



05/22/85 STATE TENNESSEE v. KENNETH DEWAYNE GRAY

1985 | Cited 0 times | Court of Criminal Appeals of Tennessee | May 22, 1985

Robert K. Dwyer, Judge

Convicted by a jury for committing the offenses of malicious mischief, T.C.A. § 39-3-1301, and a convicted felon carrying a firearm, T.C.A. § 39-6-1716, appellant was sentenced by the trial court as a Range I standard offender to confinement for eleven months and 29 days on the former and eighteen months on the latter. The sentences are to be served concurrently.

The issue: whether the evidence is insufficient to sustain the verdicts.

On May 16, 1983, Alexia Pruitt, former girlfriend of the appellant, parked her Pontiac automobile on Fieldlark Street in the City of Memphis. She entered a home on that street to visit her friend, Sheila Pepper. In a short while appellant arrived and jumped on the hood of her Pontiac. While jumping up and down, he took a tire rim and broke the windshield of Ms. Pruitt's car. When Ms. Puritt observed these antics from her friend's porch, she threw a soft drink bottle at the appellant. According to her testimony, he turned and fired a shot in her direction. In the interim, her brother, a former friend of appellant, asked him to stop damaging his sister's car. The appellant pointed a pistol at him, and when the brother was threatened, he withdrew. When police arrived they observed the broken windshield and the damaged hood of the Pontiac. The appellant had left the scene.

The appellant did not testify but offered witnesses who testified that while they saw the appellant inflicting the damage on the car, no weapon was involved.

By its verdict, the jury has accredited the testimony of Ms. Pruitt and her brother as to appellant doing the damage and being armed. The State proved that the appellant had a prior conviction of felonious assault to commit murder in 1982. We view the evidence on appeal in the best legitimate light to the theory of the State. *State v. Cabbage*, 571 S.W.2d 832 (Tenn. 1978). Under the facts narrated, the issue is without merit and is overruled. The evidence supports the verdicts. The judgment of the trial court is affirmed.

Concur: Lloyd Tatum, Judge, John D. Templeton, Special Judge

