

State v. Chester

Court of Appeals of Washington, Division Three

July 17, 2012, Filed

No. 29925-2-III

Reporter

2012 Wash. App. LEXIS 1661; 2012 WL 2912244

THE STATE OF WASHINGTON, *RESPONDENT*, v. DAVID A. CHESTER, *APPELLANT*.

NOTICE: RULES OF THE WASHINGTON COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE WASHINGTON RULES OF COURT.

Subsequent History: Reported at [State v. Chester, 2012 Wash. App. LEXIS 1702 \(Wash. Ct. App., July 17, 2012\)](#)

Prior History: [*1] Appeal from Grant Superior Court. Docket No: 11-8-00067-1. Judgment or order under review. Date filed: 04/25/2011. Judge signing: Honorable John D Knodell.

Counsel: *Susan Marie Gasch*, Gasch Law Office, Spokane, WA, for Appellant(s).

D. Angus Lee, Grant County Prosecuting Attorney, Ephrata, WA; *Paul M. Gaffney*, Grant County Prosecutor's Office, Ephrata, WA, for Respondent(s).

Judges: AUTHOR: Kevin M. Korsmo, C.J. WE CONCUR: Teresa C. Kulik, J., Laurel H. Siddoway, J.

Opinion by: Kevin M. Korsmo

Opinion

¶1 KORSMO, C.J. — David Ashton Chester challenges his adjudication for unlawful possession of a firearm in the first degree, contending that there was insufficient proof of identity. Because the evidence supports the conviction, we affirm.

FACTS

¶2 Mr. Chester was charged in juvenile court with unlawful possession of a firearm. The matter proceeded to an adjudicatory fact-finding hearing. To establish the prior offenses for purposes of proving unlawful possession of a firearm in the first degree, the prosecutor submitted prior orders on adjudication and disposition from 2008 and 2009, as exhibits 6 and 7. The exhibits established that Mr. Chester had previously committed second degree assault and residential burglary, respectively.

¶3 The [*2] State also presented the following testimony from Mr. Chester's mother, Charlotte Caldwell:

BY [JESSICA] CAFFERTY: ^[1]

Q: Ms. Caldwell, can you please state your name?

A: Charlotte Caldwell.

Q: And can you spell your last name, please?

^[1] Ms. Cafferty represented the State at trial; Paulette Burgess represented Mr. Chester.

A: C-A-L-D-W-E-L-L.

Q: And could you provide your address for the record?

A: 2033 Road H.2 Northeast, Moses Lake, Washington.

Q: And do you recognize the young man in the green jumpsuit next to Mr. — Ms. Burgess?

A: Yes, I do.

Q: And how do you recognize him?

A: He's my son.

Q: And what is his legal name?

A: David Ashton Robert Chester.

Q: And what name does he usually go by?

A: Ashton.

Q: And what was his date of birth?

A: 10/20/95.

MS. CAFFERTY: Your Honor, may I approach the witness?

THE COURT: Yes.

MS. CAFFERTY: For the record, Your Honor, I've handed the witness Plaintiff's — what's been marked as Plaintiff's Exhibit 7 and 6.

Q: And, Ms. Caldwell, do you know what those forms are? Are you familiar with them at all?

A: Well, it says they're findings.

Q: Okay.

MS. CAFFERTY: If I could, may I approach again, Your Honor?

THE COURT: Yes, you may.

Q: On Plaintiff's Exhibit 7, I'm going to turn to what's marked as page 9. Do you recognize your son's signature on that page?

A: It looks [*3] similar. He's been pretty much incarcerated for the last two-and-a-half years, but it looks pretty close.

Q: So does that appear to be his signature?

A: It looks like it.

Q: Okay.

And then moving to what's marked as Plaintiff's Exhibit 6, and turning to page 9, does that appear to be your son's signature, as well?

A: It looks like his signature.

MS. CAFFERTY: Your Honor, the State has no other questions for Ms. Caldwell.

THE COURT: Ms. Burgess, any questions?

. . . .

MS. BURGESS: Okay. . . . Then I have no questions.

