

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION
INFORMATION

DCTN: 050701731
Lockup No: 16
Case No: _____

The United States Attorney for the District of Columbia informs the Court that within the District of Columbia:

Defendant's Name: William C Wert 599393 07067272 02/06/1957
(First) (MI) (Last) (PDID) (CCNO) (DOB)
Address: 1600 WEBSTERST NE, WASH DC

1 On or about May 22, 2007, within the District of Columbia, William C Wert engaged in a sexual act or sexual contact with D.H., a 14 year-old child, that is, William C Wert touched D.H. outside its clothing close to the groin with the intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of William C Wert, where William C Wert knew or had reason to know that the sexual act or contact was without D.H., a 14 year-old child's permission. (Misdemeanor Sexual Abuse, in violation of 22 D.C. Code, Section 3006) (2001 ed.)

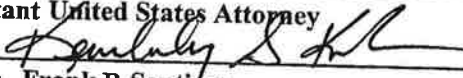
Co-Defendants:

Rule 105:

Judge

United States Attorney for the District of Columbia

By: Assistant United States Attorney



Date: May 23, 2007

By Officer: Frank R Santiago

Badge No.: D2-84

Community Court

Domestic

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION

UNITED STATES

VS

WILLIAM C WERT

May. 23, 2007

The event occurred on 5/22/07 at approximately 1315hrs. alongside 620 Michigan Avenue, N.E. in Washington, DC. C-1 was approached by D-1 after getting off the metro at the Brookland Station. C-1 and D-1 were engaging in a brief conversation, during which time D-1 touched C-1 near his groin area. The touching was unsolicited. W-1 and W-2 observed C-1 hitting D-1 saying he's a pervert, he's a pervert. D-1 was detained until the undersigned officers arrived on the scene. After an investigation D-1 was placed under arrest and transported to 5D for processing. D-1 was charged with 2nd Degree Child Sexual Assault. C-1 is 14 years old and D-1 is 50 years old. D-1 was identified as William Wert.

The events and acts described above occurred primarily in the District of Columbia and were committed as described by defendant(s) listed in the case caption.

Subscribed and sworn before me this 23 day of May, 2007
Det. [Signature] 284 VIB [Signature]
Police Officer Badge District Deputy Clerk

FILED
2007 SEP 17 P 2:28

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION – MISDEMEANOR BRANCH

UNITED STATES OF AMERICA : Criminal No. 2007-CMD-11817
: :
v. : Judge Patricia A. Wynn
: :
WILLIAM WERT : Sentencing Date: September 19, 2007

GOVERNMENT’S MEMORANDUM IN AID OF SENTENCING

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this Memorandum in Aid of Sentencing in the above-referenced case. After a two-day bench trial, this Court found the defendant guilty of Simple Assault, in violation of 22 D.C. Code § 404, in connection with his criminal conduct toward a fourteen-year-old boy, D.H., on May 22, 2007. For the reasons that follow, and any other reasons that may be cited at the sentencing hearing, the government respectfully requests that the Court sentence the defendant to 180 days in jail, execution of sentence suspended as to all but 15 days, followed by a three-year term of supervised probation, during which time the defendant be required to undergo a psycho-sexual evaluation and treatment (if necessary); to comply with any drug and alcohol testing and treatment (if necessary); complete 80 hours of community service; and pay \$50 to the Victims of Crime Compensation Fund.

I. Background

The defendant was charged with Misdemeanor Sexual Abuse. Following a two-day bench trial, this Court found the defendant guilty of the lesser-included offense of Simple Assault. In its verdict, the Court noted that although it found the defendant not guilty of Misdemeanor Sexual Abuse or even Attempted Misdemeanor Sexual Abuse, “at the very least” a Simple Assault occurred.



This Court also found that there was undisputed evidence of the defendant's attraction to D.H. and the defendant's desire for something more. In the Court's view, the defendant's touching was a "prelude" to his desired sexual contact with the complaining witness.

II. Discussion

In sentencing the defendant, the Court "shall impose a sentence" that "(1) [r]eflects the seriousness of the offense and the criminal history of the offender; (2) [p]rovides for just punishment and affords adequate deterrence to potential criminal conduct of the offender and others; and (3) [p]rovides the offender with needed educational or vocational training, medical care, and other correctional treatment." 24 D.C. Code § 403.01(a).

Given the factors present in this case, the Court should sentence the defendant 180 days in jail, execution of sentence suspended as to all but 15 days, followed by a three-year term of supervised probation, with the principal condition that during the defendant's term of probation, he be required to undergo a psycho-sexual evaluation and treatment, if necessary.

