

No. 1-10-2546

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 09 CR 12405
)	
LEON BAYLOR,)	Honorable
)	Matthew E. Coghlan,
Defendant-Appellant.)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Connors and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's guilt was established beyond a reasonable doubt.

¶ 2 Following a bench trial in the circuit court of Cook County, defendant Leon Baylor was convicted of two counts of unlawful restraint and sentenced to two concurrent terms of three years in prison. On appeal, defendant contends that his guilt was not proven beyond a reasonable doubt.

¶ 3 At trial, Deloris Breeze (Breeze) testified that at about 7 p.m. on June 15, 2009, she was washing dishes in the kitchen of a West Maypole apartment in Chicago where she was staying. Her 11-month-old baby boy, My-Kel, was with her. She had left the front door open because it was hot in the apartment. A man she did not know, whom she identified in court as defendant, came into the apartment, slammed the front door, and went into the bedroom. Although Breeze was afraid for her life, she asked defendant to come into the kitchen. Defendant then came out of the bedroom and reassured her that he knew some of her family members, two of whom he identified by their

nicknames. He told her he knew her cousin, "White Boy," and her brother, "Black Face." The conversation moved to the living room, where defendant shared his cigarettes with Breeze. When Breeze told defendant he should leave the apartment, defendant told her he was trying to escape the police because he had another pending court case. She persisted in telling him to leave, but defendant told her he needed a telephone. When Breeze looked out the front door to see if there was a "commotion," defendant pulled her back inside and closed the door. Defendant then said he needed a telephone, after which Breeze went outside with her baby, and her neighbor Shaquita Fitzgerald (Shaquita) held the baby while Breeze went across the street to the house of her cousin, White Boy. Breeze told White Boy that one of his "boys" was in the apartment and needed a telephone. Once she obtained a telephone from White Boy, Breeze brought it back to the apartment, retrieving her baby from Shaquita as she returned. However, Shaquita had also brought another telephone to defendant inside the apartment.

¶4 When defendant finished using Shaquita's telephone, Shaquita left the apartment. Defendant then told Breeze that they needed to go into the bathroom. Breeze asked that they be allowed to remain in the living room, but defendant insisted that they go into the bathroom to avoid making any noise. He then grabbed Breeze by her left arm, while she held her baby with her right arm. Breeze again became frightened as defendant walked her into the bathroom. On the way into the bathroom, she hit the right side of her face against the wall but sustained no injury. Defendant closed the bathroom door behind them and stood by the door. Breeze initially denied that defendant ever threatened her, but then stated that he told her to stay in the bathroom or he would shoot her. When Breeze heard the police at the front door, demanding to be let in, she asked defendant to let her go and to open the door. She told defendant that the apartment was not hers and she feared that the police would damage it. Defendant then restrained Breeze by placing his hands on her shoulders and by telling her she could not leave. Breeze then attempted to leave by pushing the door and pushing defendant, but eventually stopped her efforts and sat on the bathtub with her baby until the police

kicked in the bathroom door. The police handcuffed defendant and led Breeze into the kitchen.

¶ 5 At trial, Breeze was shown a DVD from a security camera at the apartment complex. She identified her apartment door on the DVD, and testified that the DVD showed defendant running into the apartment at about 7:04 p.m. that evening. Next, it showed her opening the apartment door and looking outside at about 7:05 p.m. She testified that she was then pulled back inside by defendant and the door was closed.

¶ 6 On cross-examination, Breeze admitted that the DVD showed that she had left her apartment twice with her baby and that each time she had returned to the apartment. She also testified that she voluntarily met with defense attorneys and an investigator on two occasions to discuss what had occurred on June 15, 2009. At the second meeting, she was shown the security DVD and the investigator took notes of what she said in describing the incident. The investigator then prepared a three-page typewritten statement from his notes, which she read and signed, attesting to its accuracy. However, when shown a three-page typewritten statement in court, Breeze stated that the first two pages had been changed and did not depict what she had read that day. Breeze also testified that two days before trial, she came to court to meet with staff members of the State's Attorney's office after defense counsel advised her that there was an outstanding arrest warrant for her. She voluntarily met with them and was not placed under arrest. Staff members of the State's Attorney's office showed her the three-page typewritten statement prepared by defense attorneys' investigators, and she told them that two of the pages did not reflect what she had signed. They also told her that if she testified falsely she would be facing perjury charges.

