

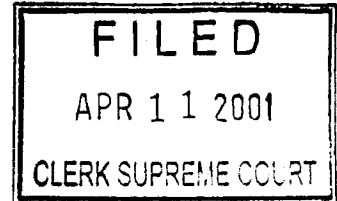
IN THE COURT OF APPEALS OF IOWA

No. 0-508 / 99-1930
Filed April 11, 2001

STATE OF IOWA,
Plaintiff-Appellee,

vs.

MITCHELL RAY LANGEL,
Defendant-Appellant.



Appeal from the Iowa District Court for Linn County, Douglas S. Russell,
Judge.

Mitchell Langel appeals from his convictions and sentences for attempted
murder in violation of Iowa Code section 707.11 (1997) and willful injury in
violation of section 708.4. **AFFIRMED.**

Alfredo Parrish of Parrish, Kruidenier, Moss, Dunn & Montgomery, L.L.P.,
Des Moines, for appellant.

Thomas J. Miller, Attorney General, Cristen C. Odell, Assistant Attorney
General, and Denver D. Dillard, County Attorney, and Jerry Vander Sanden,
Assistant County Attorney, for appellee.

Heard by Zimmer, P.J., and Hecht and Vaitheswaran, JJ.

VAITHESWARAN, J.

Mitchell Ray Langel appeals a judgment and sentence for attempted murder and willful injury in connection with the shooting of a Cedar Rapids police officer. He contends: (1) the evidence was insufficient to support the district court's findings of guilt; (2) the court abused its discretion in denying his motion for new trial; and (3) the court abused its discretion in excluding comments by State expert witnesses that the case should have been plea bargained. We affirm.

I. Background Facts and Proceedings

Deputies with the Linn County Sheriff's office went to Langel's Cedar Rapids apartment to serve him with papers committing him to a mental health facility. Having been previously advised by Langel's mother that he was in his apartment and might have a shotgun, a deputy notified Cedar Rapids police captain Philip Peters of the potential for violence.

Upon arriving at the apartment, two deputies stationed themselves outside the building while two knocked and announced themselves. Langel did not respond. One of the deputies updated Peters on the situation, then continued to knock. Another deputy telephoned Langel and left a message to either answer the phone or come to the door. Langel still did not respond. The stand-off continued for several hours. When the sun began to set, Langel announced "things would happen" after dark.

As the deputies continued their efforts to get Langel out of the apartment, Captain Peters established surveillance in the attic of Langel's apartment. On discovering an access door from the attic to Langel's bedroom, Peters and a

deputy jointly decided Peters would enter the apartment along with another officer, in an effort to obtain better surveillance. Peters did so. As the other officer began his descent into the apartment, Langel became aware of their presence. Unable to retreat safely, Peters opened the bedroom door and found himself with a full view of Langel, who was seated on a couch in the living room at the end of the hallway. Peters drew his handgun, shined a flashlight on Langel's face and approached him while simultaneously announcing himself. As Peters neared the living room, he stumbled, then heard a loud bang and felt the impact of a shot gun blast to his face.

On hearing the shot, deputies broke into the apartment. They found Peters on the floor and Langel standing with a shotgun in his hand. An officer retrieved a spent shell casing from the gun. As a result of the shooting, Peters became blind in his left eye and sustained other injuries.

The State charged Langel with attempted murder and willful injury. Iowa Code §§ 707.11; 708.4; 902.7 (1997). Langel notified the court of his intent to assert the defense of diminished responsibility. He was tried to the court after waiving his right to a jury trial. The district court found Langel guilty on both counts and sentenced him to indeterminate terms not exceeding twenty-five and ten years respectively, to be served concurrently.

Langel moved for a new trial. The court denied the motion after concluding all the elements of each charged offense had been proven.

