

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE  
Assigned on Briefs August 8, 2006

**STATE OF TENNESSEE v. DAVID DARNELL NORMAN**

**Direct Appeal from the Criminal Court for Davidson County  
No. 2004-D-2923 Monte Watkins, Judge**

**No. M2005-02566-CCA-R3-CD - Filed November 3, 2006**

The defendant, David Darnell Norman, was convicted of domestic assault, false imprisonment, possession of marijuana with intent to sell, and possession of drug paraphernalia. For his convictions, he received a total effective sentence of two years. On appeal, the defendant challenges the sufficiency of the convicting evidence. Following our review of the parties' briefs and the applicable law, we affirm the judgments of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed**

J.C. MCLIN, J., delivered the opinion of the court, in which JAMES CURWOOD WITT and NORMA MCGEE OGLE, JJ., joined.

Dwight E. Scott, Nashville, Tennessee, for the appellant, David Darnell Norman.

Paul G. Summers, Attorney General and Reporter; Preston Shipp, Assistant Attorney General; Victor S. Johnson, III, District Attorney General; and Deborah Housel, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

**FACTS**

On December 3, 2004, the defendant was indicted for aggravated kidnaping, domestic assault, possession of more than .5 ounces of marijuana with intent to sell, and possession of drug paraphernalia. The following evidence was presented at trial. Karen Campbell testified that in June of 2004, she was living in an apartment located at 909 Brooksmill Circle in Hermitage, Tennessee. She and the defendant had been living together at her apartment for approximately three months and she was pregnant with the defendant's child. On June 14, 2004, while putting away the defendant's laundry, she found a bag of marijuana in his dresser. Although Ms. Campbell knew the defendant smoked marijuana and had a small amount in a tin can, she was surprised at seeing the large amount in the dresser. Ms. Campbell confronted the

defendant about the marijuana, telling him that she did not want the marijuana in her apartment. This conversation turned “heated” and Ms. Campbell left her apartment and went to the house of her friend, Jessica Mastene.

Ms. Campbell testified that while at Jessica’s place, the defendant attempted to call her a couple of times and when she did not answer the phone, he came over with his brother. Ms. Campbell told Jessica to tell the defendant she was not there. The defendant attempted to come into the house but left after Jessica’s boyfriend “stood up.” Later, Ms. Campbell left Jessica’s house around 2:00 a.m. and went back to her apartment. As she walked into her bedroom, the defendant “struck [her] in the back of the head” with his “closed fist.” The force of the blow caused her to fall down and slide across the floor where she hit her nose on the bed. According to Ms. Campbell, she “[a]lmost blacked out.”

Ms. Campbell testified that the defendant hit her again in the face. Ms. Campbell attempted to use a cell phone to call for help, but the defendant grabbed the phone from her hand. Ms. Campbell then started for the door, but the defendant grabbed her shoulders and told her he was sorry. They sat on the couch in an effort to calm down. When Ms. Campbell tried to get off the couch and leave, the defendant grabbed her again. According to Ms. Campbell, she tried to get up from the couch twice, but the defendant prevented her by “pulling [her] shoulders.” As a result, she was forced to stay seated on the couch for about twenty minutes. As Ms. Campbell recalled, she told the defendant “to please let [her] go” at least five times after the defendant initially hit her. In response, the defendant said, “I’m sorry Karen. Let’s sit and talk about it.” The entire incident lasted about an hour and during this time, Ms. Campbell was frightened, angry, and sobbing. Her nose and knees were bleeding and she had a huge knot on the back of her head.

Ms. Campbell testified that she eventually ran out the door of her apartment and the defendant did not stop her. However, he did follow her as she drove to a gas station. At the gas station, Ms. Campbell called her parents. When they did not answer her call, she called Jessica and told her what happened. However, she told Jessica not to call the police because she still loved the defendant and did not want him to get into trouble. She then drove to her parents’ house and went to sleep on the couch. Her mother called the police the next day and the police escorted Ms. Campbell to her apartment so she could retrieve some clothes. While in the apartment, Ms. Campbell showed the police the bag of marijuana in the defendant’s dresser. She also showed them a tin can above the refrigerator that contained scales and marijuana.