First, the nature of the ultimate Simple Assault conviction belies the serious nature of the conduct at issue in this case. The defendant is a 50-year-old Catholic priest. The victim in this case is a 14-year-old boy, D.H., who was returning home from high school after school was dismissed early. Although D.H. was a complete stranger to the defendant, the defendant became physically attracted to him while riding on the Metro. Notwithstanding the defendant's vow of chastity as a priest, and the facts that D.H. was a minor (and even appeared young) and a complete stranger, the defendant got off at the Brookland-CUA Metro station to follow D.H. with the sole purpose of engaging in a sexual encounter with the him. After following D.H. and trying to talk to him, the defendant finally asked him, "Do you know somewhere where we can hide?" After D.H. did not

oblige by going anywhere with the defendant, the defendant touched D.H. on the leg.¹ Simply put, the defendant preyed on D.H. The troubling nature of defendant's intentions and the underlying conduct at issue in this case simply merits some punitive sanction beyond a simple term of probation. Further, a psycho-sexual evaluation during probation would be appropriate to ensure that the defendant does not have counseling issues that need to be addressed to safeguard against similar conduct in the future.

Second, and as will be further demonstrated at sentencing,² D.H. and his family have endured great suffering from the defendant's crime. After the defendant's crime, D.H. exclaimed, "He's a pervert. He's a pervert. He touched me." Further, D.H.'s immediate anger over defendant's crime led D.H. to physically strike the defendant. As was evident at trial, D.H. again became visibly upset when leaving the courtroom after testifying in this case and needed to be consoled in the hallway by family and Detective Santiago. The bottom line is that the defendant's conduct in this case is something that D.H. will be forced to think about every time he gets off the Metro at the Brookland-CUA station on his way home from school. A punitive sanction in this case and a psycho-sexual

¹ Although the Court found that there was no evidence beyond a reasonable doubt that the defendant touched D.H. anywhere other than on the front of the leg, the government notes that there was evidence that D.H. told Detective Frank Santiago of the Metropolitan Police Department and Captain Winslow McGill of the Catholic University Department of Public Safety that the defendant touched him in the inner thigh area. In any event, this Court credited defendant's videotaped statement to Detective Santiago and D.H.'s testimony on the stand that the defendant touched him on the front of the leg (in the thigh area). In crediting this testimony, this Court should also consider that both the defendant and D.H. indicated that the defendant was walking to the outside of the victim (i.e., closest to the curb), defendant's statement that he touched D.H. with his left hand (i.e., would had to have reached across his body to touch D.H.), and D.H.'s testimony that the defendant touched him on his right leg (i.e., the defendant would had to have reached across the D.H.'s body, and crotch area, before touching him).

² The government expects to offer victim impact statements from the D.H.'s mother, great aunt, and possibly D.H.

evaluation during probation would accord respect to D.H. and his family and send the proper message to the community – that is, that the Court will not countenance the defendant’s predatory conduct against a minor.

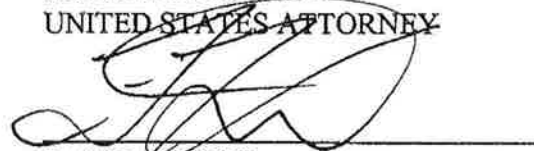
Third, as if assaulting the victim were not enough, after the defendant committed the instant offense, the defendant accused D.H. of “robbing” him. The defendant was also seen trying to leave the scene of the offense. Further, the defendant, throughout much of his post-arrest interview with Detective Santiago, lied repeatedly about his conduct on May 22, 2007. As the defendant noted in that videotaped interview, he is a Catholic priest who trains young men to be priests and holds several leadership positions and responsibilities within his particular order. One can only expect someone of defendant’s stature to have conducted himself with dignity and integrity. Defendant’s attempts to cast blame on the victim, who the defendant had just assaulted, is a betrayal not only to the expectations of defendant’s profession, but also to even more basic norms of decency.

In short, given the defendant’s predatory criminal conduct, the impact upon D.H. and his family, and the betrayal of common decency which the defendant exhibited throughout, the government respectfully asks that the Court sentence the defendant to 180 days in jail, execution of sentence suspended as to all but 15 days, followed by a three-year term of supervised probation, during which time the defendant be required to undergo a psycho-sexual evaluation and treatment, if necessary; to comply with any drug and alcohol testing and treatment, as determined by probation; complete 80 hours of community service; and pay \$50 to the Victims of Crime Compensation Fund.

