

2012 IL App (2d) 101013-U  
No. 2-10-1013  
Order filed April 30, 2012

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Kane County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 09-CF-316
	)	
KENNETH R. STEWART,	)	Honorable
	)	Robert J. Morrow,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE BURKE delivered the judgment of the court.  
Justices Hutchinson and Zenoff concurred in the judgment.

**ORDER**

*Held:* The State proved defendant guilty beyond a reasonable doubt of aggravated domestic battery causing great bodily harm, as the jury was entitled to find that the victim's pronounced split lip, which had sprayed blood, qualified as great bodily harm.

¶ 1 Following a bench trial, defendant, Kenneth R. Stewart, was found guilty of aggravated domestic battery causing great bodily harm (720 ILCS 5/12-3.3(a) (West 2008)). He appeals, contending that the State did not prove beyond a reasonable doubt that the victim suffered great bodily harm. We affirm.

¶ 2 At trial, Sandra Bails testified that she and defendant lived together with their three-year-old child. On October 14, 2008, defendant drove her to work. During the ride, she and defendant argued and she hit defendant with a bag. She then punched him several times with her fist. In self-defense, defendant pushed the bag away from his line of vision. During the scuffle, Bails was hit in the mouth. Her lip was cut and started bleeding. When she arrived at work, a coworker saw her and called for an ambulance. She was taken to the hospital but not admitted.

¶ 3 Bails admitted writing and signing a statement shortly after the incident. It said that, on the night in question, defendant gave her a ride to work. He soon began making untrue allegations against her. Defendant became more and more irate until he slammed on the brakes in the middle of the street as if he wanted her to get out of the car. She responded by telling him to take her to work. The next thing she knew, she was struck in the face and “blood started flying out of [her] mouth onto the seatbelt, [her] clothes, and [her] arm.” She “got to work in the car as he [is] telling me I need to wipe my mouth [but] it’s bleeding so much you can’t keep up w/ the blood.”

¶ 4 Paramedic Carrie Lynn Lackey testified that she attended to Bails at her workplace. Bails’ lip was split all the way through. There was some bleeding, although it was controlled. She said her pain was tolerable but was unable to rate it on a scale of 1 to 10. Bails was taken to the hospital, although she was not admitted.

¶ 5 The jury found defendant guilty. The trial court sentenced him to four years’ imprisonment. Defendant timely appeals.

¶ 6 Defendant contends that the State failed to prove beyond a reasonable doubt that he caused Bails great bodily harm. He argues that she suffered a split lip and that injuries such as lacerations cannot be considered great bodily harm.

¶ 7 When a defendant challenges on appeal the sufficiency of the evidence, the relevant inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *People v. Cox*, 195 Ill. 2d 378, 387 (2001). A criminal conviction will not be set aside unless the evidence when viewed in the light most favorable to the prosecution is so “unsatisfactory, improbable or implausible” that it creates a reasonable doubt of the defendant’s guilt. *People v. Slim*, 127 Ill. 2d 302, 307 (1989). Here, the only element at issue is the element of great bodily harm. If the State failed to prove great bodily harm beyond a reasonable doubt, a conviction of aggravated battery predicated upon great bodily harm must be vacated. See *People v. Watkins*, 243 Ill. App. 3d 271, 277-78 (1993).

¶ 8 Whether a defendant inflicted great bodily harm upon a victim is a question for the trier of fact and does not depend upon whether the victim was hospitalized, permanently disabled, or disfigured. *People v. Figures*, 216 Ill. App. 3d 398, 401 (1991). Although “great bodily harm” is not susceptible of a precise legal definition, it requires an injury greater and more serious than an ordinary battery. *People v. Lopez-Bonilla*, 2011 IL App (2d) 100688, ¶ 13 (citing *Figures*, 216 Ill. App. 3d at 401). Bodily harm, for purposes of the ordinary battery statute, requires “some sort of physical pain or damage to the body, like lacerations, bruises or abrasions, whether temporary or permanent.” *People v. Mimes*, 2011 IL App (1st) 082747, ¶ 29 (quoting *People v. Mays*, 91 Ill. 2d 251, 256 (1982)).