On cross examination, Ms. Campbell acknowledged she said in an affidavit that the defendant did not let her leave the apartment for several hours. However, she explained she made a mistake and the time spent in the apartment was about one hour. She also acknowledged that she testified at the preliminary hearing that she called the police, however, it was her mother who actually called the police. Ms. Campbell further admitted that no photographs were taken of her injuries.

Samantha Crane, Ms. Campbell’s sister, testified that she lived in an apartment behind her parents’ house. On June 15, 2004, she went over to her parents’ house and saw her sister sleeping on the couch. Later, the defendant showed up and called the house on his cell phone.

Ms. Crane answered the phone and told the defendant to leave. The defendant told her that “he would hurt [her] if [she] didn’t tell him where Karen was.” Ms. Crane recalled that her sister’s knees were badly bruised and scraped, and her face looked red and puffy.

Wanda Albert testified that she was Ms. Campbell’s mother. According to Ms. Albert, her daughter came home on June 15, 2004 and told her that the defendant had beaten her up. Ms. Albert observed that her daughter had a red face, a swollen nose, an egg-sized knot on the back of her head, and scraped and bloody knees. Ms. Albert also observed that her daughter had blood on her shirt and appeared to be in a “state of shock.” Ms. Albert encouraged her daughter to call the police, then she went to work. Later in the afternoon, Ms. Albert received a call from her other daughter, Samantha, after which, Ms. Albert called the police. Michael Albert, Ms. Campbell’s stepfather, testified similarly. Mr. Albert noted that his stepdaughter’s nose was “busted”, her face was red, and her knees had blood on them.

Jessica Mastene testified that Ms. Campbell came to her house on the night of June 14, 2004. Ms. Mastene stated that the defendant called her house looking for Ms. Campbell. Ms. Mastene told the defendant that Ms. Campbell was not there. About twenty minutes later, the defendant arrived at her house. Ms. Mastene again told the defendant that Ms. Campbell was not at her house. However, the defendant insisted on talking to Ms. Campbell and tried to enter the house. At this time, Ms. Mastene’s boyfriend got off the couch and asked the defendant to leave or he would call the police. The defendant left. Ms. Mastene stated that the defendant was very angry.

Ms. Mastene testified that Ms. Campbell left her home early in the morning the next day. Later around 3:45 a.m., she received a call from Ms. Campbell. Ms. Campbell told her that the defendant had just beaten her up – “her nose was busted and her knees were bleeding very badly.” Ms. Mastene stated that Ms. Campbell sounded frantic.

Police Officer Desmond Sumerel testified that he interviewed Ms. Campbell the afternoon of June 15, 2004. Ms. Campbell told him about the events that took place earlier that morning. Officer Sumerel stated that he observed signs of injury including scraped knees and “trauma” to her nose. On cross examination, Officer Sumerel acknowledged that Ms. Campbell’s nose was not bleeding and her injuries were not serious enough to warrant a trip to the hospital. Officer Sumerel also noted that he did not take any pictures of the injuries.

Police Officer Kevin Wallace testified that after Ms. Campbell obtained warrants against the defendant, he accompanied her to the apartment so that she could get some of her belongings. While at the apartment, Ms. Campbell showed him a large amount of marijuana in a dresser drawer. The dresser was located in a closet in the master bedroom. Ms. Campbell also showed him a tin can located in a cabinet above the refrigerator in the kitchen. Inside the can was a small amount of marijuana and metal scales. A marijuana pipe was also found near the tin can. Officer Wallace acknowledged that no fingerprints were found on the contraband seized. Officer Wallace also acknowledged that the defendant was charged with the possession of the marijuana because Ms. Campbell said it was his.

