

No. 1-11-1170

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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. 10 CR 5970
)	
RAVON WOODS,)	Honorable
)	Matthew E. Coghlan,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE LAMPKIN delivered the judgment of the court.
Justices Garcia and Palmer concurred in the judgment.

ORDER

¶ 1 *Held:* Judgment entered on defendant's three attempted first degree murder convictions affirmed where evidence showed beyond a reasonable doubt that he acted with the specific intent to kill; evidence sufficient to show defendant did not act in self-defense or defense of others; mittimus corrected.

¶ 2 Following a bench trial, defendant Ravon Woods was convicted of three counts of attempted first degree murder and two counts of aggravated battery with a deadly weapon, and sentenced to concurrent 12-year terms of imprisonment on the attempted murder charges and 5-year terms on the battery charges. On appeal, he contends that the State failed to prove beyond a

reasonable doubt that he acted with specific intent to kill, and maintains that he was acting in self-defense and defense of others. He also contends that this court should vacate his convictions for aggravated battery because they were carved from the same physical acts as his attempted murder convictions.

¶ 3 Defendant was charged with, *inter alia*, three counts of attempted murder for stabbing the victims, Rollon Hill, Latrincha McGee, and Karla Hill, and two counts of aggravated battery for stabbing Rollon and Karla on November 9, 2009, near 4925 West Superior Street. During opening statements, defense counsel argued that the court would learn that defendant only stabbed "one person" in defense of himself and self-defense of his girlfriend, Tyressa Little. Rollon Hill then testified that at 11 a.m. on November 9, 2009, he was leaving the house at 4921 West Superior Street when he saw his girlfriend, Latrincha McGee. She told him that defendant and his girlfriend, Tyressa Little, were trying to "jump on her." As McGee fled toward her sister Serwreatha McGee's house at 4925 West Superior Street, Rollon saw defendant and Little walking toward him. Little was carrying a two foot long "table leg stick," and ran after McGee, with defendant and Rollon following behind. As McGee reached the house at 4925 West Superior Street, and tried to close the door, Little attempted to hit her with the stick. McGee entered the house, and Rollon followed her in and told her that she should fight Little.

¶ 4 McGee left the house, and Little handed her stick to defendant. Although McGee told Little that she did not want to fight, the pair started to fight with their fists and pulled at each other's hair. McGee eventually got on top of Little and was punching her when defendant swung the stick like a bat, hitting McGee twice in the back of her head, causing her to bleed.

¶ 5 Rollon further testified that he ran up to defendant and punched him in defense of McGee. Defendant tried to hit him with the stick, but Rollon's aunt Karla Hill grabbed the stick out of defendant's hand, threw it, and then stood back from the fight. Defendant and Rollon

continued to fist fight, and Rollon heard his neighbors yell several times, "he's stabbing you." Rollon thought he was just being punched in his side, but after he pulled back from defendant and lifted up his shirt, he saw that he had been stabbed in the side, was bleeding, and his intestine and stomach were "hanging out."

¶ 6 Rollon then saw defendant approach Karla, and although it appeared that he punched her in the side, he saw blood coming out of her side when she stumbled back. Rollon then saw defendant go over to Little and McGee, who were pulling each other's hair, and observed him stab McGee twice. At that point, defendant picked up Little and fled with her.

¶ 7 Karla Hill testified that at the time in question, she heard noise outside and went out on her porch where she saw McGee, defendant and Little, and "less than" 20 neighbors outside. McGee told Little that she did not want to fight her, but Little swung a stick at her, then released the stick, and began to fight with McGee. When McGee got on top of Little, defendant struck her twice in the back of the head with the stick. After Rollon hit defendant with his hand, and they started fighting, Karla walked over to defendant, grabbed the stick from his hand, threw it, and walked back to watch the fight. Someone on the porch yelled, "he's stabbing him," just before defendant walked towards her and stabbed her in the chest. He then walked up to McGee and Little, who were still fighting each other, and stabbed McGee twice in the back as the pair were getting up off the ground.