WHEREFORE, for the foregoing reasons, the government respectfully requests that the Court sentence the defendant in conformity with the recommendation set forth in this pleading.

Respectfully submitted,

JEFFREY A. TAYLOR
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read 'D. B. Kent', is written over a horizontal line. The signature is stylized and somewhat illegible.

DAVID B. KENT
ASSISTANT UNITED STATES ATTORNEY
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SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CASE MANAGER: CRIMINAL DIVISION

2007 SEP 19 10A 9:27

UNITED STATES OF AMERICA

v.

WILLIAM WERT

Defendant.

FILED

Case Number: 2006 CMD 11817
Sentencing Date: September 19, 2007
Senior Judge Patricia A. Wynn

MEMORANDUM IN AID OF SENTENCING

William Wert, through undersigned counsel, respectfully submits this memorandum in aid of sentencing in the above-captioned matter. For the reasons that follow, we respectfully request that the Court sentence Mr. Wert to a period of probation. As grounds for this request, counsel states as follows:

William Wert comes before the Court for sentencing, having been found guilty of the lesser included charge of Simple Assault. Having heard the evidence at trial, the Court is fully aware of the allegations in this matter.

William Wert is a fifty (50) year old man with a spotless record. He has never been arrested, charged, or even alleged to have committed a crime before this matter. Since he received his "call" and began his training at age fourteen (14) he has dedicated his entire life to public service. He has forsaken material goods and the accumulation of personal wealth and dedicated his time, energy, and abilities to those in need. Mr. Wert has given all of his efforts to those less fortunate, those in need of spiritual and emotional counseling and support.

In the twenty-seven (27) years since he "professed" and the twenty-one (21) years since he was ordained, Mr. Wert has been an important member of the community and has served thousands who were in need. Dedicated to helping all of those in need, Mr. Wert has never been



accused of any impropriety.¹ There has never been a single allegation that Mr. Wert has done anything other than the legitimate, selfless performance of his duties. Mr. Wert has been a pillar of his community and his involvement in the instant matter is aberrant.

As a result of the instant matter, Mr. Wert has lost much of what he has accomplished over the course of his service. He was reassigned from his position, a position where he was responsible for the oversight of White Friars Hall. He has had to move from the District of Columbia and his future is very much in doubt. The consequences that Mr. Wert has already received as a result of this matter are serious and life changing. Additional consequences are unnecessary for accomplishing the Court's goals at sentencing. Mr. Wert has been punished and has learned a significant life lesson as a result of his involvement in the instant matter.

WHEREFORE, for the foregoing reasons, we respectfully request that his Court sentence Mr. Wert to a period of probation.

Respectfully submitted,

SCHERLTER & ONORATO, L.L.P.



Mark E. Schamel (#463965)
601 Pennsylvania Ave. NW
North Building, 9th Floor
Washington, D.C. 20004
202-628-4199 Telephone
202-628-4177 Facsimile

Counsel for William Wert

¹ Following the allegations in the instant offense, an investigation was conducted in each of the jurisdictions where Mr. Wert had previously served. Despite publishing the allegations and requesting anyone to come forward, there were no allegations made.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

United States of America
District of Columbia

Case No.: 2007 CMJD 11817

PDID No.: 599-393

vs.

William Warr

JUDGMENT AND COMMITMENT/PROBATION ORDER

The above-named defendant having entered a plea of Not Guilty Guilty to the Charge(s) of _____

1) Simple Assault

and having been found guilty by Jury Court, it is hereby ORDERED that the defendant has been convicted of and is guilty of the offense(s) charged, and is hereby SENTENCED to One hundred and eighty (180) days in jail. E.S.S os to all but fifteen (15) days in jail. Defendant placed on five (5) years probation. - first eighteen (18) months supervised. Probation may be unsupervised during period of time that probation is being transferred to Florida. Execution of sentence stayed until 10/16/07.

MANDATORY MINIMUM term of _____ applies to the sentence imposed

MANDATORY MINIMUM term does not apply.

ORDERED that the defendant be committed to the custody of the Attorney General for imprisonment for the period imposed above.

ORDERED that the defendant be committed to the custody of the Attorney General for treatment and supervision provided by the D.C. Department of Corrections pursuant to Title 24, Section 903[b] of the D.C. Code [Youth Rehabilitation Act 1985].

