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2011 IL App (3d) 100804-U

Order filed November 8, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Plaintiff-Appellee,)	Tazewell County, Illinois,
)	
v.)	Appeal No. 3-10-0804
)	Circuit No. 10-CF-56
AARON GARTH BAECKER,)	
)	Honorable
Defendant-Appellant.)	Richard E. Grawey,
)	Judge, Presiding

JUSTICE O'BRIEN delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

¶1 *Held:* The State presented evidence sufficient to prove defendant guilty beyond a reasonable doubt of attempt murder, aggravated domestic battery, and obstruction of justice.

¶2 Defendant Aaron Garth Baecker was found guilty by a jury of attempt first degree murder, aggravated domestic battery and obstruction of justice, and sentenced to concurrent terms of imprisonment of 13, 5 and 2 years. We affirm.

¶3 **FACTS**

¶4 Defendant Aaron Garth Baecker (Garth) was charged with attempt murder, aggravated

domestic battery, and obstructing justice. 720 ILCS 5/8-4, 5/12-3.3(a), 5/31-4(a) (West 2010). The charges arose from an incident where Garth beat his wife, Terry Baecker, and pushed her down the stairs in the couple's home. The day before the offenses occurred, Terry had discovered that Garth was engaged in questionable practices at their insurance business and threatened to expose Garth to the insurance company and the proper authorities. A bench trial took place and the following evidence was presented.

¶ 5 Garth and Terry had been married for 38 years, although by all accounts the marriage had been troubled for a number of years. Both Garth and Terry were employed for many years as insurance agents for Country Financial. The couple worked out of the same office, where they shared staff and bank accounts, but maintained separate clients. On Sunday, January 24, 2010, Terry stopped by the couple's office to retrieve some paperwork. While there, she discovered a list of people she knew to be Garth's clients with the amount of interest payments made to them, and a stack of promissory notes. She was unaware that they had any outstanding loans or promises of interest owed. The Country Financial code of ethics prohibited agents from accepting loans from clients. Because Terry believed the documents to be representative of questionable behavior by Garth, she took the documents home to confront him. After dinner, she asked Garth, who indicated that he was buying up insurance policies. He assured her that his actions were legal and that all proper documentation concerning the transactions were at the office. Terry insisted that they go to the office that evening to obtain the documentation. They arrived at the office around 10 p.m., but Garth was unable to present the documentation. While driving home, Garth told her that the documents were in a safety deposit box and he would show them to her in the morning. Terry told Garth that if he was engaged in unlawful or illegal activities, she would not protect him but would inform the

FBI or Country Financial. According to Terry, Garth asked for two years to sort things out. She told him she would give him two weeks before she took action. Garth said he needed the money but would not tell her why. Terry told Garth she had changed, or was going to change, the beneficiaries on her life insurance and other documents.

¶ 6 Upon arriving home, Terry watched television while Garth went to sleep in the couple's bedroom. Terry went to bed at 2 a.m., asking Garth to sleep elsewhere. She felt uncomfortable so she placed a chair inside the bedroom door so she could hear if Garth entered the room. She awoke at 5 a.m. Monday morning and moved the chair because she thought Garth would be mad about it. When she woke up again around 7 a.m., Garth was in the bedroom getting ready for work. She rolled over in the bed. The next thing she knew, Garth was standing over her and hitting her with a wooden stick like a croquet mallet. He told her, "you're not going to ruin my reputation. I'm going to kill you." She attempted to cover her head with her hands while Garth continued hitting her. She estimated he hit her seven times. Blood from her wounds covered the sheets, blankets, pillows, and her bathrobe. She thought her skull had cracked and that she was going to die. Her right hand was injured and her left ring finger was split open. After Garth stopped hitting her, he was "strangely calm." He handed her a towel and said he had the necessary documentation downstairs. They went to the first floor when Garth said the documents were in the basement. She was nervous about her safety, but did as Garth told her so that he would not become angry.

