

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
GARY GODDARD	:	
	:	
Appellant	:	No. 2097 EDA 2019

Appeal from the Judgment of Sentence Entered June 13, 2019
In the Court of Common Pleas of Bucks County Criminal Division at
No(s): CP-09-CR-0004365-2018

BEFORE: BENDER, P.J.E., LAZARUS, J., and STEVENS, P.J.E.*

MEMORANDUM BY LAZARUS, J.:

FILED DECEMBER 28, 2020

Gary Goddard appeals from the judgment of sentence, entered in the Court of Common Pleas of Bucks County, following his convictions by a jury of criminal attempt to commit homicide,¹ discharge of a firearm into an occupied structure,² recklessly endangering another person (REAP),³ and possessing an instrument of crime (PIC).⁴

* Former Justice specially assigned to the Superior Court.

¹ 18 Pa.C.S.A. § 901.

² 18 Pa.C.S.A. § 2707.1(a).

³ 18 Pa.C.S.A. § 2705.

⁴ 18 Pa.C.S.A. § 907(a).

Goddard's convictions stem from his role in multiple shootings that occurred at a gathering hosted outside April Coleman's home, located at 914 Elmhurst Avenue, in Bristol, Pennsylvania, on May 4, 2018, which resulted in the deaths of Zyisean McDuffie and Tommy Ballard. On that date, Coleman hosted a party for her two children, who planned to attend their high school prom later that evening. Several family friends were present including Joseph Williams,⁵ Gary Goddard, Jr.,⁶ Tajon Skelton, Rayshaun James, and Sincere McNeil. These individuals were all gathered around April Coleman's Chrysler Pacifica, which was parked on her front lawn area.

At one point, McDuffie arrived at the Coleman residence, approached the group at the Chrysler Pacifica, and shook hands only with Williams. Williams then asked why McDuffie did not acknowledge the others, at which point McDuffie stated that he "didn't mess with none of [them]" and called them all "bitch." N.T. Jury Trial, 3/12/19, at 190. At the end of the verbal confrontation, McDuffie left, stating he would return soon.

When McDuffie returned about forty-five minutes to an hour later, he arrived with Ballard, Jahmier Wilson, and Jackie Valentine; Williams and Wilson then walked away together to have a private conversation. Within the

⁵ Joseph Williams is Goddard's co-defendant, and was charged separately in connection with the same shooting incident. We consider Williams' appeal separately at ***Commonwealth v. Williams***, 1824 EDA 2019.

⁶ At trial, Gary Nathaniel Goddard, Jr., was sometimes referred to as "Static" or "Little Gary." For clarity, we refer to him exclusively as "Goddard, Jr." Goddard, Jr., is Goddard's son.

larger group, still standing around the Chrysler Pacifica, an argument ensued amongst Goddard, Jr., McNeil, McDuffie and Ballard. McDuffie punched Goddard, Jr., in the face, and within moments, Williams removed the firearm from his waistband and began firing it at Wilson, who was running away from him. N.T. Jury Trial, 3/15/19, at 110-114; N.T. Jury Trial, 3/18/19, at 170-73. Although Williams fired repeatedly at Wilson, Wilson was not injured, but McDuffie and Ballard were struck. Ballard collapsed in the front yard of 911 Elmhurst Avenue and McDuffie was struck but still standing in the driveway of 916 Elmhurst Avenue.

Goddard then appeared, walking down Weston Avenue, with his hand raised and wielding a firearm. N.T. Jury Trial, 3/13/19, at 281-84; N.T. Jury Trial, 3/15/19, at 120-22. Standing in front of 916 Elmhurst Avenue, Goddard fired in the direction of the homes, and then at McDuffie, whose legs gave out from under him after the shots were fired. N.T. Jury Trial, 3/15/19, at 122; N.T. Jury Trial, 3/18/19, at 67-68. April Coleman observed Goddard discharge his weapon at her home, heard glass breaking, and then said to him, "Are you fucking kidding me[?]" N.T. Jury Trial, 3/15/19, at 123-24. Goddard looked at her, but did not reply. Goddard then stood over McDuffie, who was lying on the ground, and discharged his firearm, lodging a bullet in McDuffie's head just above the hairline. N.T. Jury Trial, 3/13/19, at 288; N.T. Jury Trial, 3/18/19, at 117-22, 226-29.

