

**MISSOURI COURT OF APPEALS-WESTERN DISTRICT
SPECIAL DIVISION
W. DOUGLAS THOMSON, PRESIDING JUDGE
GARY D. WITT, JUDGE
ZEL M. FISCHER, SPECIAL JUDGE
MARCH 28, 2022
NORTHWEST MISSOURI STATE UNIVERSITY
MARYVILLE, MISSOURI**

WD84162

State of Missouri, Respondent,

v.

Curtrail J. Hudson, Appellant.

Curtrail Hudson appeals from his conviction by the circuit court of Jackson County of one count of murder in the second-degree, one count of assault in the first-degree, one count of unlawful use of a weapon, and three counts of armed criminal action. As established by the evidence at trial, on August 1, 2018, after allegedly smoking marijuana, Hudson called his aunt and told her that she was going to have to come and get him and stated: "I'm thinking I'm going to go to jail." After that conversation, Hudson took a loaded shotgun to the house of a neighbor and acquaintance, Surge Israel Charles. Hudson accused Charles of lying to him, and Hudson shot Charles. As Charles ran away, Hudson shot him again. Hudson ultimately shot Charles in the chin, neck, back, and arms. Vincent Main was driving by and saw that Charles was shot. Main stopped his vehicle and, while he was stopped, Hudson ran towards Main and shot into Main's car as he drove away. Main was shot in the rib cage with a pellet or BB. Xingong Hao was outside at the time Charles and Main were shot, and, following his attack on Main, Hudson proceeded to shoot Xindong Hao multiple times. Hudson also beat Hao 13 times in the head with the butt of the shotgun. Hao died from his injuries. Another neighbor, Patrick Knight, testified at trial that he witnessed Hudson shoot and beat Hao to death. Charles, Charles's mother, and Main also identified Hudson at trial. Hudson maintained that his marijuana had been laced with PCP without his knowledge and sought to argue that he was involuntarily intoxicated. He wanted to put forth the testimony of an expert witness, Dr. Lisa Witcher, who would testify as to the effects of PCP. Hudson also sought to have the jury instructed on involuntary intoxication. Prior to trial, the trial court ruled that the testimony of Dr. Witcher would be excluded, but the court declined to rule on Hudson's request until after evidence was presented. At trial, Hudson admitted to smoking marijuana and to shooting Charles and Hao. The Court did not instruct the jury on involuntary intoxication. The jury found guilty of murder in the second-degree for the killing of Hao, assault in the first-degree for the shooting of Charles, unlawful use of a weapon for shooting into Main's car, and three counts of armed criminal action. The jury found Hudson not guilty of assault in the first-degree of Main and the related armed criminal action count. The court sentenced Hudson to a total of 26 years' imprisonment. This appeal followed.

Appellant's points on appeal:

1. The trial court abused its discretion in excluding Dr. Lisa Witcher as a witness because excluding Dr. Witcher deprived Appellant of his rights to a complete defense and due process of law—guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and by Article I, Sections 10 and 18(a) of the Missouri Constitution—in that Dr. Witcher was qualified as an expert witness, Dr. Witcher’s testimony was logically and legally relevant, and Appellant suffered prejudice by the trial court’s erroneous exclusion of Dr. Witcher as a witness.
2. The trial court erred in refusing to instruct the jury on the issue of involuntary intoxication because failing to instruct the jury on this defense deprived Appellant of his rights to a fair trial and due process of law—guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and by Article I, Sections 10 and 18(a) of the Missouri Constitution—in that substantial evidence supported instructing the jury on involuntary intoxication and resolved any factual disputes, not the trial court.

WD84570

George Schumacher, Appellant,

v.

Linda Stalder, et al., Respondent.

Appellant George Schumacher appeals the judgment of the Circuit Court of Cass County entered in favor of Linda Stalder. Schumacher and Stalder were in a romantic relationship when Schumacher purchased a home in Raymore, Missouri. Schumacher paid the entire purchase price of the home but titled the house in the name of Stalder and his former brother-in-law, Cass Evans, as joint tenants. Schumacher alleged that he conveyed one-half interest in the house to Evans to both pay Evans to renovate the home and to allow Evans to obtain credit and financing more easily for that work. Schumacher alleged that he titled the other one-half interest in the home to Stalder as a means of ensuring that she would receive an interest in the house after Schumacher’s death. Evans resided in the home during the renovations. Unfortunately, Evans began to have financial issues. He failed to repay a loan Schumacher had given him to renovate the house. Evans settled his debt with Schumacher by deeding his interest in the house back to Schumacher. Schumacher and Stalder ended their relationship. Stalder evicted Evans from the home, before he had completed renovations, and took exclusive possession of the property. Schumacher filed an action to quiet title or, in the alternative, to have the property partitioned. The circuit court found that Stalder and Schumacher each owned one half interest in the home in partition. This appeal followed.

Appellant’s points on appeal:

1. The circuit court erred in denying judgment in quiet title to Mr. Schumacher because it erroneously applied the law in that it employed the legal standard for setting aside a deed, which requires a finding of fraud, mistake, undue

influence, or some recognizable equitable ground to obtain relief, when a Missouri quiet title claim requires only the demonstration of a superior claim of title.