¶ 8 Latrincha McGee testified that on November 9, 2009, she was entering the house at 4825 West Ohio Street, and she closed the door in Little's face, not realizing Little was behind her. They started to argue, and McGee ran out of the house. When she saw Rollon, she told him that defendant and Little wanted to fight her. She then noticed that defendant and Little were following her and that Little was carrying a thick wooden stick. When McGee got to the doorway of the house at 4925 West Superior Street, Little struck her with the stick. McGee told

Little she did not want to fight, but Rollon told her to do so. She then told Little that she would not fight her if she had the stick, so Little handed the stick to defendant and the women began to fight while 15 people watched. During the fight, McGee was extremely angry and did not feel anything. At one point she was on top of Little, but the two stood up and started pulling each other's hair and punching one another. At that point, she heard her sister Serwreatha McGee yell, "he about to stab her," then felt faint and fell to the ground.

¶ 9 Serwreatha McGee testified that she observed the fight, and that a crowd of people came to watch it, forming a circle around the two women from a distance of 10 feet. As Rollon was stabbed by defendant, Serwreatha and another person said, "he's stabbing him, he's stabbing him."

¶ 10 Tyressa Little testified that defendant is the father of her two children, and that she was one-month pregnant with one of them on November 9, 2009. She further testified that she had known McGee prior to the incident, and that McGee told her on a daily basis that she did not like her. Little stated that on the morning of November 9, 2009, it was raining, and as she was carrying her one-year-old son up the stairs to her house, McGee closed and locked the door on her. When defendant's sister opened the door, Little and McGee had a heated discussion. McGee then left and Little followed her with a "wooden chair" leg. At this time, she was angry and unsure of defendant's location.

¶ 11 Little also testified that McGee went inside the house on Superior Street, then exited with eight girls. Little told her that they could have a one-on-one fight, and dropped the stick. McGee came down the steps and was followed by some of the other girls who had come out of the house. McGee "charged" her and began to fight her while one of the other girls, whom she did not know and could not identify, pulled her hair. McGee eventually got on top of her and

kept pulling her hair while the other girls surrounded her calling her names. There were 15 people present.

¶ 12 Little also testified that while she was lying with her back on the ground, she took one hand off of McGee's hair, pulled her pocket knife out, reached behind her own back, and stabbed McGee three times in her back. McGee then moved away from her, and Little stabbed the other girl, who had been holding her hair, in the chest. Defendant then picked her up off the ground, and they left.

¶ 13 The parties stipulated that Dr. Ryan Sullivan would testify that on November 9, 2009, McGee and Karla arrived at the hospital by ambulance. McGee was hospitalized for two days for two stab wounds to her back. Dr. Sullivan treated Karla who had a partially collapsed lung from the stab wound to her chest, and inserted a chest tube because of the fluid in her lungs. Karla was hospitalized for three days. The parties also stipulated that Dr. Kimberly Nagy would testify that on the date in question she treated Rollon who was also brought to the hospital by ambulance. Rollon had surgery for two stab wounds to his abdomen, and was hospitalized for five days.

¶ 14 During closing argument, defense counsel argued that it was not impossible for Little to stab McGee, that everyone present joined in the fight, and that defendant did not hit McGee in the back of the head with the stick. Counsel noted that defendant was "stupid for *** stabbing at Rollon Hill when they were fighting with fists," but the State has not proven intent to murder where there was no evidence that he was trying to kill people, and that "[i]f anything, he was trying to protect his girlfriend."

¶ 15 The court subsequently found defendant guilty of three counts of attempted murder and two counts of aggravated battery with a deadly weapon. In doing so, the court stated that it found Karla credible, Little incredible, and that defendant showed no motive for Karla identifying him

as the offender instead of Little. The court further found that Little was the aggressor with defendant following her, and that Little's version of how she stabbed McGee was physically impossible. The court noted that if defendant had stopped with Rollon during their mutual combat, there may not have been enough evidence to show a specific intent to kill, but defendant went on to stab Karla in the chest and McGee twice in the back. Based on those circumstances, the court concluded that the State proved beyond a reasonable doubt that defendant had the specific intent to kill.

¶ 16 Defendant filed a motion for a new trial, alleging that he only stabbed "people" in defense of others and not with the intent to murder. At the hearing on the motion, defendant argued that he stabbed Rollon in self-defense, and that Little stabbed the other two victims in self-defense. Defendant then argued that even if it was true that he stabbed all three victims, it was done in "the defense of others," namely, Little, who was getting beaten up.

