

Circuit Court for Charles County
Case No. C-08-JV-21-000045

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1157

September Term, 2021

IN RE: L.R.

Graeff,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 31, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Found by the Circuit Court for Charles County, sitting as the juvenile court, to have been involved in two acts of second degree assault, L.R., appellant, presents for our review a single issue: whether the evidence is insufficient to sustain the findings. For the reasons that follow, we shall affirm the judgments of the circuit court.

At the adjudication hearing, the State called Sergeant Charles McCue of the Charles County Sheriff's Office, who testified that on March 5, 2021, he was "dispatched to an address on Winged Foot Court" to respond to a 911 call. The 911 dispatcher advised Sergeant McCue "that the subject called and said he had a knife, and [police] better hurry up and get there because he is about to stab his mother or godmother." When the sergeant arrived at the address and "started walking towards the house," L.R. "came from the front door, exited from the house, and . . . had a knife in his left hand." Sergeant McCue testified:

[W]hen I saw him with the knife in his hand, I stopped, started to back up, and told him to drop the knife.

And his response was, "Fuck you. You're going to have to fucking shoot me." And then he started walking towards me.

* * *

[I]t is a split second decision you have to make. When you see someone with a knife in their hand, given the nature of the call, and here is with the knife in his hand, advancing towards you, we are looking at a deadly force scenario.

He's got a knife in his hand. He has somewhat of an advantage with the knife. I have to defend myself, and . . . I have to prepare for an assault. Like, it is imminent.

* * *

. . . I had to draw my service weapon and point it at him. I got on the radio and advised what I had. I started backing up and gave him orders to drop the

knife. He kept repeating for me to shoot him as he kept walking towards me. So I continued to back up.

Sergeant McCue confirmed that “during that time, as [he was] trying to back up,” he believed that L.R. “could have injured [him] in some way,” because L.R. had “a knife in his hand,” was “advancing towards” the sergeant, and was “[p]robably between seven to ten feet” from the sergeant.

Sergeant McCue testified that he “went back and forth” with L.R. until the sergeant’s “second unit,” Corporal Christopher Curtis of the Charles County Sheriff’s Office, arrived. Sergeant McCue “yelled for [the corporal] to get his taser ready.” When L.R. “presented his back side to Corporal Curtis,” Sergeant McCue “ordered [the corporal] to pull the trigger on his taser and deploy the taser on him.” The taser struck L.R.’s “loose jacket” and “didn’t take effect.” L.R. “then presented his front side to Corporal Curtis,” and Sergeant McCue “ordered [the corporal] to pull the trigger a second time to deploy his second cartridge.” The “second cartridge hit [L.R.] in the front abdomen, chest, [and] leg area,” and “he fell to the ground.” The officers then “immediately moved in and cuffed [L.R.], and separated the knife from him.”

The State also called Corporal Curtis, who testified that “when [he] started telling [L.R.] to drop the knife, he kind of stopped paying attention to Sergeant McCue and started focusing on” the corporal. L.R. “stopped, . . . walked towards” Corporal Curtis, “then he went and walked away.” Corporal Curtis confirmed that L.R. did not “give . . . any indication that he was going to drop the knife,” “was . . . close enough to be able to lunge

at” the corporal, and would have been “[t]wo or three seconds” from stabbing him. When asked whether he felt “any level of force was necessary,” Corporal Curtis testified:

[B]ecause of the 911 call we had, because he is walking towards a police officer with the knife in his hand, walking toward me with the knife. He had a knife in his hand and he won’t drop it. [W]e tried to talk to him and he wouldn’t listen, so we had to take the next step.

Corporal Curtis further confirmed that he believed that L.R. “had the ability to harm [the corporal] with that knife,” and that he was “in fear.”

Finding L.R. to be involved in the acts, the court stated:

[I]t is not whether [L.R.] intended to harm [the officers], it is whether he intended to place them in fear of imminent serious bodily harm and physical contact.

[H]e made statements of what he wanted them to shoot him, and the way to get them to do that was to place them in fear.

And that is what his actions did, and he did have the ability, present ability, to have done that.

That . . . the officers did reasonably fear that there could have been immediate physical . . . harm.

His actions were not legally justified.

And again, . . . this is a very unfortunate situation, but again, the suicide by cop, if you will. [O]bviously he was very upset, he was coming towards the officers, refused to drop the knife, refused to stop, and it led to his being taken into custody.

L.R. contends that for numerous reasons, the court “erred [in] finding that the State adequately proved that [he] harbored the requisite specific intent to frighten the . . . officers.” We disagree. Before Sergeant McCue arrived at L.R.’s residence, the 911 dispatcher informed him that the person who called 911 stated that “he had a knife” and

was “about to stab” someone. When Sergeant McCue arrived at the residence and ordered L.R. to “drop the knife,” L.R. refused and effectively stated that he would not do so unless the sergeant shot him. L.R. then advanced within seven to ten feet of Sergeant McCue and continued to brandish the knife, despite the sergeant’s repeated orders to L.R. to drop it. Finally, when Corporal Curtis arrived at the residence, L.R. advanced within “[t]wo or three seconds” of the corporal and continued to brandish the knife despite the corporal’s attempt “to talk to” L.R.. We conclude that this evidence could convince a rational trier of fact beyond a reasonable doubt that L.R. intended to place the officers in fear of immediate physical harm, and hence, the evidence is sufficient to sustain the court’s findings.

**JUDGMENTS OF THE CIRCUIT COURT
FOR CHARLES COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**