

CASE SUMMARIES

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Criminal Law and Procedure

Court Addresses Self-Defense Claims to the Charges of Criminal Damage to Property and Disorderly Conduct

People v. McLennon, 2011 IL App (2d) 91299 (Nov.2011)

Illinois law allows a defendant to assert self-defense as an affirmative defense to a charge for conduct that might otherwise constitute a crime under 720 ILCS 5/7-1. In the statute, the crimes which a defendant can use a theory of self-defense are not delineated, however, the defense is normally reserved for crimes against a person. The Illinois Appellate Court, Second District, recently decided a case in which the defendant asserted self-defense for the crimes of criminal damage to property and disorderly conduct.

In *People v. McLennon*, 2011 IL App (2d) 91299, the testimony elicited at the defendant's bench trial was that he fell asleep in a restaurant while waiting for his food. Police were called to the restaurant. After the defendant awoke, police officers escorted him to an ambulance. The defendant was not placed into custody, but he was transported to a nearby hospital despite his protest otherwise. Once at the hospital, the defendant became agitated, began screaming, and swinging at hospital staff. The defendant was restrained and hooked up to an EKG machine without his consent or consulting his physician. While a nurse was placing a lead wire from the EKG machine on the defendant, he grabbed the wire and broke it in half. Officers were called to the hospital, at which time the defendant was arrested for criminal damage to property. Later, he was also charged with an additional count of disorderly conduct. The trial court found the defendant guilty of both criminal damage to property under \$300 and disorderly conduct and sentenced him to nine months' court supervision and 30 hours of community service.

On appeal, the defendant argued that the state did not prove him guilty beyond a reasonable doubt because he was acting in self-defense when he purportedly committed the offenses at issue in this case. 720 ILCS 5/7-1 provides that "[a] person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other's imminent use of unlawful force." As to both of the charges, the defendant argued that he was defending himself against a battery, as he did not consent to the medical treatment. Both the state and the defendant relied on different caselaw in support of each of their positions. The Appellate Court acknowledged that the plain language of 720 ILCS 7-1 states that for the force to be justified as self-defense it must be directed at another person.

The court found the facts in the case at bar are controlled by the caselaw cited by the state in *People v. Brant*, 394 Ill.App.3d 663, 916 N.E.2d 144, 151 – 152, 344 Ill.Dec. 111 (2d Dist. 2009). In *Brant*, the defendant was charged with criminal trespass to residence, and the court held self-defense is not available to a defendant because offense does not

require the state to prove force against another person. Similarly, in the instant case, the defendant's underlying conduct was not directed at another person but rather the force was directed at the wire. The plain language of the statute limits self-defense to the use of force only against another. Accordingly, it cannot be asserted as an affirmative defense to a charge of criminal damage to property.

Likewise, the court held the defendant cannot avail himself or herself to self-defense to the charge of disorderly conduct either. One requirement in 720 ILCS 7-1 is that the threatened force is imminent. There is no evidence to support that the defendant was in imminent harm; upon hearing the plan for his course of treatment, he became angry, yelled, and swung at hospital staff. Given that no treatment had started when the defendant breached the peace, the court held there was no imminent harm as to invoke self-defense. Therefore, the court found the facts did not support the affirmative defense of self-defense to the charge of disorderly conduct.

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