

NOT DESIGNATED
FOR PUBLICATION

STATE OF LOUISIANA

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COURT OF APPEAL

VERSUS


FIRST CIRCUIT

DANNIE RAY HAYWARD

NUMBER 2007 KA 0228

McDONALD, J., Concurring:

JUN 13 2007



I agree with the majority that the evidence is sufficient to support a conviction on the three counts of aggravated battery. However, the defendant indicated that he tried to kill Pamela, but did not intend to stab his children. The majority is correct that his actions indicate that it was reasonably certain that he would injure his children when he continued his attack on their mother after they tried to protect her. However, the evidence also indicates, as does his statement, that he is also guilty of the battery on the children under a theory of transferred intent.

In defining what type of conduct constitutes a battery, our courts have employed the doctrine of transferred intent. Under this theory, if a person intended to inflict serious bodily injury while trying to hit another person, but missed and accidentally hit someone else instead, such intent is transferred to the actual victim. *State v. Druilhet*, 97-1717, p. 4 (La.App. 1 Cir. 6/29/98), 716 So.2d 422, 424; *see also State v. P.M.*, 2000-1613, p. 3 (La.App. 3 Cir. 5/2/01), 786 So.2d 857, 859-60 (stating that while a conviction of second degree battery requires a finding of specific intent, the statute does not absolve from guilt an offender who unintentionally injures someone while specifically intending and physically attempting to injure another person).

Stoshak v. East Baton Rouge Parish School Bd., ---So.2d---, 2007 WL 529852, 2006-0852 (La.App. 1 Cir. 2/21/07).

Even if he did not intend to injure the children and only intended to injure Pamela, he would still be guilty of a battery on all three. Therefore, the evidence clearly supports his conviction and it should be affirmed.