Langel appealed, asserting in part that the district court applied an obsolete legal standard in ruling on his motion for new trial. We agreed and ordered the case remanded for the limited purpose of reconsidering the motion

for new trial in light of a new standard articulated by the Iowa Supreme Court. *See State v. Ellis*, 578 N.W.2d 655, 659 (Iowa 1998). The district court did so and again denied Langel's motion for new trial. The case was returned to this court for consideration of the remaining issues asserted on appeal.

II. Sufficiency of the Evidence

Langel first contends the evidence was insufficient to support the court's findings of guilt. We review a challenge to the sufficiency of the evidence for correction of errors at law. *State v. Thomas*, 561 N.W.2d 37, 39 (Iowa 1997). The district court's findings of guilt are binding on appeal if supported by substantial evidence. *Id.* Evidence is substantial if it could convince a rational fact finder of the defendant's guilt beyond a reasonable doubt. *State v. Hopkins*, 576 N.W.2d 374, 377 (Iowa 1998). We consider all the record evidence, not just the evidence supporting guilt, but view the evidence in the light most favorable to the State. *Id.*

A. Attempted Murder. With respect to this charge, the State was required to prove that Langel, with the intent to cause the death of Peters, set in motion a force or chain of events that would cause or result in that death. Iowa Code § 707.11.

Langel first argues it was Peters who set in motion the chain of events described above. His argument is premised on Iowa Code section 229.11, which authorizes "the sheriff or the sheriff's deputy" to detain persons with serious mental impairments, pending a hearing. According to Langel, because this provision does not authorize city police officers to detain mentally ill persons, Peters's entry into his apartment was illegal and the illegal entry triggered his

own subsequent injuries. We reject this contention. Iowa Code section 331.652 authorizes a sheriff to call upon "any person for assistance to . . . [e]xecute a process of law." The lead deputy sheriff did just that. He initially contacted Captain Peters to apprise him of the situation, then obtained his assistance in conducting surveillance of the apartment. Peters entered Langel's apartment only after consulting with the deputy sheriff. Therefore, his entry was authorized. Additionally, the record contains substantial evidence that Langel's own affirmative acts of sequestering himself in the apartment and then aiming and shooting a firearm directly at Peters set in motion the chain of events that could have resulted in Peters' death.

Langel next contends his diminished responsibility prevented him from forming the specific intent to cause the death of Peters. Where specific intent is an element of the charged crime, the diminished responsibility defense allows a defendant to present evidence of diminished mental capacity. *State v. Jacobs*, 607 N.W.2d 679, 684 (Iowa 2000). Defense and State mental health experts addressed this issue. Dr. Rogers, a forensic psychologist testifying on behalf of Langel, stated Langel suffered from bipolar disorder that diminished his ability to think and rationalize. Dr. Frederickson, a psychiatrist employed by the State, agreed Langel suffered from a mental illness but opined he did "not see anything irrational or bizarre about his behavior from the testimony of the officers or other individuals involved in his emergency civil commitment." While conceding some "reduced responsibility" from a psychiatric point of view, the doctor questioned how his opinion related to the legal definition of diminished responsibility and the ability to form intent.

Other treating mental health professionals also testified. Dr. Safdar stated people with bipolar disorder had normal and abnormal periods and one needed to consider the particular circumstances at the time. Dr. Modha testified people suffering from bipolar disorder were still capable of committing voluntary acts of violence, depending on the circumstances.

Examining Langel's behavior before, during, and after the shooting, the district court concluded Langel was capable of forming specific intent. In its post-trial ruling on remand, the court summarized the evidence it found credible on the issue of specific intent, including the medical evidence. The court found Dr. Frederickson's approach of examining a person's actual behavior more persuasive than Dr. Roger's approach of extrapolating behavioral characteristics common to persons suffering from bipolar disorder. The court stated it weighed "the credible testimony of all the doctors that the Defendant would be capable of intentional acts unless he was in a psychotic state." The court then concluded "from the greater weight of the credible evidence that from the observations of persons at the scene the Defendant was not in such a state, was not delusional, but was capable of and did, in fact form specific intent."