Agent Glenn Everett of the Tennessee Bureau of Investigation testified that the marijuana seized from the apartment weighed 370.9 grams. Police Officer Robert Davenport testified that he arrested the defendant on June 17, 2004. Officer Davenport testified that based on his experience 370 grams of marijuana would be worth “over a thousand (1,000.00) dollars,” and the scales seized were used to weigh the marijuana prior to selling it.

The defendant testified that he had lived in a duplex located at 4543 Brook Valley Drive for the past five years and was living there when this incident occurred. He had been in a relationship with Ms. Campbell for about nine months prior to the incident and stayed at her apartment the majority of the time. According to the defendant, he worked the evening of June 14, 2004. After being unable to reach Ms. Campbell by phone, he drove to Jessica Mastene’s house and saw Ms. Campbell’s car. He knocked on the door but no one answered. He left but returned with a friend because he thought something suspicious was going on. When he knocked on the door the second time, Ms. Mastene answered the door. Ms. Mastene told him that Ms. Campbell had parked her car and had been picked up by her mother. The defendant then left and went back to Ms. Campbell’s apartment.

The defendant testified that around 3:00 a.m., Ms. Campbell arrived at the apartment. He met her outside at her car and she told him that she had just been released from jail for a hit and run. Once inside the apartment an argument ensued. At some point, Ms. Campbell rushed him so he pushed her into the bedroom where she hit the bed. According to the defendant, he left the apartment, went to his truck, and started making some phone calls in order to investigate Ms. Campbell’s story. While on the phone, the defendant observed Ms. Campbell get into her car. He followed her to a gas station. Ms. Campbell told him to leave so he left the gas station and went to the apartment. Later on that afternoon, the defendant went over to Ms. Campbell’s parents’ house and called the house. He was told by Ms. Campbell’s sister that he could not speak with Ms. Campbell. As a result, he decided to leave.

The defendant denied that he hit Ms. Campbell or prevented her from leaving the apartment. He stated that Ms. Campbell did not receive injuries to her nose or knees. He also denied that he tried to enter Ms. Mastene’s house. He further denied that Ms. Campbell confronted him about marijuana being in the apartment, and he asserted that the marijuana and drug paraphernalia seized from the apartment were not his. He stated that the apartment was leased by Ms. Campbell and the dresser in the apartment was used by both of them. The defendant also stated that he was employed with three jobs and did not have time to use marijuana or sell it.

Based upon the evidence presented, the jury found the defendant guilty of domestic assault, false imprisonment, possession of marijuana with intent to sell, and possession of drug paraphernalia. Thereafter, he received two years for his possession of marijuana with intent to sell conviction and three concurrent sentences of eleven months and twenty-nine days for his other convictions.

## **ANALYSIS**

On appeal, the defendant argues that the evidence was insufficient to support his convictions for false imprisonment, possession of marijuana with intent to sell, and possession of drug paraphernalia.

In considering this issue of sufficiency of the evidence, we reiterate the well-established rule that once a jury finds a defendant guilty, his or her presumption of innocence is removed and replaced with a presumption of guilt. *State v. Evans*, 838 S.W.2d 185, 191 (Tenn. 1992). Therefore, on appeal, the convicted defendant has the burden of demonstrating to this court why the evidence will not support the jury's verdict. *State v. Carruthers*, 35 S.W.3d 516, 557-58 (Tenn. 2000); *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982). To meet this burden, the defendant must establish that no "rational trier of fact" could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *State v. Evans*, 108 S.W.3d 231, 236 (Tenn. 2003); Tenn. R. App. P. 13(e). In contrast, the jury's verdict approved by the trial judge accredits the state's witnesses and resolves all conflicts in favor of the state. *State v. Harris*, 839 S.W.2d 54, 75 (Tenn. 1992). The state is entitled to the strongest legitimate view of the evidence and all reasonable inferences which may be drawn from that evidence. *Carruthers*, 35 S.W.3d at 558. Questions concerning the credibility of the witnesses, conflicts in trial testimony, the weight and value to be given the evidence, and all factual issues raised by the evidence are resolved by the trier of fact and not this court. *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997). We do not attempt to re-weigh or re-evaluate the evidence. *State v. Reid*, 91 S.W.3d 247, 277 (Tenn. 2002). Likewise, we do not replace the jury's inferences drawn from the circumstantial evidence with our own inferences. *Id.*