¶ 7 When asked on cross-examination if she had been attempting to help defendant avoid the police, Breeze stated that she just wanted everything "to be over with" because she had nothing to do with it. She also stated that defendant had not threatened her. Breeze also testified that when she went outside she did not seek help from anyone she saw outside the apartment, because she knew they would not do anything to help. She obtained the telephone for defendant so he would leave

sooner.

¶ 8 Breeze admitted that she had averred in an affidavit that she was never threatened by defendant in the apartment. She also admitted stating that the police pulled her baby from her arms, telling her they would send her child to the Department of Children and Family Services and would imprison her. She also stated in the affidavit that the police accused her of lying when she said she did not know defendant. Finally, Breeze admitted saying in the affidavit that the only reason she signed the complaints against defendant was because the police kept telling her they would take her baby away and imprison her. The defense was permitted to introduce the affidavit as substantive evidence because it was a prior inconsistent statement which Breeze had signed and it concerned an event of which Breeze had personal knowledge. 725 ILCS 5/115-10.1 (West 2008). The statement differs from Breeze's trial testimony in several significant respects. In the affidavit, Breeze stated that she left the apartment twice with her son. The first time to look for the police and the second time to obtain a telephone for defendant. She stated that when Shaquita came into the apartment, Shaquita identified defendant by his nickname. Breeze also stated that when defendant "suggested" that they go into the bathroom, she locked the front door and then went into the bathroom with her baby and defendant. Finally, in the affidavit, Breeze asserted that defendant neither threatened nor touched her in the apartment, nor did she ever attempt to flee the apartment.

¶ 9 Chicago police officer Paul Zogg (Officer Zogg) testified that on the date in question, some time before 7 p.m., he and his partner saw defendant, who was double-parked, engage in what they believed was a drug transaction with a man who walked up to defendant's car. The officers stopped defendant in his car, but as they were contacting a supervisor, defendant drove off and then fled from his car. At that time they lost sight of him. After receiving several police dispatches, the officers went to Breeze's apartment where they knocked on the front door. When nobody answered, Officer Zogg and other police officers gained entry by knocking down the door. They searched the apartment and found Breeze, her baby, and defendant in the bathroom with the door closed. It

appeared that Breeze had been crying. Defendant was then arrested and removed from the apartment.

¶ 10 At the close of all of the evidence, the trial court found defendant not guilty of two counts of the aggravated kidnapping of Breeze and her baby. However, the trial court found defendant guilty of one count of unlawful restraint of Breeze and a second count of unlawful restraint of her baby, My-Kel. Defendant was subsequently sentenced to two concurrent terms of three years in prison. This appeal ensued.

¶ 11 Defendant's sole contention on appeal is that the evidence was insufficient to prove him guilty of the two counts of unlawful restraint beyond a reasonable doubt. We determine the sufficiency of the evidence by reviewing it in the light most favorable to the State and determining whether any rational trier of fact could find the essential elements of the crime beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). Stated otherwise, we will reverse a defendant's conviction on the basis of reasonable doubt only when the evidence is so unreasonable, improbable or unsatisfactory that reasonable doubt remains. *Id.* at 8. A person commits unlawful restraint when they knowingly detain another without legal authority. 720 ILCS 5/10-3 (West 2008). The offense is committed when the victim is prevented by a defendant from moving from one place to another. *People v. Bowen*, 241 Ill. App. 3d 608, 627-28 (1993). Breeze's testimony that defendant held her and her baby in the bathroom and prevented them from leaving established this offense as to both victims. In arguing that defendant was not proven guilty beyond a reasonable doubt, defendant points to the impeachment of Breeze's account of the incident at trial by the DVD and her affidavit. The trial court recognized this impeachment evidence, stating that it viewed Breeze's trial testimony with suspicion. Nonetheless, the trial court determined that Breeze's account of being detained against her will by defendant in the bathroom was credible. In support of this conclusion, the trial court noted that it defied common sense that, as the defense argued, Breeze willingly accompanied defendant into the bathroom with her baby. It is undisputed that defendant had admitted to Breeze

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that he was fleeing from the police and had another case pending against him. Under these circumstances, the trial court was justified in finding that Breeze would not have voluntarily accompanied defendant into the bathroom, especially with her baby. A trier of fact is not required to disregard inferences that flow normally from the evidence. *People v. Jackson*, 232 Ill. 2d 246, 281 (2009). Based on all of these factors, we find no basis for overturning the trial court's finding of guilt.

¶ 12 Defendant's convictions for unlawful restraint and the ensuing sentences imposed are affirmed.

¶ 13 Affirmed.