

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,

v.

DAIQUAN T. BORDLEY,

Defendant.

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I.D. No. 1604019780

Trial Held: August 6-10, 2018

Decided: August 15, 2018

ORDER

Decision After Non-Jury Trial
Held Before the
Honorable William L. Witham, Jr.

Lindsay A. Taylor, Esquire and Alicia A. Porter, Esquire of the Department of Justice, Dover, Delaware; attorneys for the State.

Andre M. Beauregard, Esquire, attorney for the Defendant.

WITHAM, R.J.

Before the Court is the Defendant, Daiquan T. Bordley. He stands before this Court prior to this trial innocent until proven guilty beyond a reasonable doubt. This Court conducted a four day bench trial beginning August 6, 2018, with testimony presented from August 7, 2018 through August 10, 2018. This is the Court's decision in the matter.

Prior to trial and pursuant to Superior Court Criminal Rule 23(a), Daiquan T. Bordley, hereinafter referred to as Mr. Bordley or the Defendant, requested a trial without a jury. The Court, after a searching inquiry of Mr. Bordley's right to a jury trial, approved waiver of that right, as a knowing and voluntary waiver, and conducted a trial in accordance with Superior Court Criminal Rule 23(c). The Defendant is charged with the following offenses:

Count 1, Murder First Degree, a Class A felony, in violation of Title 11, Section 636(a)(2) of the Delaware Code.

Count 2, Robbery First Degree, a Class B felony, in violation of Title 11, Section 832(a)(2) of the Delaware Code.

Count 3, Possession of a Firearm During the Commission of a Felony, a Class B felony, in violation of Title 11, Section 1447A of the Delaware Code.

Count 4, Conspiracy Second Degree, a Class G felony, in violation of Title 11, Section 512 of the Delaware Code.

As the Judicial fact finder, the Court has heard the evidence and considers the same under the same criteria and standards we give to juries when assessing the evidence and the credibility of witness testimony. In doing so, the Court notes the following:

1. The credibility of each witness judged, including experts. The weight to be given to trial testimony is also determined by the Court. The knowledge; strength of memory and opportunity for observation; the reasonableness or unreasonableness of the testimony, the motives actuating all witnesses, the fact, if it is a fact, whether testimony was contradicted; and bias, prejudice or interest, manner of demeanor upon the witness stand; and all other facts and circumstances shown by the evidence which affect the believability of the testimony.

2. After finding some testimony conflicting by reason of inconsistencies, the Court reconciled the testimony as reasonably as possible, to make one harmonious story of it all. And in doing so, I credit the testimony which, in my judgment, was most worthy of credit and disregarded any portion of the testimony which, in my judgment, was unworthy of credit. I have considered all direct and circumstantial evidence and drew the necessary and reasonable inferences from the evidence.

3. In addition, I considered statutory and decisional law addressing the particular statutes in question.

Evidence Presented at Trial

In the afternoon of March 30, 2016, Delaware State Police responded to a call to investigate the death of Dontray Hendricks at a pier at Port Mahon, Kent County, State of Delaware. The evidence shows that six people were present at the time and place of the murder. They were Daiquan T. Bordley, Chelsea Braunskill, Zhyhee Harmon, Christopher Gartner-Hunter, Alexis Golden and the decedent, Dontray Hendricks. Chelsea Braunskill and Zhyhee Harmon have pled guilty as codefendants with Christopher Gartner-Hunter and Alexis Golden uncharged for any crimes

stemming from the events presented.

The evidence further shows that three of the above, namely Daiquan T. Bordley, Chelsea Braunskill and Zhyhee Harmon, formulated and participated in a criminal scheme to perform a “lick” or robbery of Dontray Hendricks at Port Mahon. In addition, Chelsea Braunskill, the Defendant and Zhyhee Harmon were admittedly friends and by their conduct are to be considered associates in a drug dealing operation with a reasonable inference drawn to conclude that Daiquan T. Bordley was its leader.

In addition, pertinent facts found by the Court show that Ms. Braunskill sought protection from future robberies in selling marijuana by seeking a weapon through the Defendant which was obtained for her and the Defendant by Mr. Harmon. The weapon in question was a chrome Cobra .380 handgun. The Defendant was known to keep the weapon in his car, yet Ms. Braunskill had access to it since she practice-fired it one time and took a picture of herself holding the gun. Ms. Braunskill, Mr. Harmon and the Defendant formulated a plan to stage a robbery or a “lick” with Dontray Hendricks as the victim. Ms. Braunskill with Ms. Golden would appear on the pier with Mr. Hendricks and engage in a social setting to purchase marijuana from the decedent.

Testimony shows that three of the participants at the pier testified that the Defendant pulled the trigger in close quarters after a struggle or tussle on the pier in the staged robbery. It appears that the three participants took the decedent’s sneakers and keys to his car. Ms. Braunskill and Ms. Golden fled the scene in the victim’s car with the remaining individuals to include the Defendant, Harmon and Gartner-Hunter

leaving in Mr. Bordley's car. The Defendant either authorized or tossed the victim's keys in an area to allow Ms. Braunskill to recover them and escape.

Conclusion and Decision

First, the Court finds Daiquan Bordley **GUILTY** of Count 1, Murder in the First Degree. A person is guilty of murder in the first degree when the person recklessly causes the death of another person, while engaged in the commission of, or attempt to commit, or flight after committing or attempting to commit any felony. Here, Mr. Bordley shot the victim with a firearm while engaged in the commission of a robbery. The recklessness of such conduct is axiomatic. The Court is satisfied that the Defendant acted knowingly.

Second, the Court finds Daiquan Bordley **GUILTY** of Count 2, Robbery in the First Degree. A person is guilty of Robbery in the First Degree when, in the course of committing theft, the person uses or threatens the use of immediate force upon another person with the intent to prevent or overcome resistance to the taking of the property or the retention thereof after the taking and the person displays what appears to be a deadly weapon. "In the course of committing theft" may include any act which occurs in an attempt to commit theft. Here, Mr. Bordley displayed a firearm in order to overcome the victim's retention of his keys and perhaps his sneakers.

Third, the Court finds Daiquan. Bordley **GUILTY** of Count 3, Possession of a Firearm During the Commission of a Felony. A person who is in possession of a firearm during the commission of a felony is guilty of possession of a firearm during the commission of a felony. Here, Mr. Bordley possessed a firearm during the commission of First Degree Robbery.

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Fourth, the Court finds Daiquan Bordley **GUILTY** of Count 4, Conspiracy in the Second Degree. A person is guilty of conspiracy in the second degree when, intending to promote or facilitate the commission of a felony, the person (1) agrees with another person or persons that they or one or more of them will engage in conduct constituting the felony or an attempt or solicitation to commit the felony; or (2) agrees to aid another person or persons in the planning or commission of the felony or an attempt or solicitation to commit the felony; and the person or another person with whom the person conspired commits an overt act in pursuance of the conspiracy. Here, Mr. Bordley agreed with Ms. Braunskill and Mr. Harmon to commit Robbery in the First Degree against the victim. Mr. Bordley committed an overt act in pursuance of the conspiracy when he actively participated in the robbery scheme, drew his weapon and murdered Dontray Hendricks.

The Court notes that all findings are made beyond a reasonable doubt.

IT IS SO ORDERED.



Hon. William L. Witham, Jr.
Resident Judge

WLW/dmh

cc: Prothonotary
cc: Lindsay A. Taylor, Esquire
Alicia A. Porter, Esquire
Andre M. Beauregard, Esquire