

STATE OF CONNECTICUT v. JOSEPH BERNARDO, AC 45989

Judicial District of Danbury at G.A. 3

Criminal; Unlawful Restraint; Whether Evidence Was Sufficient to Prove that Defendant Had Specific Intent to Substantially Interfere with Victim's Liberty.

After a trial, the defendant was convicted of one count of unlawful restraint in the first degree in violation of General Statutes § 53a-95, which makes it a class D felony to restrain "another person under circumstances which expose such other person to a substantial risk of physical injury." As the Appellate Court has previously stated, "to prove unlawful restraint in the first degree, the state must . . . establish that the defendant had restricted the victim's movements *intentionally and unlawfully* in such a manner as to interfere substantially with [his] liberty by confining [him] without [his] consent." (Emphasis in original; internal quotation marks omitted.) *State v. Fredrik H.*, 197 Conn. App. 213, 219 (2020). At the trial in the present case, the state presented evidence of the following facts. The victim, Juan Arias Abreu, became friendly with the defendant, an electrician, while working as his apprentice. Abreu reconnected with the defendant a few years after his apprenticeship while working on a job with him. Shortly thereafter, the defendant confided in Abreu that his wife had divorced him and that his children would not speak with him. After Abreu attempted to speak with the defendant's son on the defendant's behalf, the defendant's demeanor toward Abreu became angry and aggressive, and he later told Abreu that he intended to kill the defendant's family and then himself. The next day, the defendant asked Abreu to come to his house right away. When Abreu arrived, the defendant invited him to sit on the porch while he got them some coffee. The defendant then returned with a shotgun, "pumped it" as if loading a bullet into the chamber, and pointed it at Abreu. The defendant proceeded to approach Abreu, who was still seated, and placed the front end of the gun into Abreu's mouth, at which point the defendant began repeatedly asking Abreu why he "wanted" the defendant's ex-wife. After a few minutes, the defendant removed the gun from Abreu's mouth and started moving it up and down Abreu's neck and chest while telling him that Abreu "would be out" if the defendant were to press the trigger. Abreu denied "wanting" the defendant's ex-wife and asked him why he was doing this to him, to which the defendant responded that Abreu owed his life to Ivanka Trump and must pray for her. Recognizing that the defendant was acting irrationally, Abreu grabbed the gun, engaged the safety switch, and pushed it away from the defendant. As Abreu ran to his car, the defendant picked up the gun, pointed it at Abreu, and repeatedly pulled the trigger, but no bullets were discharged. Abreu fled and reported the incident to police, who then arrested the defendant. The defendant was ultimately convicted by a jury of first-degree unlawful restraint. The defendant now appeals his conviction to the Appellate Court, claiming that the evidence presented at trial was insufficient to prove beyond a reasonable doubt that the defendant had specifically intended to substantially interfere with Abreu's liberty, as required to support his conviction. The defendant argues that the state failed to prove that he had acted with the conscious objective of confining Abreu, as there was no evidence that the defendant's gun had been loaded, Abreu testified that the defendant had not been "aggressive" and had not injured him, and the defendant had made no effort to chase after Abreu. The defendant contends that his conviction must therefore be vacated.