ORDERED that the defendant be placed on probation in charge of the Director, Social Services Division, and it is further ORDERED that while on probation the defendant observe the following marked conditions of probation:

Supervision may be transferred to Florida

Observe the general conditions of probation listed on the back of this order.

Cooperate in seeking and accepting medical, psychological or psychiatric treatment in accordance with written notice from your Probation Officer.

Treatment for alcohol problems drug dependency or abuse as follows:

Restitution of \$ _____ in monthly installments of \$ _____ beginning _____ (see reverse side for payment instructions.)

The Court will distribute monies to Comply with counseling of any kind recommended by Probation

Costs in the aggregate amount of \$ 50 have been assessed under the Victims of Violent Crime Compensation Act of 1981, and have have not been paid.

ORDERED that the Clerk deliver a true copy of this order to appropriate authorized official(s) and that the copy shall serve the commitment/order for the defendant.

9.19.07

Date

Certification by Clerk pursuant to Criminal Rule 37

9.19.07

Date

Paul Warr

Judge

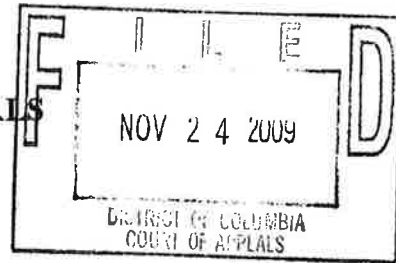
[Signature]

Deputy Clerk



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DISTRICT OF COLUMBIA COURT OF APPEALS



No. 07-CM-1450

WILLIAM WERT, APPELLANT,

v.

CMD11817-07

UNITED STATES, APPELLEE.

RECEIVED

Appeal from the Superior Court of the District of Columbia Criminal Division

NOV 25 2009

(Hon. Patricia A. Wynn, Trial Judge)

Appeals Coordinator's Office

(Submitted November 12, 2009

Decided November 24, 2009)

Before REID, Associate Judge, and FERREN and BELSON, Senior Judges.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: Appellant William Wert was convicted of one count of simple assault. D.C. Code § 22-404 (2001). On appeal, he argues that there was insufficient evidence to support his conviction. We affirm.

I.

On May 22, 2007, fourteen-year-old D.H. was riding the Metro train home from school. When D.H. got off of the train at the Brookland Metro stop, he noticed that a man (later identified as Wert), who had been on the train with D.H., was following him. Wert began to talk to D.H. and after asking the boy's name, Wert asked, "[D]o you know somewhere we can hide"? Wert then touched D.H. on the front of his right thigh. D.H. thought Wert was a pedophile who "tried touching [his] private part," and responded by hitting Wert. Wert began yelling "I'm getting robbed," and when a Metropolitan Police Department (MPD) officer arrived on the scene, D.H. was agitated and exclaimed, "man, he think I'm gay. He think I'm gay." After D.H. told another officer that Wert was a "pervert" and "touched [D.H.] in [his] private area," Wert was arrested.

During an interview with an MPD detective, Wert first claimed that D.H. had tried to rob him, but then admitted that he had become interested in D.H. in the train station, followed him, engaged him in conversation, and then touched his inner thigh. Wert

apologized because there had been a “mistake on his part that he misread [D.H.]” Wert was charged with misdemeanor sexual abuse. D.C. Code § 22-3006 (2001). After a two-day bench trial, the trial court found Wert not guilty of misdemeanor sexual abuse because the touching had not been a sexual contact, but instead found Wert guilty of the lesser included offense of simple assault because appellant had engaged in an “unwanted touching.”

On appeal, Wert argues that there was insufficient evidence to support his conviction for simple assault because (1) there was no evidence of an intent to use “actual violence” against D.H., and because (2) Wert reasonably believed that D.H. consented to the touching. We review the sufficiency of the evidence “in the light most favorable to the government, drawing all reasonable inferences in the prosecution’s favor. We defer to the right of the judge, as the trier of fact, to determine credibility and weigh the evidence.” *Bolden v. United States*, 835 A.2d 532, 534 (D.C. 2003) (internal citation omitted). Only where the government has produced no evidence from which a reasonable mind might fairly infer guilt beyond a reasonable doubt will this court reverse a conviction. *Davis v. United States*, 834 A.2d 861, 866 (D.C. 2003).

I.