With regard to his conviction for false imprisonment, the defendant contends he did not commit false imprisonment because he did not substantially interfere with Ms. Campbell's liberty. As support for his contention, the defendant submits that the evidence demonstrates that he did not substantially interfere with Ms. Campbell's liberty because he did not bind her and the restraint, that of touching and pulling on her shoulders, was limited in application and duration.

False imprisonment is committed by one "who knowingly removes or confines another unlawfully so as to interfere substantially with the other's liberty." Tenn. Code Ann. § 39-13-302. In the instant case, the testimony of Ms. Campbell established that after the defendant assaulted her, she grabbed a cell phone in an attempt to call for help. The defendant prevented her from calling for help by grabbing the phone from her hand. Frightened and injured from the assault, Ms. Campbell proceeded to leave the apartment. However, the defendant prevented her from doing so by physically grabbing her shoulder. Ms. Campbell and the defendant then sat on the couch. While sitting on the couch, Ms. Campbell twice attempted to get up from the couch and leave, but she was stopped when the defendant pulled on her shoulders. In addition, Ms. Campbell asked the defendant a number of times to please let her go. On each occasion, the defendant refused. Finally, after a period of about twenty minutes, Ms. Campbell was able to leave the apartment. Upon review, we conclude that a rational trier of fact could find that the defendant confined Ms. Campbell unlawfully in her apartment so as to substantially interfere with her liberty. Accordingly, the evidence was sufficient to establish false imprisonment.

With regard to his convictions for possession of marijuana with intent to sell and possession of drug paraphernalia, the defendant argues that insufficient evidence was presented

that he possessed the marijuana and contraband. The defendant submits that the marijuana and contraband could have easily belonged to Ms. Campbell.

Pursuant to Tennessee Code Annotated section 39-17-417, it is an offense for a defendant to knowingly possess more than one-half ounce but less than ten pounds of marijuana with the intent to sell it. *See* Tenn. Code Ann. § 39-17-417(a)(4), -(g)(1). In addition, Tennessee Code Annotated section 39-17-425 provides in pertinent part that it is an offense to possess drug paraphernalia with intent to use it to prepare, test, analyze, ingest, inhale, or otherwise introduce into the human body a controlled substance such as marijuana.

Upon review, we note that the defendant's sufficiency argument essentially amounts to a challenge to the jury's credibility determinations. Thus, we reiterate, it was the jury's prerogative to accredit witness testimony and weigh the evidence. Here, Ms. Campbell testified that she discovered a large amount of marijuana in the defendant's dresser. Although she knew the defendant had a small amount in a tin can, she was surprised at the discovery and did not want the marijuana in her apartment. An argument ensued over Ms. Campbell's discovery of the marijuana which ultimately resulted in the defendant assaulting her. As a result of the assault, Ms. Campbell sustained some injuries to her face and knees and these injuries were corroborated by other witness testimony. Later, Ms. Campbell entered her apartment with police and showed them the marijuana in the defendant's dresser and the other contraband in the tin can. The jury, by its verdict accredited the testimony of Ms. Campbell over the testimony of the defendant. As such, we conclude that a rational jury could have found the defendant guilty of possession of marijuana with intent to sell and possession of drug paraphernalia beyond a reasonable doubt.

### **CONCLUSION**

Based upon the foregoing review, we affirm the judgments of the trial court.

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J.C. McLIN, JUDGE