

State of West Virginia v. Meade (Sup.Ct.App. W.Va., 1996)
196 W. Va. 551; 474 S.E.2d 481; 1996 W. Va. LEXIS 50

The appellant [William Harrison Meade] was indicted by a Cabell County grand jury upon two counts of attempted murder of the first degree. Count one charges that the appellant attempted to murder Kenneth L. Slaughter by trying to run him over with a car. Count two charges that the appellant attempted to murder Greg E. Stevens in the same manner. The appellant's trial was conducted on September 8 and 9 and September 11, 1994. The jury returned a verdict of guilty with regard to count one of the indictment and a verdict of not guilty with regard to count two.

At trial, the evidence of the State consisted largely of the testimony of Kenneth L. Slaughter. According to Mr. Slaughter, he and Greg E. Stevens, both black men, were walking home in the early morning hours of Saturday, June 12, 1993, in the City of Huntington, West Virginia, when they were accosted by three white males in a car shouting racial epithets. Mr. Slaughter and Mr. Stevens kept walking, but, when they reached the parking lot of Papa John's Pizza restaurant on Ninth Street, the car sped onto the lot and the occupants got out. One of the occupants was a white male with extensive tattoos and with a pair of brass knuckles on one hand. At trial, Mr. Slaughter identified the latter individual as the appellant

As Mr. Slaughter indicated, upon exiting the car, the appellant approached Mr. Slaughter in a belligerent manner, shouted more racial epithets and sought to engage Mr. Slaughter in a fist fight. Mr. Slaughter, however, noticed that the employees of Papa John's Pizza were closing the restaurant for the evening and entreated them to call the police. Upon realizing that the police were being called, the appellant and the other two white males returned to their car, with the appellant in the driver's seat, when, at that point, their rear windshield was broken by a rock thrown by an unidentified third black male. Immediately thereafter, the appellant drove the car across the lot at an accelerating rate of speed, attempting to hit Mr. Slaughter and Mr. Stevens.

The appellant spun the car around and again attempted to hit Mr. Slaughter and Mr. Stevens. The second attempt was a near miss with regard to Mr. Slaughter who was forced to jump upon a wall near the restaurant to avoid being struck. Upon entering the parking lot, the police observed the car attempting to hit Mr. Slaughter. The car was immediately halted, and the appellant was placed under arrest. At trial, Mr. Slaughter, Mr. Stevens and Sergeant Steven Hall of the Huntington Police Department each testified that the appellant had been driving the car.¹

¹ During the trial, Sergeant Hall testified as follows:

A. . . . As I recall, it was Mr. Slaughter that was in imminent danger of being struck by the accused's vehicle and he jumped or dove out of the way of the car.

During this period I was activating my emergency red light to attempt to get the vehicle to stop. Mr. Slaughter had, like I said, got out of the way of the vehicle and the vehicle came on toward my cruiser and eventually did stop.

On the other hand, the appellant's evidence at trial indicated that earlier in the evening the appellant and his two passengers purchased some motor oil and drove to the parking lot at Papa John's Pizza to put the oil in the car engine. At that point, an argument ensued with some black males, whereupon one black male threw the rock breaking the rear windshield of the car as the appellant and his two passengers were driving away. According to the appellant, he then drove the car back onto the parking lot to confront the assailant, at about the same time the police arrived. The appellant testified at trial that he did not intend to strike or run over anyone with the car. The appellant indicated that he drove the car and had the brass knuckles on the night in question.

* * * *

At the conclusion of the trial, the circuit court gave various instructions to the jury, including instructions concerning attempted murder of the first degree. * * * *

[T]he jury returned a verdict of guilty of attempted murder of the first degree with regard to count one of the indictment concerning Mr. Slaughter. The jury returned a verdict of not guilty with regard to Mr. Stevens. The appellant's motion for a new trial and for judgment notwithstanding the verdict was denied by the circuit court

....

Q. From your angle, is there any doubt in your mind that Mr. Slaughter would have been hit by that vehicle [had] he not dove out of the way?

A. No, he would have been hit had he not got out of the way.”