

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RYAN L. NEYHART,	§	
	§	No. 491, 2011
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of
	§	the State of Delaware, in and for
v.	§	Sussex County
	§	
STATE OF DELAWARE,	§	Cr. I.D. No. 1011021484
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: March 28, 2012

Decided: May 16, 2012

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 16<sup>th</sup> day of May 2012, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Ryan Neyhart, the defendant-below (“Neyhart”), appeals from his conviction of Second Degree Robbery in the Superior Court. Neyhart claims that there was legally insufficient evidence to justify his conviction after a jury trial. We disagree, and affirm.

2. The facts are described in greater detail in this Court’s order, entered this date, affirming the conviction of Neyhart’s co-defendant, Heather Turner

(“Turner”).<sup>1</sup> Neyhart and Turner were convicted of robbing Joseph “Chubby Joe” Harrold (“Harrold”) in Seaford on November 30, 2010. Neyhart struck Harrold’s truck with a pipe and demanded money from Harrold while he was in the driver’s seat. To obtain Harrold’s money, Turner then moved Harrold’s legs, which Harrold (a paraplegic) had minimal ability to use. That movement caused Harrold to slide out of the driver’s seat and lean against his truck. Turner took Harrold’s wallet from his pants, she and Neyhart then pocketed \$80 in cash, and they returned the wallet to Harrold.

3. Turner and Neyhart were indicted on charges of Second Degree Robbery and Conspiracy, and were tried together in the Superior Court.<sup>2</sup> After the State rested its case-in-chief, Neyhart moved for judgment of acquittal on the charge of Robbery Second Degree. The Superior Court denied the motion. The Superior Court instructed the jury that the applicable statute (11 *Del. C.* § 831(a)(2)) requires a showing that the defendant used force during a theft with the intent to “[c]ompel the owner of . . . property . . . to deliver up the property.” The court also instructed the jury on accomplice liability.<sup>3</sup> During its deliberations,

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<sup>1</sup> *Turner v. State*, \_\_ A.3d \_\_ (Del. 2012).

<sup>2</sup> Neyhart was also tried on, and convicted of, other charges not implicated by this appeal.

<sup>3</sup> The trial court instructed the jury that “in order to find a person guilty of an offense as an accomplice for Robbery in the Second Degree committed by another person, you must find that all of the following elements have been proven” beyond a reasonable doubt:

the jury asked in a note whether “[i]n [the] robbery in the second degree definition [the term] ‘to deliver up the property’ mean[s] he [Harrold] had to physically hand it to [the defendant]?” The trial judge answered “no,” and explained that only “a causal connection between the use of force and the theft is necessary” so long as the force is “applied upon or toward Mr. Harrold with the intent to compel him to deliver the property up.” Neyhart and Turner were each convicted of Second Degree Robbery, but acquitted of Conspiracy.

4. On appeal, Neyhart claims that the proof adduced at trial was legally insufficient to convict him of Second Degree Robbery. Specifically, he argues that there was insufficient evidence that “the force that was used against [Harrold] was intended to compel [Harrold] to [d]eliver up his wallet and further that his wallet was never delivered up in accordance with [the] statute.” We review *de novo* a claim that a conviction was not supported by legally sufficient evidence.<sup>4</sup> The

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(1) Another person committed the elements of the offense charged, or another person and the person [charged], together, committed the elements of the offense charged;

(2) The person intended to promote or facilitate the commission of the offense. “Intentionally” means it was the person’s conscious object or purpose to further assist the commission of the offense;

(3) The person aided, counseled, or agreed to aid another person in planning or committing the offense; [and]

(4) You [the jury] must make an individualized determination of the person’s own culpable mental state. . . .

<sup>4</sup> *Lemons v. State*, 32 A.3d 358, 361 (Del. 2011).

inquiry is whether, viewing the evidence in the light most favorable to the State, a rational juror could find that the offense was proved beyond a reasonable doubt.<sup>5</sup>

5. Neyhart's claim misstates the requirements of 11 *Del. C.* § 831(a)(2). As the jury was told, that statute does not require that the stolen "property" actually be "delivered up" by the owner-victim. Rather, all the statute requires is that the robber use force for the *purpose* of "compel[ling] the owner of the property . . . to deliver up the property." The evidence at trial was sufficient to prove beyond a reasonable doubt that both Neyhart and Turner acted with the requisite intent. The testimony established that Neyhart and Turner first accosted Harrold's nephew, Joseph Everage ("Everage"), in Harrold's presence, with the intent to take money from Everage. A reasonable juror could have found beyond a reasonable doubt that: (a) Neyhart, acting as Turner's accomplice, intended to compel *Harrold* to "deliver up" money when he (Neyhart) smashed Harrold's truck with a pipe *and demanded money from Harrold*; and (b) Turner (aided and encouraged by Neyhart's threatening display of force and demand for money<sup>6</sup>) later used force on Harrold (by moving his legs) to further the same goal. Because a reasonable juror could find beyond a reasonable doubt that Neyhart acted with the intent to

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<sup>5</sup> *Id.*

<sup>6</sup> Specifically, the evidence showed that Neyhart and Turner sought out Everage together in order to take money (by force) from him, then turned to Harrold (Everage's only known associate at the scene) after Everage fled. Turner went into Harrold's truck in search of money after Neyhart first approached and threatened Harrold.

“compel” Harrold to “deliver up” money when he aided Turner in robbing Harrold, Neyhart’s claim lacks merit.

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

BY THE COURT:

/s/ Jack B. Jacobs  
Justice