IN THE SUPREME COURT OF THE STATE OF DELAWARE

JASON DALEY,	§	
	§	No. 430, 2012
Defendant Below-	§	
Appellant	§	Court Below: Family Court
	§	of the State of Delaware in and
V.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	Id No. 1204008839
	§	
Plaintiff Below-	§	
Appellee	§	

Submitted: January 16, 2013 Decided: February 13, 2013

Before HOLLAND, JACOBS, and RIDGELY, Justices.

ORDER

On this 13th day of February 2013, it appears to the Court that:

- (1) Defendant-below/Appellant Jason Daley appeals from a Family Court adjudication of delinquency for Robbery Second Degree, Conspiracy Second Degree and Criminal Mischief. Daley raises one claim on appeal: the trial court committed reversible error when it misapplied the legal precept of accomplice liability. We find no merit to Daley's appeal and affirm.
- (2) The incident leading to the charges against Daley occurred on an April, 2012 evening at the Concord Mall in Wilmington. Daley, his friend Corey Sliwinski, and two other boys got into a physical altercation with Aaron Pugliese

and his friend Charles Miller. Daley was upset with Pugliese over comments Pugliese had made two months earlier about Daley's mother. On the night in question, Daley, Sliwinski and their two friends followed Pugliese and Miller around the Mall. Pugliese and Miller exited the Mall to go to their car. Daley and his friends approached the pair in the parking lot. Daley attacked Pugliese, knocking him to the ground and repeatedly punching and kicking him, saying, "Say something about my Mom again."

- (3) At some point during Daley's attack on Pugliese, Pugliese saw Sliwinski's hands go to his—Pugliese's—midsection. Pugliese was wearing a hoodie sweatshirt with a front pocket that contained an iPhone and wallet. After Daley ended his attack, one of the unknown members of Daley and Sliwinski's group told Pugliese to "run his pockets"—street slang for empty your pockets. It was then that Pugliese realized his wallet and cell phone were missing. Daley, Sliwinski, and the two unknown boys fled.
- (4) Daley and Sliwinski were charged in a Juvenile Petition with Robbery Second Degree, Conspiracy Second Degree and Criminal Mischief. After a trial, a Family Court judge found both defendants guilty of all charges. This appeal followed.
- (5) Daley asks this Court reverse the judgment of conviction because the trial court misapplied the law of accomplice liability. The State was unable to

show which of the four alleged co-conspirators took the property, and therefore based its case on accomplice liability.

A person is guilty of an offense committed by another person when: ...

- (2) Intending to promote or facilitate the commission of the offense the person:
- a. Solicits, requests, commands, importunes or otherwise attempts to cause the other person to commit it; or
- b. Aids, counsels or agrees or attempts to aid the other person in planning or committing it....¹

We have held that to be convicted of accomplice liability, a defendant need not have specifically intended the crime, so long as "the result was a foreseeable consequence" of the wrongful conduct.² Daley argues the Robbery was not a reasonably foreseeable consequence of Daley's assault.

(6) Whether or not a crime established by accomplice liability is a foreseeable consequence of an underlying assault is a question of fact.³ "[W]e review a sufficiency of the evidence claim *de novo* to determine whether any rational trier of fact, viewing the evidence in the light most favorable to the State,

¹ 11 *Del. C.* § 271.

² Claudio v. State, 585 A.2d 1278, 1282 (Del. 1991) (citing Hooks v. State, 416 A.2d 189, 197 (Del. 1980).

³ See Hassan-El v. State, 911 A.2d 385, 393 (Del. 2006) (approving of jury instructions which placed in the jury's hands the question of whether one crime was a "foreseeable consequence" of another); Chance v. State, 685 A.2d 351, 358 (Del. 1996) (approving of a jury instruction charging the jury to determine whether other crimes were a foreseeable consequence of a robbery); Collins v. State, 655 A.2d 1224, 1995 WL 120655, at *3 (Del. 1995) (finding that it was for the jury to determine whether an ancillary crime—an assault—was the "foreseeable consequence" and of the primary crime—a robbery));

could find a defendant guilty beyond a reasonable doubt."⁴ "In doing that, we defer to the trier of fact's factual findings, resolution of witness credibility, and drawing of inferences from proven facts."⁵

- (7) In *Bell v. State*, this Court considered a factual scenario similar to this case. In *Bell*, the defendant—Bell—and several others attacked someone Bell knew on the street.⁶ During the attack, one member of the group asked the victim to hand over his money, and when he discovered the victim did not have any money, took his lunch bag.⁷ Bell was convicted of robbery on an accomplice liability theory.⁸ We affirmed, approving of a jury instruction which permitted the jury to find the robbery was a foreseeable result of the assault.⁹
- (8) Here, Daley attacked Pugliese while Daley's group watched. During the attack, a member of the same group reached toward Pugliese's midsection. A member of the group told Pugliese to "run his pockets." Pugliese's property, previously stored in his hoodie's front pocket, was then discovered missing. Viewing these facts in the light most favorable to the State, a rational trier of fact could conclude that the theft was a foreseeable consequence of the assault and that Daley was guilty of Robbery Second Degree as an accomplice.

⁴ Wright v. State, 25 A.3d 747, 751 (Del. 2011) (quoting Farmer v. State, 844 A.2d 297, 300 (Del. 2004).

⁵ Id. (quoting Morgan v. State, 922 A.2d 395, 400 (Del. 2007)).

⁶ Bell v. State, 625 A.2d 278, 1993 WL 169143, at *1 (Del. 1993).

⁷ *Id*.

⁸ *Id.* at *2.

⁹ *Id*.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is **AFFIRMED**.

BY THE COURT:

/s/ Henry duPont Ridgely Justice