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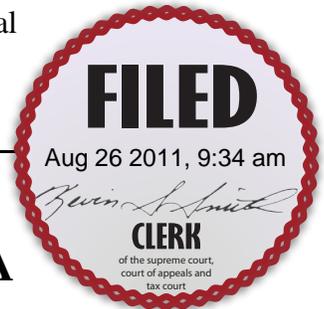
ATTORNEY FOR APPELLANT:

VALERIE K. BOOTS
Marion County Public Defender
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

RICHARD C. WEBSTER
Deputy Attorney General
Indianapolis, Indiana



**IN THE
COURT OF APPEALS OF INDIANA**

JOEL ROWLEY,)

Appellant-Defendant,)

vs.)

No. 49A04-1102-CR-34)

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Robert R. Altice, Judge
Cause No. 49G02-1003-MR-17433

August 26, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Joel Rowley appeals his conviction for murder, a felony, following a jury trial. Rowley raises a single issue for our review, namely, whether the trial court abused its discretion when it instructed the jury on his claim of self-defense. We affirm.

FACTS AND PROCEDURAL HISTORY

In the early morning hours of March 5, 2010, Rowley and some of his acquaintances were involved in a bar fight in Indianapolis. Rowley left the altercation and went to his van, but instead of entering his van he went back into the fray and shot Leon Pepper in the back. Rowley then walked back to his van and drove away. Pepper died before emergency personnel could arrive.

Rowley turned himself in to authorities later that day, and the State charged him with murder on March 8. Following the presentation of evidence at his ensuing jury trial, Rowley tendered the following jury instruction on self-defense:

The defense of self-defense is defined by law as follows:

A. A person is justified in using reasonable force against another person to protect himself or a third person from what he reasonably believes to be the imminent use of unlawful force. However, a person is justified in using deadly force only if he reasonably believes that that force is necessary to prevent serious bodily injury to himself or a third person or the commission of a forcible felony. No person in this State shall be placed in legal jeopardy of any kind whatsoever for protecting himself, his family or a third person by reasonable means necessary.

B. Notwithstanding the above, a person is not justified in using force if:

1. the person is committing or is escaping after the commission of a crime[;]
2. the person provokes unlawful action by another person with intent to cause bodily injury to the other person; or

3. the person has entered into combat with another person or is the initial aggressor unless the person withdraws from the encounter and communicates to the other person the intent to do so and the other person nevertheless continues or threatens to continue unlawful action[.]

The State has the burden of disproving this defense beyond a reasonable doubt.

Appellant's App. at 170. The trial court accepted Rowley's tendered instruction as the court's final instruction number four. Id. at 156. The jury found Rowley guilty as charged and the trial court entered its judgment of conviction and sentence accordingly. This appeal ensued.

DISCUSSION AND DECISION

The only issue raised by Rowley on appeal is the adequacy of the self-defense instruction. As Rowley summarizes the issue, "[t]he trial court gave one inadequate instruction on self-defense." Appellant's Br. at 4. But the self-defense instruction given by the court was Rowley's own tendered instruction. As such, any error in that instruction was invited by Rowley and is not subject to appellate review.

As our supreme court has held, a defendant may not request a trial court to take an action and later claim on appeal that such action is erroneous. Baugh v. State, 933 N.E.2d 1277, 1280 (Ind. 2010). Under the "invited error" doctrine, a party may not take advantage of an error that he commits, invites, or which is the natural consequence of his own neglect or misconduct. Id. Rowley attempts to take advantage of his own alleged error in this appeal. He may not do so.

Neither are we persuaded by Rowley's recharacterization of his appeal in his reply brief. In that brief, Rowley suggests that he is appealing the whole of the jury instructions, not the particular instruction on self-defense. That suggestion is plainly contrary to the whole of Rowley's appellant's brief, and we do not consider it. Hence, we affirm his conviction.

Affirmed.

RILEY, J., and MAY, J., concur.