¶ 17 The court denied the motion noting that it had found defendant stabbed all three victims, and the contention that Little stabbed the two women incredible. Based on the totality of defendant's actions, the court concluded that the State proved defendant's intent to kill.

¶ 18 On appeal, defendant contends that the State failed to prove beyond a reasonable doubt that he had the specific intent to kill the three victims where the evidence failed to show that he acted with the intent to destroy their lives, but, rather, that he was reacting to an escalating dangerous situation. He maintains that he acted in self-defense of himself and defense of Little while surrounded by a hostile, uncontrolled environment.

¶ 19 The State maintains that defendant is improperly raising an alternate defense theory on appeal where he only argued at trial self-defense and defense of others with regard to Rollon and not the two other victims; and that his claim of self-defense against Rollon lacks merit because he is essentially asking this court to substitute its judgment for that of the trier of fact. Defendant

responds that he is properly raising a reasonable doubt argument, and that the trial court had the opportunity to consider this theory of defense where he argued that he was not the aggressor.

¶ 20 Self-defense or defense of others is an affirmative defense. *People v. Brant*, 394 Ill. App. 3d 663, 671 (2009). The State has the burden of disproving an affirmative defense beyond a reasonable doubt where the affirmative defense is raised by the State's evidence or through an offer of proof by defendant (*People v. Warren*, 33 Ill. 2d 168, 173 (1965); *People v. Carter*, 135 Ill. App. 3d 403, 409 (1985)); the State, however, does not have the burden to disprove an affirmative defense unless sufficient evidence is presented on it (*People v. Smith*, 237 Ill. App. 3d 901, 907-08 (1992)). Here, as established below, defendant could not raise self-defense and defense of others, as he was the initial aggressor. *People v. De Oca*, 238 Ill. App. 3d 362, 368 (1992).

¶ 21 We initially observe that defendant argued at trial that the State had not proven his intent to murder where there was no evidence that he was trying to kill people, and that "[i]f anything, he was trying to protect his girlfriend." Defendant also alleged, post-trial, self-defense of himself and defense of his girlfriend, and accordingly, properly preserved the affirmative defense of self-defense and defense of others for review. *People v. Enoch*, 122 Ill. 2d 176, 186 (1988).

¶ 22 We further observe that the State maintains that self-defense necessarily requires the admission of an intentional act, arguing that self-defense is "logically inconsistent "with defendant's claim that he did not have the specific intent to kill. Defendant replies that self-defense and defense of others does not require him to admit a specific intent to kill, but, rather, when he uses force against another, he must reasonably believe that his conduct is necessary to defend himself or another, and although a defendant can intend deadly force under a theory of self-defense, he can also act with a less culpable mental state, *i.e.*, intent to cause harm.

¶ 23 A criminal defendant may argue inconsistent theories of defense. *People v. Luna*, 409 Ill. App. 3d 45, 49 (2011). That said, defendant appears to be improperly combining the lack of specific intent to kill theory with the self-defense theory, which are separate theories. *People v. Cunningham*, 376 Ill. App. 3d 298, 302-03 (2007). When self-defense is raised, lack of self-defense is an element that the State must prove along with the other elements of attempted murder, which include, *inter alia*, intent to kill. *People v. Romero*, 387 Ill. App. 3d 954, 965 (2008). Accordingly, we shall consider each defense, *i.e.*, lack of specific intent to kill and self-defense/defense of others, in turn.

¶ 24 To sustain a conviction for attempted murder, the State must prove beyond a reasonable doubt that defendant, with the specific intent to kill, performed an act that constituted a substantial step toward the commission of murder. 720 ILCS 5/8-4 (West 2010). Conviction for attempted murder requires a specific intent to kill, and not the mere intent to do great bodily harm or even knowledge that one's acts may result in great bodily harm or death. *Cunningham*, 376 Ill. App. 3d at 303. Specific intent to kill is an issue of fact, to be determined by the trier of fact, and can be inferred from the surrounding circumstances, including the character of the act, the use of a deadly weapon and the severity of the injury. *People v. Johnson*, 368 Ill. App. 3d 1146, 1162 (2006).