¶ 9 In *People v. Matthews*, 126 Ill. App. 3d 710, 714-15 (1984), perhaps the closest case on point, the victim was struck on the head with a gun and struck on the arms and head with a baseball bat with three full-force blows. The victim stated that she had only a bruise on her head and did not

require medical attention. In upholding the finding that there was great bodily harm, the First District noted that the matter was a question of fact and that the victim's statements about the extent of her injuries did not preclude a finding that great bodily harm occurred. *Id.* at 714-15.

¶ 10 Similarly, sufficient evidence of great bodily harm was found where the defendant hit the victim twice, resulting in a lump on the mouth, a scar on the face, and bruises under the chin. *People v. Smith*, 6 Ill. App. 3d 259, 264 (1972). Photographs depicting bruises, scratches, and cuts have also been sufficient. *People v. Milligan*, 327 Ill. App. 3d 264, 267 (2002).

¶ 11 In comparison, findings of great bodily harm have been reversed where substantial questions existed about the extent of the victims' injuries. For example, in *Watkins*, 243 Ill. App. 3d at 278, the record lacked information about the victim's injury. All that was known was that a bullet grazed the victim's side. The victim did not state that he bled. Without more information about the injury, the First District held that there was insufficient evidence of great bodily harm. See also *In re J.A.*, 336 Ill. App. 3d 814, 818-19 (2003) (victim had a single stab wound of indeterminate size, described the injury as feeling like someone pinched him, and was advised to have an indeterminate number of stitches by an unnamed person); *Figures*, 216 Ill. App. 3d at 402 (bullet penetrated a shoe but did not penetrate the skin).

¶ 12 Here, the jury could reasonably find that Bails suffered great bodily harm. Unlike in cases such as *Watkins*, there was evidence about the nature and extent of the victim's injuries. Bails wrote in her statement that "blood started flying out of [her] mouth onto the seatbelt, [her] clothes, and [her] arm." She was treated by paramedics at the scene and taken to the hospital, although she was not admitted. Photographs in the record show a pronounced gash of her upper lip extending well above the lip itself. From these facts, the jury could conclude that Bails suffered great bodily harm.

¶ 13 Defendant insists that Bails' injury did not qualify as great bodily harm. He argues as follows. Initially, he cites *J.A.*, 336 Ill. App. 3d at 817-18, for the proposition that "great bodily harm" requires proof of an injury greater and more serious than "bodily harm." He then quotes the statement from *Mays*, 91 Ill. 2d at 256, that "bodily harm" requires "some sort of physical pain or damage to the body, like lacerations, bruises or abrasions." He then cites *Figures*, which held, "Because great bodily harm requires an injury of a graver and more serious character than an ordinary battery, simple logic dictates that the injury must be more severe than that set out in the *Mays* definition." *Figures*, 216 Ill. App. 3d at 401. He concludes from this that "injuries limited to lacerations, bruises or abrasions cannot qualify as great bodily harm."

¶ 14 Defendant's syllogism is faulty because it does not account for the fact that the broad categories of injuries the *Mays* court mentioned can cause varying degrees of harm. While a laceration similar to a paper cut might not be great bodily harm, a long, jagged laceration might well be. Parenthetically, *Mays* was concerned with the definition only of "bodily harm" and did not attempt to set out a definition of "great bodily harm." Thus, we do not read *Mays* as standing for the proposition that a "laceration" may never be considered great bodily harm.

¶ 15 The jury saw and heard the evidence and we will not substitute our judgment for that of the factfinder.

¶ 16 The judgment of the circuit court of Kane County is affirmed.

¶ 17 Affirmed.