N.H. 2009) · No. No. 2008-438 · Decided July 10, 2009

SUMMARY

The Supreme Court of New Hampshire reviewed Shawn R. Cunningham's convictions for two counts of simple assault arising from his use of force as an on-duty correctional officer. The court held that sufficient evidence supported the jury's findings that the physical contacts were unprivileged and that Cunningham's belief in the necessity of force was objectively unreasonable under the statutory justification defense. The convictions were affirmed.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Dalianis, J.; Broderick, C.J.; Duggan, J.; Hicks, J.
JURISDICTION	New Hampshire
DECIDED	July 10, 2009
DOCKET	No. 2008-438
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant appealed his jury convictions for two counts of simple assault, arguing that the Superior Court erred by denying his motion to dismiss for insufficient evidence that his use of nondeadly force was unjustified.
STANDARD OF REVIEW	Because the defendant presented evidence after his motion to dismiss was denied, the court reviewed the entire trial record for sufficiency of the evidence. Viewing the evidence and all reasonable inferences in the light most favorable to the State, the question was whether any rational trier of fact could have found guilt beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published precedential decision of the Supreme Court of New Hampshire.
PARTIES	Shawn R. Cunningham v. State of New Hampshire

TOPICS

- criminal procedure
- standard of review
- self defense
- sentencing
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate law

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support the two simple-assault convictions.
2. Whether the State proved beyond a reasonable doubt that Cunningham's uses of nondeadly force were unprivileged and not justified under RSA 627:5, I.
3. Whether a rational juror could find that Cunningham's belief that force was necessary to effect detention or defend against imminent nondeadly force was objectively unreasonable.

HOLDINGS

1. The evidence was sufficient for a rational juror to find beyond a reasonable doubt that Cunningham knowingly or purposely caused unprivileged physical contact with the detainee on two occasions.
2. The State proved sufficient evidence for a rational juror to find that Cunningham's uses of nondeadly force were not justified under RSA 627:5, I, because his belief that force was necessary to effect detention or defend against imminent nondeadly force was objectively unreasonable.

KEY QUOTATIONS

“Because the defendant raised justification under RSA 627:5, I, as a defense, the State also had to prove beyond a reasonable doubt that it was unreasonable for the defendant to believe that it was necessary to use the force that he did either to effect the victim's detention or to defend himself or the other officers against the victim's imminent use of non-deadly force.” (at 509)

“A rational juror could have found that the defendant's belief that it was necessary to use force to effect the victim's detention or to defend himself or the other officers against the victim's imminent use of non-deadly force was not objectively reasonable.” (at 510)

FACTUAL BACKGROUND

Cunningham, an on-duty correctional officer, shoved a detainee in the back and pushed him against a holding-cell wall while the detainee was walking toward the cell, with his hands at his sides and having complied with most officers' instructions. Later, after the detainee was handcuffed and contained in the cell, Cunningham continued a heated exchange, grabbed the detainee's leg, and dropped him to the floor. Other officers testified that neither use of force was necessary and that the detainee did not pose an imminent threat.

PROCEDURAL HISTORY

A grand jury indicted Cunningham on two simple-assault charges arising from two uses of force against a detainee while Cunningham was working as a correctional officer. Cunningham asserted justification under RSA 627:5, I, moved to dismiss at the close of the State's case, and presented an affirmative case after the motion was denied. The jury convicted him, and the Supreme Court of New Hampshire affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hull, 149 N.H. 706, 711-12, 827 A.2d 1001 (2003)
- State v. Evans, 150 N.H. 416, 424, 839 A.2d 8 (2003)
- State v. Leaf, 137 N.H. 97, 99, 623 A.2d 1329 (1993)

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