¶ 7 Terry noticed that the soda Garth usually kept near the stairs was not there and that there was a full case of wine in the middle of the steps. There were 12 steps, which were exposed wood. As she began walking downstairs, Garth pushed her. She landed at the bottom of the stairs. She immediately got up because she feared Garth would kill her there if she did not. She suffered an

abrasion on her right arm and a laceration on her right wrist. After her fall, Garth offered to take her to the emergency room if she agreed to say that she had fallen down the stairs. Terry stated that she would have done anything Garth wanted in order to stay alive. She was afraid of him. Terry showered to rinse off the blood and got dressed. As she was preparing to go to the hospital, Garth stripped the bed linens and gathered up her blood-soaked robe. She did not tell him to dispose of the bloody items. They encountered their cleaning woman, Barb Thomas, when leaving the house. Garth told Thomas that Terry had fallen and that he would clean up the mess. At the emergency room, Terry told the nurses that she had fallen down the stairs. She was taken for x-rays, and although alone with the technician, did not seek help or state that Garth had pushed or attacked her. She was scared and embarrassed by what happened, and knew that once she said something, “it’s there for everybody to see and hear forever.”

¶ 8 The emergency room doctor, Ravi Masih, treated Terry for multiple injuries to her scalp and hands. She had six lacerations to her scalp and face, a laceration on her left hand, an injury and bruising to her right hand, abrasions and bruises on her right forearm, and pain in her left shoulder. Two head lacerations were open down to the skull and oozing blood. Three of the lacerations were severe, two were moderate, and one was slight. The injury on her hand required stitches and was so deep the knuckle was exposed. He asked her three times about what had happened before Terry eventually told him she fell down the stairs while carrying a case of wine, and hit her head on a shelf as she fell. Terry’s injuries were not consistent with the story she told him. In Masih’s opinion, it was virtually impossible for Terry to have sustained her injuries in a fall down the stairs. Her head wounds were more consistent with a beating and her hand wounds were consistent with a defensive posture.

¶ 9 Because one of her head injuries extended onto her forehead, Terry requested to see a plastic surgeon, Reid Hansen. Garth drove her to the doctor's office. On the trip there, Garth said, "I'm sorry. I wouldn't have had to have done it if you had said you'd just be quiet and stay quiet." Also during the trip, Terry called her office and Hansen's office to make sure someone knew where she was in case something happened to her on the trip. At Hansen's office, at a time she was alone, Terry wrote a note to Hansen asking that he admit her to the hospital, tell Garth she would be several hours in his office, or call a women's shelter because she was afraid to go home. Hansen made some calls, including to the police and a women's shelter. After suturing Terry's forehead wound, Hansen escorted her, along with Garth, out of the building. He informed Garth that Terry would not be going home. Hansen stated that Garth had no significant reaction to his announcement. Hansen put Terry in a cab and sent her to the women's shelter.

¶ 10 Greg Burris, a lieutenant with the Pekin police department, investigated the incident and spoke to Garth at the couple's residence Monday evening. He inspected the house, noting that the basement and the stairs to the basement were clean. He did not notice any blood. Garth later told him Terry was staying with a friend. Matthew Damron and Nathan Ujinski, detectives with the Peoria police department, investigated the incident. They accompanied Terry while she retrieved some items from the home. While there, they observed that the basement stairs were steep. There were no glass shards at the bottom of the stairs but there was a blood stain on the bottom step. In the master bedroom, they observed a large blood stain in the center of the mattress, blood on a blanket and two pillows on the bed, and on a sham covering the arm of a chair next to the bed. There were blood drops on the carpet beside the headboard. They saw blood on the wall above the headboard, in a rainbow pattern on the wall between the headrest and crown molding, and on the molding. The

parties stipulated that a swab Ujinski took from a stain on the crown molding indicated the presence of blood.

¶ 11 Garth's version of the events differed from that of the State's witnesses. He stated that Terry had a serious gambling habit on which she spent between \$150,000 to \$200,000 per year for the last 10 to 15 years. Although he accompanied her to gamble, they frequently argued about her habit. Garth stated that because of Terry's gambling, he initiated divorce proceedings at the beginning of January 2010, and was looking for an attorney and separate office space. He told Terry of his intentions. The transactions about which Terry had questioned him were not illegal and did not jeopardize the company or his or Terry's employment. Garth acknowledged that Country Financial would not favor the practice but that it was reflected on tax returns and on the company's books, which Country Financial inspected every few years. On January 24, Terry confronted him about a checking account she had discovered in his office to which she did not have access. She was upset because she could not use the money in the account, which was from the insurance investments he made with his clients. Terry insisted that they go to the bank on Monday morning so she could sign a joint authorization to use the account. Garth refused her demand.