¶ 25 Under the reasonable doubt standard of review that is applicable to defendant's challenge here (*People v. Cunningham*, 212 Ill. 2d 274, 279-80 (2004)) it is the responsibility of the trier of fact to resolve conflicts in the testimony, to weigh the evidence and to draw reasonable inferences therefrom (*People v. Campbell*, 146 Ill 2d. 363, 375 (1992)). This court will not substitute its judgment for that of the trial court on questions involving the credibility of the witnesses or the weight of the evidence. *Campbell*, 146 Ill 2d. at 375. A criminal conviction will

be reversed only if the evidence is so unsatisfactory as to raise a reasonable doubt. *Campbell*, 146 Ill 2d. at 375. For the reasons that follow, we do not find this to be such a case.

¶ 26 The evidence shows that defendant and his girlfriend, Little, who was carrying a wooden chair leg, followed McGee, who was fleeing from them. Little went after McGee with the chair leg and taunted her into fighting. During the fight between the two women, defendant took the chair leg and struck McGee with it twice on the head, causing her to bleed. Rollon then intervened to protect his girlfriend, McGee, and punched defendant, who swung the chair leg at him. When Karla grabbed the chair leg from defendant and threw it away, defendant took out a knife and stabbed Rollon in the abdomen. He then went up to Karla, who was standing away from the fight, and stabbed her in the chest. After stabbing Karla, defendant walked up to McGee, who was pulling Little's hair and trying to hit her, and stabbed her twice in the back. Based on these circumstances, which included the use of a deadly weapon, the attack of multiple victims, and serious bodily injuries, which required hospitalization and treatment, we conclude that a rational trier of fact could find that defendant had the specific intent to kill to sustain his convictions for attempted murder. *People v. Miller*, 284 Ill. App. 3d 16, 24 (1996).

¶ 27 Defendant, however, maintains that his case is similar to *People v. Jones*, 184 Ill. App. 3d 412 (1989), *People v. Thomas*, 127 Ill. App. 2d 444 (1970), *People v. Mitchell*, 105 Ill. 2d 1 (1984), and *People v. Garrett*, 216 Ill. App. 3d 348 (1991). We disagree. In *Jones*, 184 Ill. App. 3d at 430, defendant beat the victim with the gun, and although he also had a knife, he did not use it or fire the gun. Here, on the other hand, defendant had a knife which he used on three victims, thereby showing an intent to kill. *Miller*, 284 Ill. App. 3d at 24. In *Thomas*, 127 Ill. App. 3d at 455-56, defendant stabbed one victim in the shoulder, nicked her with the knife multiple times, slammed her head into a dresser, then raped her. Here, on the other hand, defendant stabbed three victims, including one who was just watching the fight, and the injuries,

which included stab wounds to the chest, abdomen and back, were far more serious. *Miller*, 284 Ill. App. 3d at 24.

¶ 28 In *Mitchell*, this court found that the defendant did not have the intent to kill her child where the evidence showed that she struck the child with an open hand a number of times, and when the child passed out, she put a wet wash cloth on her, and took her to the hospital. *Mitchell*, 105 Ill. 2d at 7-10. *Mitchell* is clearly distinguishable from the case at bar in which defendant used a deadly weapon, a knife, went on a rampage of stabbing three victims, and fled.

¶ 29 In *Garrett*, 216 Ill. App. 3d at 350-51, 354, defendant threatened the victim's life, but, although he held a knife to the victim's throat, he did not cut the victim; instead, he beat the victim with his hands. The victim, who lost two teeth from the beating, was treated as an outpatient for his injuries, received 15 stitches to his lips, and was released from the hospital 4 hours later. *Garrett*, 216 Ill. App. 3d at 354. Here, by contrast, defendant used a knife to stab the victims who were hospitalized between two to five days, one of whom had a partially collapsed lung, and another the intestines and stomach ripped from his body and were hanging out. Accordingly, we find the cases cited by defendant factually inapposite to this case where the evidence shows voluntary and willful acts by defendant, the natural tendency of which was to destroy the lives of his victims, and from which a rational trier of fact could reasonably conclude that defendant had the specific intent to kill beyond a reasonable doubt. *In re T.G.*, 285 Ill. App. 3d 838, 843-44 (1996).