2. The trial court erred in ruling that Mr. Schumacher's decision to have Ms. Stalder's name placed on the purchase deed to his property was made with donative intent, because that determination is against the weight of the evidence in that Ms. Stalder's self-serving statements fail to induce belief in that finding when considered in the totality of evidence presented at trial.

WD84618

Hannah Stickler and Molly Stickler, Respondents,

v.

Austin McGinnis, Appellant, and Kenneth Wells, Defendant.

Appellant Austin McGinnis appeals the judgment of the Circuit Court of Andrew County denying his motion to enforce a settlement agreement. Hannah Stickler and Molly Stickler (collectively, the "Sticklers") brought a wrongful death action against McGinnis and Kenneth Wells for the death of the Sticklers' father as a result of a motor vehicle and motorcycle accident. At the time of the accident, McGinnis was driving a vehicle that was insured by State Farm Insurance. A series of letters sent between counsel for the Sticklers, State Farm, and counsel for McGinnis discussed settlement of the suit. During this correspondence, counsel for the Sticklers sent a letter offering to settle the suit for "the aggregate combined total limits any/all applicable policy coverages insuring Austin McGinnis." State Farm responded that it accepted the offer for "the policy limits of \$250,000." The parties then entered into extensive correspondence regarding whether there was a settlement given the alleged difference in how the parties characterized the settlement terms. Ultimately, McGinnis filed a motion to enforce the settlement agreement alleging that the parties had agreed to settle the suit for the policy limits of \$250,000. The Sticklers responded that there was no mirror image acceptance of the offer because State Farm's response to their offer was not identical to the offer made. The trial court heard argument before entering a judgment finding that there was never a meeting of the minds on the three requirements of a contract: offer, acceptance, and consideration. This appeal followed.

Appellant's point on appeal:

The trial court erred in denying Defendant McGinnis' Motion to Enforce Settlement Agreement because the parties reached a settlement of Plaintiffs' alleged claim against Defendant McGinnis in that all of the essential elements of a contract existed and there was no counteroffer made by Defendant McGinnis nor did Defendant McGinnis manifest a positive intention to not carry out the terms of the settlement.

WD84818

Walter Adams, Appellant,

v.

Treasurer of the State of Missouri-Custodian of the Second Injury Fund, Respondent.

Walter Adams appeals the final award issued by the Labor and Industrial Relations Commission (the “Commission”) denying Adam’s claim against the Second Injury Fund. For the majority of his career, Adams was employed as a heavy diesel mechanic. In 1984, Adams suffered a work-related injury to his left hand as a result of a clamping tool malfunction. The injury required surgery and resulted in the loss of Adams’ ability to grasp with his left hand and the loss of significant range of motion. In 2001, Adams suffered an injury to his lower back and knees when a scaffolding he was on was not secured and rolled out of position. The injury resulted in surgery to each knee and continuing chiropractic care for his lower back. On September 17, 2015, Adams was again injured while at work. Adams was moving a jack used to lift trailers when the jack pinned his right hand against the trailer. His right hand was injured, and he also tore the bicep tendon and rotator cuff in his right arm. His injury resulted in an inability to effectively grip with his right hand, as well as a reduction in his range of motion and ability to reach over his head. The Administrative Law Judge found that Adams was permanently and totally disabled as a result of his three work-related injuries and found the Second Injury Fund liable. The Second Injury Fund appealed to the Commission. The Commission reversed the finding of the Administrative Law Judge. Instead, the Commission found that the 2001 injury did not meet the 50-week threshold of Missouri Revised Statute 287.220.3 because it did not separately apportion the disability determination between the injury to Adams’ knees and his lower back. Therefore, although Adams was permanently and totally disabled, the Commission found it was a result of a “non-qualifying” disability. This appeal followed.

Appellant’s points on appeal:

1. The Commission erred in failing to find that the Second Injury Fund had stipulated to Adams’ 2001 Injury as meeting the 50-week threshold of section 287.220.3, because the Second Injury Fund was a party in the 2001 Injury and joined in the stipulation to the same, in that the Second Injury Fund stipulated that the injury at issue represented 60-weeks of permanent partial disability to Adams’ lower body.
2. The Commission erred in interpreting and applying section 287.190 to require that inter-related disabilities which are all a direct result of a single compensable injury cannot be properly found to impact the body-as-a-whole, because case law specifically holds that a single workplace accident which produces disabilities to multiple parts of the body, including schedules losses, can properly be combined to a single body-as-a-whole injury, in that Adams suffered a single traumatic workplace accident which produced disability in his entire lower body, not unrelated disabilities in each of his knees and lower back.

3. The Commission erred in interpreting and applying section 287.220.3 to require that disabilities which constitute a direct result of a single compensable injury each individually meet the 50-week threshold, because a single workplace accident which produces disabilities to multiple parts of the body must be combined to determine the “pre-existing disability” for purposes of section 287.220.3, in that Adams suffered a single traumatic workplace accident which produced disability in his entire lower body, not unrelated disabilities in each of his knees and lower back.