

198 Conn. App. 732

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State v. Crafter

defense at issue was specifically provided for in the text of the statute that the defendant was charged with violating. *Ortiz* may not be relied on for the general, broad proposition that a trial court's failure to provide, sua sponte, a defense instruction constitutes plain error. See *State v. Martin*, 100 Conn. App. 742, 751 n.5, 919 A.2d 508, cert. denied, 282 Conn. 928, 926 A.2d 667 (2007). As our Supreme Court has aptly explained, "it would be inappropriate to place the onus on a trial court to discern, without any request from the parties, the specific defenses on which a jury should be instructed." *State v. Bonilla*, supra, 317 Conn. 772. Accordingly, the court was under no obligation to provide a defense of others instruction to the jury.¹⁰

The judgment is affirmed.

In this opinion the other judges concurred.

¹⁰ We find it prudent to make the following observation on the defendant's attempted use of the defense of others defense.

As explained by our Supreme Court, "[t]he defense of others, like self-defense, is a justification defense. These defenses operate to exempt from punishment otherwise criminal conduct when the harm from such conduct is deemed to be outweighed by the need to avoid an even greater harm or to further a greater societal interest. . . . Thus, conduct that is found to be justified is, under the circumstances, not criminal. . . . All justification defenses share a similar internal structure: special triggering circumstances permit a necessary and proportional response." (Citation omitted; internal quotation marks omitted.) *State v. Bryan*, 307 Conn. 823, 832–33, 60 A.3d 246 (2013); see also General Statutes § 53a-19 (a). This court thoroughly explained the contours of the defense in *State v. Hall-Davis*, 177 Conn. App. 211, 226–27, 172 A.3d 222, cert. denied, 327 Conn. 987, 175 A.3d 43 (2017).

The defendant's theory of defense of others is that she proceeded toward the fight in order to protect Michael, not from the victim, but from Demetrius, and the victim inhibited her from doing so. The defendant cites no authority, nor are we aware of any, for the proposition that the defense of others defense is available when a defendant uses physical force on a person who interferes, i.e., the victim, with her effort to defend a party she reasonably believes is in need of defense from yet another party, who was *not* the victim for purposes of the criminal prosecution, i.e., Michael from Demetrius.

NOTE: These pages (198 Conn. App. 747 and 748) are in replacement of the same numbered pages that appear in the Connecticut Law Journal of 7 July 2020.

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198 Conn. App. 748

State v. Morlo M.

STATE OF CONNECTICUT v. MORLO M.*
(AC 41474)

Alvord, Bright and Norcott, Js.

Syllabus

Convicted of the crimes of assault in the first degree, risk of injury to a child and unlawful restraint in the first degree in connection with the beating of the victim, who was the mother of his four minor children, the defendant appealed to this court, claiming that the evidence was insufficient to support his convictions. The defendant had dragged the victim by her hair down stairs into the basement of their home, where he kicked, punched and choked her on three consecutive nights while the children, who ranged in age from fifteen months to thirteen years, were alone on the upper floors of the home. After the defendant left the house on the third day, the victim was brought to a medical center, where staff members observed bruising on her scalp, face, chest, back, legs, arms and left side. The victim also was determined to have had a subconjunctival hemorrhage in her left eye, a broken rib and fluid in her pelvic region. *Held:*

1. The defendant could not prevail on his claim that the state failed to prove that he caused the victim serious physical injury and, thus, that the evidence was insufficient to support his conviction of assault in the first degree: the jury reasonably could have found that the defendant caused the victim to suffer either serious disfigurement or a serious loss or impairment of the function of any bodily organ and, thus, a serious physical injury, as the victim and C, a medical center staff member, testified consistently with one another as to the extensive bruising that covered much of the victim's body, the noticeable injuries to her head and face, and that the victim had lost consciousness during one of the defendant's beatings of her, which the jury was free to credit or disregard; moreover, C testified that the bruising was literally everywhere on the body of the victim, who had a subconjunctival hemorrhage in her left eye, and a police officer who took the victim's statement at the medical center saw that she was missing hair and had a swollen face and a bloodshot eye.
2. The defendant's claim that the evidence was insufficient to support his conviction of risk of injury to a child was unavailing; the jury reasonably could have inferred that the defendant put the children at risk of impairment of their health or morals, as the children had no access to parental

* The defendant's motion to open the judgment was granted on October 20, 2020. This opinion has been superseded by *State v. Morlo M.*, 206 Conn. App. 660, A.3d (2021).

In accordance with our policy of protecting the privacy interests of the victims of the crime of risk of injury to a child, we decline to use the defendant's full name or to identify the victims or others through whom the victims' identities may be ascertained. See General Statutes § 54-86e.