Relying on *Williams v. United States*, 887 A.2d 1000 (D.C. 2005), Wert argues that even if “no violence results,” a defendant must have intended to use “actual violence” to be convicted of simple assault. Wert misinterprets *Williams* and the meaning of “actual violence.” In *Williams*, we held that a defendant’s intent to throw a shoe to the side did not satisfy the intent requirement for simple assault when the shoe instead struck a police officer. *Id.* at 1004. We stated that, for conviction, the defendant would have had to throw the shoe with the intent to hit the officer, or with the intent to “use violence” against the officer. *Id.* In this context, however, “violence” does not mean the exertion of significant physical force. We have held that “‘violence’ in its ordinary meaning is not a necessary element of assault, for an attempt to do unlawfully to another any bodily injury however small constitutes an assault.” *Harris v. United States*, 201 A.2d 532, 534 (D.C. 1964) (holding that “the jostling of [the victim], the fumbling with his trouser cuffs, and the impact at the area of his hip pocket [while being pick-pocketed] constituted sufficient evidence to send the case to the jury on the question of assault”). Accordingly, the charge of simple assault encompasses not only physical injury but also all lesser forms of offensive touching. *Watson v. United States*, 979 A.2d 1254, 1257 (D.C. 2009); *Ray v. United States*, 575 A.2d 1196, 1199 (D.C. 1990) (holding that spitting on a police officer constitutes an assault because an assault conviction will be upheld when the assaultive act is merely offensive, even though it causes or threatens no actual physical harm to the victim).

To convict a defendant of simple assault, therefore, the government need only prove

that the defendant (1) engaged in an offensive touching, coupled with (2) “the intent to do the act that constituted the assault” (*i.e.*, offensive touching). *Dorsey v. United States*, 902 A.2d 107, 112 (D.C. 2006). Wert’s query, “do you know where we can hide,” coupled with his completed act of touching D.H.’s thigh, evidenced his intent to commit an offensive touching. In short, because Wert had the requisite intent to commit simple assault and carried it out against D.H., his argument fails.¹

II.

Wert’s next argument that there was insufficient evidence to support his conviction because he reasonably believed that D.H. consented to the touching also lacks merit. In ruling on Wert’s motion for a new trial, the trial court further elaborated its findings on consent, stating that it was “making a finding today that the Government has proven beyond a reasonable doubt that there was not consent and that there was not a reasonable belief that [D.H.] consented to this touching . . . the defendant placing his hand on [D.H.]’s thigh.” We find no evidence in the record that would lead a reasonable person to believe that D.H., a fourteen-year-old boy, consented to a strange adult touching his leg. D.H. and Wert had never met before and had been walking and talking for only a short time before Wert reached out to touch D.H. Furthermore, D.H.’s angry and violent reaction to the touching indicates that Wert in fact did not have his consent. Finally, Wert himself later realized that he “misread [D.H].” Because there was sufficient evidence to support Wert’s conviction, it is

ORDERED and ADJUDGED that appellant’s conviction is affirmed.

¹ Wert also relies on *In re L.A.G.*, 407 A.2d 688 (D.C. 1979), for his argument that an intent to engage in “actual violence” is an essential element of assault. In *L.A.G.*, we reversed a conviction of simple assault where a boy touched a girl’s vagina for five seconds before walking away, laughing. *Id.* at 688-89. We were unable to affirm the assault conviction on a non-violent sexual-touching theory because of the lack of corroboration of the victim’s testimony. *Id.* at 690-92. *L.A.G.*’s holding was, in part, predicated on the corroboration requirement, which has since been abolished, *Gary v. United States*, 499 A.2d 815, 833 (D.C. 1985) (*en banc*), and therefore *L.A.G.* does not support Wert’s argument in this case. See *In re A.B.*, 556 A.2d 645, 648 n.7 (D.C. 1989) (limiting *L.A.G.* by stating that “for appellant to argue that *In re L.A.G.* establishes that the touching of genitalia cannot constitute a nonviolent sexual touching in the absence of harmful intent would directly contradict nearly fifty years of precedent in this jurisdiction, established by *Beausoliel*, [*v. United States*, 71 App. D.C. 111, 107 F.2d 292 (1939)] and its progeny, which could only be reversed by an *en banc* decision of this court”).

ENTERED BY DIRECTION OF THE COURT:

A handwritten signature in black ink, appearing to read "Garland Pinkston, Jr.", written in a cursive style.

Garland Pinkston, Jr.
Clerk of the Court

Copies to:

Hon. Patricia A. Wynn

Lisa Fishberg, Esq.
601 PA Ave., NW., 9th Fl. No. (04)

Roy W. McLeese III, Esq.
Assistant U.S. Attorney