¶ 12 The couple continued arguing after returning home from the office Sunday night until he went to bed. He left the bedroom after Terry asked him to when she came to bed. He awoke at 5:30 a.m. and began preparing to leave for work. Because Monday was garbage day, he also collected up the garbage and took it to the curb. After eating breakfast, he went down to the basement because he wanted to transfer a case of wine from an old refrigerator to one in the kitchen. He placed a few bottles in the kitchen refrigerator and left the rest of the bottles in the case until he could rearrange items in the kitchen refrigerator. He then went to the bedroom to finish getting ready. Terry was

already up getting ready for the cleaning woman. While upstairs, he heard Terry drop something down the basement stairs. He finished dressing, and when he went to the first floor, he saw Terry standing at the bottom of the basement stairs. He noticed the case of wine beside her. There was broken glass on the steps. Terry said she cut her head. Because Terry was bleeding, Garth suggested that she lay down on their bed. As she did so, Garth noticed Terry was bleeding on the sheets and suggested they go to the hospital.

¶ 13 Terry told him to take the bloody sheets and her nightgown and robe and put them in the garbage as the blood would permanently stain. He added his shirt to the pile and took the items to the garbage can at the curb. He did not believe he was hiding evidence of a crime. While Terry took a shower, he attempted to clean up some of the blood on the carpeting and bedroom furniture. He took Terry to the hospital but did not tell her what to say to the emergency room personnel. Terry insisted on seeing Hansen so he drove her there when they were done at the hospital. When Terry was finished with Hansen, the doctor accompanied them out of the building and told Garth that Terry would not return home with him. Garth was dumbfounded but did not protest or argue with Hansen. He denied hitting Terry or pushing her down the stairs.

¶ 14 The jury convicted Garth of all three counts. He filed a posttrial motion challenging that guilt was proved beyond a reasonable doubt. His motion was heard and denied. Sentencing ensued and the trial court sentenced Garth to a 13-year term of imprisonment for attempt murder, and concurrent sentences of five years for aggravated domestic battery and two years for obstruction of justice. Garth appealed his conviction.

¶ 15

ANALYSIS

¶ 16 The issue on appeal is whether the State proved Garth guilty beyond a reasonable doubt of

attempt murder, aggravated domestic violence, and obstruction of justice. He argues that the State did not prove he had a specific intent to kill, and that the evidence does not support that he battered his wife or obstructed justice. He maintains that because the evidence was insufficient to support guilty verdicts, his convictions should be reversed.

¶ 17 When considering a challenge to the sufficiency of the evidence, we do not retry the defendant. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011) (quoting *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006)). Rather, we must determine whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of an offense beyond a reasonable doubt. *People v. Collins*, 214 Ill. 2d 206, 217 (2005). It is the fact finder's function to assess witness credibility, weigh testimony, and draw inferences from the evidence. *People v. Lee*, 213 Ill. 2d 218, 225 (2004). We will not reverse a guilty verdict unless the evidence was so contrary to the verdict, so unreasonable, improbable, or unsatisfactory as to create a reasonable doubt of the defendant's guilt. *People v. Adams*, 161 Ill. 2d 333, 343 (1994).

¶ 18 A person commits an attempt when he acts with the intent to commit a specific offense and does any act which constitutes a substantial step toward the commission of that offense. 720 ILCS 5/8-4(a). To sustain a conviction for attempt murder, the State must prove beyond a reasonable doubt that the defendant had the specific intent to kill and committed an act that constituted a substantial step toward the commission of the murder. *People v. Thomas*, 407 Ill. App. 3d 136, 140 (2011) (citing 720 ILCS 5/8-4, 9-1 (West 2010)). Intent to kill may be established by an admission or by proof of surrounding circumstances, including the character of the assault, the use of a deadly weapon, and other matters from which an intent to kill may be inferred. *People v. Smado*, 322 Ill. App. 3d 329, 338-39 (2001). To support a attempt murder conviction, the fact finder must find that

the defendant contemplated the use of force sufficient to cause serious injury that could lead to death. *Thomas*, 407 Ill. App. 3d at 140.

