

STATE v. CHARLES MARSHALL,¹ AC 32399/AC32403
Judicial District of Waterbury

Criminal; Whether Defendant was Properly Identified as Committing Two Burglaries; Whether There was Sufficient Evidence to Sustain the Defendant's First Degree Burglary Convictions; Whether Trial Court Properly Rejected Defendant's Self-Defense Claim. The defendant was accused of committing two burglaries and of assaulting one of the victims of the second burglary with a tire iron. The state charged the defendant with a number of crimes, including first degree assault and two counts of first degree burglary. With regard to the second burglary, it alleged that he committed first degree burglary while armed with a dangerous instrument and that he intentionally inflicted bodily injury in the course of committing the offense. At the defendant's court trial, several eyewitnesses identified the defendant as the perpetrator. In addition, testimony was presented that after the second burglary, the defendant ran away carrying a tire iron and that the victim chased the defendant for a quarter mile with a baseball bat before being struck by the defendant with the tire iron. The court found the defendant guilty as charged. It determined that the defendant committed both burglaries, based on, among other things, in-court identifications and photo identifications by the eyewitnesses. As to the first of the first degree burglary counts, the court, relying on testimony that the defendant was seen holding a tire iron before and after the second burglary and on his admission that he was carrying the tire iron upon fleeing, found that he committed that burglary "while armed with a dangerous instrument." As to the second count of first degree burglary, which required proof that the injury was inflicted "in the course of committing the offense," the court determined that since the definition of that phrase includes flight after the commission of the offense, the state proved that element. With regard to the assault charge, the court rejected the defendant's claim of self defense, finding that any subjective belief he had that deadly physical force was necessary would not have been reasonable because the facts did not establish that the victim was inflicting or about to inflict great bodily harm that would have justified his use of force at the time that he swung the tire iron. On appeal, the defendant contends, in AC 32399, that there was insufficient evidence to sustain his conviction of assault in the first degree because the state failed to disprove that he had a reasonable belief that the victim was about to use deadly force or inflict great bodily harm upon him. The defendant further argues that the evidence was insufficient to support the court's finding that he was the individual who committed the burglaries and to sustain his conviction of two counts of first degree burglary. In AC 32403, the defendant argues that the court abused its discretion in finding him in violation of his probation for committing the above criminal offenses while on probation.

¹ Charles Marshall is also known as Richard Marshall.