As noted in *Jacobs*, "[w]hen a case evolves into a battle of experts, we, as the reviewing court, readily defer to the district court's judgment as it is in a better position to weigh the credibility of the witnesses." *Jacobs*, 607 N.W.2d at 685. Accordingly, we find no reason to reject the court's preference for Dr. Frederickson's approach over Dr. Roger's. We further conclude the district court's finding that Langel was capable of forming the requisite specific intent is supported by substantial evidence. Cf. *State v. Wheeler*, 403 N.W.2d 58, 64

(Iowa Ct. App. 1987) (finding substantial evidence of specific intent despite diagnosis of psychotic-paranoid schizophrenia where defendant shot father at close range after hours of deliberation).

B. Willful Injury. Willful injury requires proof that a person does an act which is not justified and which is intended to and does cause serious injury to another. Iowa Code § 708.4 Essentially, it is an assault committed with the specific intent to cause serious injury. *State v. Escobedo*, 573 N.W.2d 271, 279 (Iowa Ct. App. 1997). Serious injury "is a bodily injury creating a substantial risk of death, causing serious permanent disfigurement, or causing protracted loss or impairment of the function of any body member or organ." *State v. Ramirez*, 616 N.W.2d 587, 592 (Iowa 2000). Langel maintains again that he was not capable of forming the requisite intent. We reject this contention for the same reasons we rejected it with respect to the attempted murder charge.

III. Denial of Motion for New Trial

Langel next contends the district court should not have denied his motion for new trial. We disagree. We review rulings on motions for new trials for an abuse of discretion. *State v. Atley*, 564 N.W.2d 817, 821 (Iowa 1997). We conclude the district court did not abuse its discretion in denying the motion. The court rendered its ruling on remand after weighing the credibility of both lay and expert witnesses. The court noted it found credible the testimony of a Department of Criminal Investigation firearms expert who stated the shotgun used by Langel would not have fired unless first cocked. The court found from this and other evidence that Langel "armed himself with the shotgun, pointed it, cocked it and fired it at the victim." The court further found credible Captain

Peters's testimony that Langel said he knew someone was in the apartment. The court gave weight to Dr. Roger's testimony that well after the incident, Langel acknowledged he shot at a man later identified as Peters. The court additionally pointed out that the officers who saw Langel on the day of the shooting were better able to assess Langel's mental capacity than the hospitalization referee who signed the commitment papers days earlier or Langel's mother and counselor, who had not seen him that day. In sum, the court did precisely what *Ellis* required; it concluded the verdict was not contrary to the law or evidence after considering the greater weight of the evidence in light of witness credibility. See *Ellis*, 578 N.W.2d at 658. We find no abuse of discretion.

IV. Evidentiary Ruling

Langel finally challenges the district court's decision to exclude a statement contained in a letter from Drs. Frederickson and Loeffelholz to the court that the case "may lend itself to a plea bargain." He maintains the assertion is relevant to whether he was suffering from a mental impairment that would negate specific intent. Our review of questions involving the admissibility of expert testimony is for abuse of discretion. *State v. Khalsa*, 542 N.W.2d 263, 268 (Iowa Ct. App. 1995).

In excluding this statement, the district court reasoned:

Although evidence of the doctors' opinions concerning plea agreements in the case may be relevant in the general sense of the Rules of Evidence, any statements by these witnesses concerning plea agreements would not be within the scope of their expertise as physicians but rather would be statements of legal conclusions as to the strength of the State's evidence and not a proper subject for their testimony under Rule 702.

We agree with this reasoning. We have stated, "[e]xpert witnesses may not give opinions on matters outside of their scope of knowledge simply because they are designated to be experts." *Oldham by Oldham v. Shenandoah Community. Sch. Dist.*, 461 N.W.2d 207, 208 (Iowa Ct. App. 1990). The doctors' non-medical opinions about the desirability of a plea bargain clearly exceeded the scope of their medical expertise. Therefore, the district court did not abuse its discretion in excluding that opinion.

We affirm Langel's judgment and sentence.

AFFIRMED.