¶ 30 With regards to defendant's claim that he acted in self-defense and defense of Little against the three victims, we observe that to establish self-defense or defense of others pursuant to section 7-1 of the Criminal Code of 1961 (720 ILCS 5/7-1 (West 2010)) defendant must show that: (1) unlawful force was threatened against him or another; (2) he believed the danger of harm was imminent; (3) he was not the aggressor; (4) the force used was necessary to avert the danger;

and (5) his beliefs were reasonable. *People v. Jeffries*, 164 Ill. 2d 104, 127-28 (1995). The use of force which is intended or likely to cause death or great bodily harm is limited to situations where the threatened force will cause death or great bodily harm or is the commission of a forcible felony. *People v. Stokes*, 185 Ill. App. 3d 643, 655-56 (1989); *People v. Williams*, 56 Ill. App. 2d 159, 165-66,169 (1965). Once defendant offers some evidence tending to prove self-defense, the State must prove beyond a reasonable doubt that he did not act in self-defense (*People v. Rodriguez*, 336 Ill. App. 3d 1, 15 (2002)), and may satisfy its burden by negating any one of the elements of the affirmative defense (*Jeffries*, 164 Ill. 2d at 128). The question of whether the State has met its burden is for the trier of fact, and we will not substitute our judgment on the issue unless the evidence is palpably contrary to the verdict or so unsatisfactory that it justifies a reasonable doubt. *People v. Ortiz*, 65 Ill. App. 3d 525, 530 (1978).

¶ 31 Here, the evidence, as set forth in detail above, shows that defendant was the initial aggressor as he and Little pursued McGee, and attacked her with the chair leg. The evidence also shows that Rollon merely intervened to protect McGee from defendant, and Karla intervened to remove the chair leg from the fight, but became victims when defendant escalated the situation by pulling out a knife and stabbing them. In these circumstances, the defense of self-defense or defense of others was not available to defendant as the situation defendant encountered arose out of his own conduct. *De Oca*, 238 Ill. App. 3d at 368; *People v. Zolidis*, 115 Ill. App. 3d 669, 677 (1983).

¶ 32 In addition, there was no threat of force to defendant or Little that would cause death or great bodily harm from McGee, who was just pulling Little's hair and striking her with her hands. There was also no such threat from Rollon, who also only used his hands and was coming to the aid of McGee, or from Karla, who simply took the chair leg and threw it away. *Stokes*, 185 Ill. App. 3d at 655-56. The victims did not have any weapons on them whereas Little and defendant

pursued them with weapons in tow, namely, a chair leg and knife, which they then used upon the victims. Accordingly, in this case the record supports the trial court's determination that defendant did not act in self-defense or defense of his girlfriend where he and Little were the initial aggressors, and defendant had no reasonable belief that he and Little were in danger of imminent death or great bodily harm, especially where the victims had no weapons, with one of them just standing on the side when she was attacked by defendant. *Jeffries*, 164 Ill. 2d at 128 (State only needs to negate one element to disprove self-defense or defense of others).

¶ 33 Defendant next contends, the State concedes, and we agree, that his two convictions and sentences for aggravated battery must be vacated as they are carved from the same physical act as two of the attempted murders. Because the two aggravated battery counts charged defendant with the same physical act as two of the attempted murder charges (stabbing Rollon and Karla), the lesser offenses, aggravated batteries, must be vacated. *People v. Mimes*, 2011 IL App (1st) 082747, ¶46. Therefore, pursuant to our authority under Supreme Court Rule 615(b)(1) (eff. Aug. 27, 1999), we vacate those convictions and correct the mittimus to reflect three convictions for attempted murder with their three correlating sentences. *People v. McCray*, 273 Ill. App. 3d 396, 403 (1995). Because individual sentences were imposed on each of the convictions, there is no need to remand for resentencing. *People v. Buford*, 235 Ill. App. 3d 393, 404 (1992).

¶ 34 Affirmed in part; vacated in part; mittimus corrected.