Other testimony revealed that Goddard, Jr., chased Wilson from the scene of the shooting, gun in hand and pointed forward with his arm fully

extended. **See** N.T. Jury Trial, 3/15/19, at 38-41; **see also** N.T. Jury Trial, 3/18/19, at 223-25. Goddard then told Goddard, Jr., to “Come on, let’s go. Give me the gun, Static.” N.T. Jury Trial, 3/15/19, at 43. Goddard, Jr., approached Goddard, and the two ran off together back towards Weston Avenue. **Id.** at 45, 127.

When police arrived at the scene, Officer Michael Sarciewicz first found Ballard, who was still able to talk and move, lying in the grass at 911 Elmhurst Avenue. A crowd then directed the officer to McDuffie, who was unresponsive, located in front of 916 Elmhurst Avenue. The officer observed bleeding and several gunshot wounds on McDuffie, and commenced cardiopulmonary resuscitation (CPR). McDuffie and Ballard were both transported to Frankford-Torresdale Hospital, where McDuffie was pronounced dead on arrival, and Ballard was pronounced dead shortly after arrival.

Doctor Zhonghue Hua conducted McDuffie’s autopsy. McDuffie was nineteen years old and suffered five gunshot wounds, including one each to his forehead above the hairline, his left upper back, his right flank, his right kneecap, and a graze wound to his right upper chest. Doctor Hua determined the fatal injury was the gunshot wound to his right flank, which punctured his kidney. N.T. Jury Trial, 3/11/19, at 193-94. Intact bullets were removed from McDuffie’s kneecap, head, and abdomen, and were turned over to investigators. Doctor Hua concluded McDuffie was still alive at the time he was shot in the head due to evidence of brain bleeding, that the cause of death

was multiple gunshot wounds, and that the manner of death was homicide. ***Id.*** at 215.

Police additionally removed two bullets from 914 Elmhurst Avenue—one was lodged in the siding of the residence; the other entered a window, proceeded through the kitchen, through a box of cereal, and into the wall before striking a flue and falling onto the utility room floor. **See** N.T. Jury Trial, 3/6/19, at 212-23, 227. Eric Nelson, of the Montgomery County Detectives,⁷ conducted a forensic examination of all the recovered bullets. The bullet recovered from the utility room floor and the one recovered from McDuffie’s skull were discharged from a .32 H&R revolver found by police in Goddard’s apartment. The fatal bullet recovered from McDuffie’s abdominal wall was shot from the .38 Rossi Special firearm, which was recovered from a grill behind 703 Winder Drive.⁸ The other bullets recovered from McDuffie’s

⁷ Detective Nelson explained that, although he works for the Montgomery County Detectives, he often does work for the “surrounding counties,” including Bucks County. **See** N.T. Jury Trial, 3/13/19, at 213.

⁸ In the course of investigation, police officers reviewed video footage from pole cameras near the scene of the shooting. In the footage, police observed Williams, James, and Skelton run away from the shooting and enter the backyard of 703 Winder Drive, remain off-camera for one minute and thirty seconds while in the yard, and reemerge on camera travelling further down Winder Drive. The footage of Williams running shows his hands located around his belt area prior to entering the rear yard of 703 Winder Drive, but after leaving, his hands were no longer in his belt area. Police were dispatched to that address, where the owner of the property consented to a search. Police noticed a grill, which was completely covered in dirt and grime, except for the left handle. After searching the grill, police recovered a Rossi .38 Special revolver sticking out of the back near the propane tank. Skelton confirmed

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.