¶ 19 Garth maintains that the State failed to prove he had a specific intent to kill Terry. In his view, the evidence consists of “he said-she said” versions of the events at issue and he asserts that Terry’s version is not credible. The determination of credibility was a function for the jury to decide. It seemingly found Terry’s version of events more credible. The evidence supports the jury’s conclusion. She offered a chronology of events beginning with her discovery of what she considered to be Garth’s unethical and unlawful financial transactions with clients. She confronted him about her discovery and threatened to report him to Country Financial and the FBI. The following morning she was attacked in her bed and beaten about the head with a wooden stick. At Garth’s direction, she started down the stairs to the basement when he pushed her. Terry admitted she was scared for her life and stated that she would have done anything Garth said in order to stay alive. Terry testified that this fear kept her from reporting the abuse while being treated at the hospital. On the trip to Hansen’s office, she called there and her office in order that someone know where she had been heading in case Garth hurt her again. Most significantly, Terry testified that Garth told her she was not going to ruin his reputation, that he was going to kill her, and that he would not have had to injure her had she agreed to remain quiet about his questionable financial transactions.

¶ 20 Terry’s account was corroborated by other witnesses. The emergency room doctor stated that Terry’s injuries would not have occurred from a fall down the stairs but were likely from a beating. The plastic surgeon described Terry’s request for help and that she was afraid to go home with Garth. The officers who investigated the couple’s home testified to blood stains and splatter in the bedroom consist with Terry’s account of the beating. The State offered sufficient evidence to establish that

Garth had a specific intent to kill Terry and that he committed an act constituting a substantial step toward committing the murder.

¶ 21 Garth next argues that the State did not prove beyond a reasonable doubt that he committed aggravated domestic battery and obstructed justice. Garth offered a version of events that Terry sustained her injuries when she fell down the basement stairs while carrying a case of wine. Terry testified that Garth beat her before pushing her down the stairs. He said he threw away the bloody linens and clothing at Terry's request. Terry said she did not know whose idea it was to throw the items away but that she was "just giving [Garth] everything that there was."

¶ 22 A person commits aggravated domestic battery when in committing domestic battery, he "knowingly causes great bodily harm, or permanent disability or disfigurement." 720 ILCS 5/12-3.3(a) (West 2010). Domestic battery is committed when a person "knowingly without legal justification by any means *** [c]auses bodily harm to any family or household member." 720 ILCS 5/12-3.2(a)(1) (West 2010). Any rational trier of fact could have found that Garth committed aggravated domestic battery. The evidence is undisputed that Terry sustained substantial lacerations to her head and forehead, abrasions and bruises to her arm, and a laceration and other injuries to her hands. Her testimony indicated that her injuries were still problematic for her. The injuries could not have been sustained by falling down the basement stairs. Garth did not offer any legal justification for harming Terry, but denied he caused the injuries. Terry was Garth's family and household member. We find that the evidence was sufficient to sustain Garth's conviction for aggravated domestic battery.

¶ 23 To sustain a conviction for obstructing justice, the State must prove that a person "with the intent to prevent the apprehension or obstruct the prosecution or defense of any person knowingly

*** destroys, alters, conceals or disguises physical evidence, plants false evidence, [or] furnishes false information” 720 ILCS 5/31-4(a) (West 2010). Garth does not deny that he gathered the bloody sheets and clothes and took them to the garbage can. He testified that it was garbage day. Although he maintains that he disposed of the items at Terry’s request, the jury could have reasonably concluded that he intended to conceal evidence that could contradict his version of the events or establish the severity of Terry’s injuries. Garth also testified that he attempted to clean up the blood spots in the bedroom while Terry was readying to go to the hospital. We consider it not improbable that the jury would conclude Garth’s actions were designed to conceal evidence of the beating. This conclusion is furthered by the fact that the cleaning woman was due to arrive that same morning and could have been asked to clean up the blood stains. Moreover, the evidence suggests that Garth staged broken wine bottles at the bottom of the basement stairs. Again, it would not be improbable for the jury to conclude that Garth planted evidence to conceal his crimes. We find the evidence sufficient to sustain his conviction for obstruction of justice.

¶ 24 For the foregoing reasons, the judgment of the circuit court of Tazewell County is affirmed.

¶ 25 Affirmed.