Report of Proceedings (RP) at 9-12.

¶4 Exhibits 6 and 7 were admitted into evidence over defense relevance objections. The court found Mr. Chester guilty of unlawful possession of a firearm in the first degree and entered agreed findings of fact and conclusions of law.

¶5 This appeal timely followed.

ANALYSIS

¶6 When considering a challenge to the sufficiency of the evidence, the proper inquiry is whether, viewing the evidence in the light most favorable to the State, any rational trier of fact could find each element of the charged offense proved beyond a reasonable doubt. [State v. Hendrickson, 129 Wn.2d 61, 81, 917 P.2d 563 \(1996\)](#).

[*4] This court defers to the trier of fact, who weighs witness credibility and resolves conflicting testimony; we will not reweigh evidence even if it would have resolved conflicting evidence differently. [Quinn v. Cherry Lane Auto Plaza, Inc., 153 Wn. App. 710, 717, 225 P.3d 266 \(2009\)](#).

¶7 The legislature has provided that:

A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense as defined in this chapter.

[RCW 9.41.040\(1\)\(a\)](#). A “serious offense” means any crime of violence. [RCW 9.41.010\(16\)\(a\)](#). Second degree assault and residential burglary are both defined as “crime[s] of violence.” [RCW 9.41.010\(3\)](#).

¶8 Where a prior conviction is an element of a crime, the State must prove its existence beyond a reasonable doubt; an identity of names alone is insufficient to meet this burden. [State v. Harkness, 1 Wn.2d 530, 533, 96 P.2d 460 \(1939\)](#); [State v. Hunter, 29 Wn. App. 218, 221, 627 P.2d 1339 \(1981\)](#); [State v. Brezillac, 19 Wn. App. 11, 13, 573 P.2d 1343 \(1978\)](#). [*5] Thus, there must be some independent corroborative evidence that shows that the person whose former conviction is proved is the defendant in the present action. [Hunter, 29 Wn. App. at 221](#). Once the State has done this, it has established a prima facie case and the burden shifts to the defendant to cast doubt upon the identity of the individual in the documents. [Id. at 222](#).

¶9 In *Hunter*, the defendant was convicted of attempted first degree escape. [Id. at 219](#). On appeal, Mr. Hunter argued that insufficient evidence supported his conviction because the State had failed to demonstrate that at the time of the incident he was detained in the county jail pursuant to a felony conviction—an essential element of attempted first degree escape. [Id. at 221](#). At trial, the State had produced certified copies of two judgments and sentences, both of which showed the felony convictions of a person named Dallas E. Hunter. The State also adduced the testimony of a probation and parole officer who identified the defendant as a former resident of the work release facility who had been transferred from a state correctional institution following his felony convictions. He also testified that the defendant was [*6] temporarily incarcerated while awaiting transfer to a state institution on the date he attempted his escape. *Id.* This court held that the testimony was sufficient independent evidence to establish a prima facie case that the defendant was the same Dallas E. Hunter named in the certified judgments. [Id. at 222](#).

¶10 Here, Mr. Chester argues that, unlike *Hunter*, the State failed to establish a prima facie case since the testimony of his mother was insufficiently corroborative to establish that he was the individual named in exhibits 6 and 7.

¶11 Ms. Caldwell testified that the defendant was her son, that his name was David Ashton Robert Chester, that his birth date is 10/20/95, that the signatures on the prior orders of disposition and adjudication looked like her

son's, and that he had been confined for most of the past two and one-half years. The prior orders themselves state that David Ashton Chester was the convicted person and that his birth date was 10/20/95. Viewing Ms. Caldwell's testimony in a light most favorable to the State, when combined with the prior orders of disposition and adjudication, there was sufficient evidence to meet the State's burden to establish that Mr. Chester had previous [*7] felony adjudications. [Hunter, 29 Wn. App. at 221](#). Accordingly, sufficient evidence supports the bench verdict.

¶12 Affirmed.

¶13 A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to [RCW 2.06.040](#).

Kulik and Siddoway, JJ., concur.