

SEVENTH COURT OF APPEALS OF TEXAS AT AMARILLO

William Collins v. State

Collins v. State · No. 07-15-00180-CR · Decided November 9, 2015

SUMMARY

This document is William Collins's opening brief on the merits in a criminal appeal before the Seventh Court of Appeals of Texas. Collins challenges the sufficiency of the evidence supporting his conviction for aggravated assault in retaliation and the jury's deadly-weapon finding based on use of his foot. He requests reversal of the judgment and remand for further proceedings.

CASE DETAILS

COURT	Seventh Court of Appeals of Texas at Amarillo
JURISDICTION	Texas
DECIDED	November 9, 2015
DOCKET	07-15-00180-CR
DISPOSITION	other
PROCEDURAL POSTURE	Appellant's opening brief challenging his conviction and sentence for aggravated assault-retaliation and the jury's deadly-weapon finding.
STANDARD OF REVIEW	The brief invokes the Jackson v. Virginia standard: viewing all of the evidence in the light most favorable to the verdict, whether a rational factfinder could have found the essential elements beyond a reasonable doubt. The same standard is asserted to apply to jury findings on punishment issues.
PRECEDENTIAL VALUE	none established; supplied document is an appellant's opening brief rather than a judicial opinion
PARTIES	William Collins v. The State of Texas

TOPICS

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QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to establish that Collins acted in retaliation against Lewis for reporting a crime.
2. Whether the evidence was legally sufficient to support the jury's finding that Collins used his foot as a deadly weapon.

KEY QUOTATIONS

“Retaliation is a result oriented offense and the focus is on whether the conduct is done with an intent to effect the result specified in the statute.” (at 12)

“A foot is not per se a deadly weapon.” (at 22)

FACTUAL BACKGROUND

The State alleged that Collins assaulted Olda Dean Lewis by striking and kicking him, causing a cut requiring three staples and a busted lip. The State further alleged that Collins acted in retaliation because Lewis reported Collins as the person who robbed Juan Bazaldua. The brief argues that Lewis did not witness the robbery, Bazaldua did not identify Collins at trial, and the evidence did not establish that Collins knew Lewis had implicated him. It also argues that the evidence did not establish that Collins's foot was used in a manner capable of causing death or serious bodily injury.

PROCEDURAL HISTORY

A jury in the 364th Judicial District Court of Lubbock County convicted William Collins of aggravated assault-retaliation under Texas Penal Code section 22.02(b)(2)(C), finding that he used his foot as a deadly weapon and acted in retaliation against a person who reported a crime. Collins pleaded true to two prior felony convictions, and the jury assessed punishment at ninety-nine years' confinement. He filed a motion for new trial on April 6, 2015, a notice of appeal on April 22, 2015, and submitted the supplied opening brief seeking reversal and remand.

DISPOSITION

other

REMAND INSTRUCTIONS

The brief requests that the appellate court reverse the judgment and remand for further proceedings, but the supplied document contains no court disposition.

CASES CITED

- Brooks v. State, 323 S.W.3d 893, 902 (Tex. Crim. App. 2010)
- Brown v. State, No. AP-77,019, 2015 WL 5453765 (Tex. Crim. App. Sept. 16, 2015)
- Cada v. State, 334 S.W.3d 766, 773-74 (Tex. Crim. App. 2011)
- Carlson v. State, 940 S.W.2d 776, 780 (Tex. App.—Austin 1997, pet. ref'd)

- Clark v. State, 886 S.W.2d 844, 845 (Tex. App.—Eastland 1994, no pet.)
- Denham v. State, 574 S.W.2d 129, 131 (Tex. Crim. App. 1978) (en banc)
- Garcia v. State, 919 S.W.2d 370, 378 (Tex. Crim. App. 1994)
- Gibson v. State, Nos. 07-13-00412-CR, 07-13-00413-CR, 2014 WL 4197529, at *4 (Tex. App.—Amarillo Aug. 25, 2014, pet. ref'd)
- Guevara v. State, 152 S.W.3d 45, 49 (Tex. Crim. App. 2004)
- Helleson v. State, 5 S.W.3d 393, 395 (Tex. App.—Fort Worth 1999, pet. ref'd)
- Hemphill v. State, No. 08-03-00054-CR, 2004 WL 722247, at *4 (Tex. App.—El Paso Apr. 1, 2004, pet. ref'd)
- Herrera v. State, 915 S.W.2d 94, 98 (Tex. App.—San Antonio 1996, no pet.)
- In re B.P.H., 83 S.W.3d 400, 407 (Tex. App.—Fort Worth 2002, no pet.)
- In re E.P., 257 S.W.3d 523, 526 (Tex. App.—Dallas 2008, no pet.)
- In re K.H., 169 S.W.3d 459, 464 (Tex. App.—Texarkana 2005, no pet.)
- Jackson v. Virginia, 443 U.S. 307, 317-19, 99 S. Ct. 2781, 2788-89, 61 L. Ed. 2d 560 (1979)
- Lane v. State, 151 S.W.3d 188, 192 (Tex. Crim. App. 2004)
- Moore v. State, No. 10-08-00211-CR, 2009 WL 1886450 (Tex. App.—Waco July 1, 2009, pet. ref'd)
- Ortiz v. State, 93 S.W.3d 79, 87 (Tex. Crim. App. 2002)
- Powell v. State, 939 S.W.2d 713, 718 (Tex. App.—El Paso 1997, no pet.)
- Raybon v. State, No. 02-12-00071-CR, 2013 WL 4129126, at *4 (Tex. App.—Fort Worth Aug. 15, 2013, pet. dismissed)
- Riley v. State, 965 S.W.2d 1, 2 (Tex. App.—Houston [1st Dist.], pet. ref'd)
- Thomas v. State, 821 S.W.2d 616, 619 (Tex. Crim. App. 1991) (en banc)
- Tucker v. State, 274 S.W.3d 688, 691 (Tex. Crim. App. 2008)
- Turner v. State, 664 S.W.2d 86, 90 n.5 (Tex. Crim. App. 1983)
- Villarreal v. State, 255 S.W.3d 205, 209 (Tex. App.—Waco 2008, no pet.)
- Winfrey v. State, 393 S.W.3d 763, 771 (Tex. Crim. App. 2013)

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