



Muskingum County Prosecutor's Office

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Jurors convict man representing himself at trial

At the conclusion of a two-day trial in common pleas court this week, jurors deliberated for less than 20 minutes before finding Brandon Hultgren guilty as charged of two counts of felonious assault.

On February 16 of this year, Brandon Hultgren used a wooden shovel handle to attack and seriously injure his victim, a Mount Perry man and former friend. According to testimony heard by jurors on Tuesday, Hultgren was upset with the victim and attacked him at his front door, causing a deep cut and a skull fracture. After his victim recovered from the first blow, Hultgren began using the now-broken shovel handle as a spear, poking his victim in the back.

Hultgren represented himself throughout the trial.

After jurors heard about Hultgren's DNA being found on the weapon used and after they learned that his vehicle had been recovered after breaking down nearby, Hultgren made the thrust of his defense, focusing on the cellular phone records obtained by lead Detective Brady Hittle of the Muskingum County Sheriff's Office.

Hittle had testified that the phone records placed Hultgren at the scene of the crime, at the time of the crime, from 9:11 to 9:27 p.m. on Feb. 16. During his cross of Hittle, Hultgren confronted the detective with the fact that the printed phone records showed no data recorded as "9:11" or "9:27 p.m." His defense faltered when Hittle explained that phone record printouts use a universal time code which has to be translated into Eastern Standard Time by adding five hours.

After counting out the hours, Hultgren saw that the records did contain the data and ended his questioning.

Jurors were not confused and promptly resolved the case.

Hultgren will face sentencing at a later date where Judge Mark Fleegle will have to determine whether or not the two counts of felonious assault upon which Hultgren was convicted will merge for sentencing.

Merger is a legal procedure which deals with the way that crimes are charged and convictions are entered upon the court's record. In some cases, a person can commit an act which violates the law in several different ways. Most often, the person is charged with crimes reflecting every different way that the law was broken so that at a later trial a defendant cannot claim that they did not commit one crime by admitting to a separate, uncharged crime.

At the same time, a person cannot be sentenced to prison over and over for the same act. Judge Fleegle's decision concerning Hultgren has to do with the offenses of felonious assault, which can be committed in two different ways. The first way is the causing of serious physical harm, which in this case refers to the victim's laceration and skull fracture. The second way of committing felonious assault is by the use of a deadly weapon to cause or attempt to cause harm, which in this case refers to Hultgren stabbing his victim with the broken handle.

The question for the court will be to determine whether the facts of the case show one, single assault or if the facts demonstrated two, separate, assaultive acts. Hultgren faces eight to 12 and-a-half years if it was a single assault, and 16 to 20 and-a-half years if Judge Fleegle determines there were two assaults.