

2013 IL App (2d) 111315-U
No. 2-11-1315
Order filed May 14, 2013

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Kane County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 11-CF-863
)	
FRANCISCO SUAREZ,)	Honorable
)	David R. Akemann,
Defendant-Appellant.)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* The State proved defendant guilty beyond a reasonable doubt of aggravated battery, specifically that he acted intentionally when he struck the victim with his vehicle: the jury was entitled to infer intent from the facts that defendant pulled into a driveway, backed out, drove in reverse for 150 feet before striking the victim, drove away, and hid the vehicle.

¶ 2 Following a jury trial in the circuit court of Kane County, defendant, Francisco Suarez, was found guilty of one count of aggravated battery by use of a deadly weapon with intent to cause bodily harm (720 ILCS 5/12-4(b)(1) (West 2010)) and one count of aggravated battery with intent to cause great bodily harm (720 ILCS 5/12-4(a) (West 2010)). He appeals, contending that he was not proved

guilty beyond a reasonable doubt of having acted intentionally as required by both charges. Because the evidence, when viewed in the light most favorable to the prosecution, would allow a rational trier of fact to find beyond a reasonable doubt the required element of intent, we affirm.

¶ 3

I. BACKGROUND

¶ 4 The following facts are taken from the evidence at defendant's jury trial. On April 23, 2011, at about 4 p.m., the victim, Alfredo Robelo, was walking with his friend, Paulino Maldonado, east along the north side of Seneca Street in Elgin. The pair were headed to a BP gas station located at the corner of Seneca Street and Dundee Avenue. As they proceeded toward Dundee Avenue, they decided not to go to the BP station, turned around, and began walking west along the north side of Seneca Street. As they headed west, they were walking on the sidewalk, the curb, and the street's edge.

¶ 5 At one point, they observed Paulino's brother, Miguel Maldonado, drive by on Seneca Street going west. Miguel was driving Paulino's SUV, which Paulino described as "dark gray." Several other witnesses described a tan, khaki, or light gray SUV sitting on Seneca Street at about this time.

¶ 6 Miguel stopped the SUV on Seneca Street near its intersection with Prospect Boulevard to wait for Alfredo and Paulino. As the two continued to walk west toward the SUV, Paulino heard a vehicle accelerating from behind them. As he glanced back, he saw an SUV driving in reverse toward them. Paulino was able to move out of the way, but Alfredo was struck from behind by the rear of the SUV, causing him to fly through the air and land on a grassy area on the north side of Seneca Street. According to Alfredo, whose memory of the incident was "hazy," he never saw the SUV coming and the next thing he recalled was lying on the ground. Paulino did not see any damage to the rear end of the SUV before it struck Alfredo.

¶ 7 Just before Paulino noticed the SUV, it had been traveling west on Seneca Street. It then pulled into a private driveway, backed out, and drove in reverse for about 150 feet before striking Alfredo.

¶ 8 After striking Alfredo, the SUV continued in reverse for approximately 40 feet onto the grassy area on the north side of Seneca Street, stopping momentarily near two pine trees and a utility pole. The SUV then drove forward onto Seneca Street heading east. As it did so, it squealed its tires and accelerated.

¶ 9 Several small pieces of dark-colored glass were recovered from the scene on Seneca Street. There were also dirty tire tracks on the grassy surface that led over the curb and onto the street.

¶ 10 Alfredo was taken to the hospital, where he was diagnosed with a broken right femur. He also had two cracked ribs, several abrasions on his arm and head, and a contusion on his right lung.

¶ 11 Surveillance video from the nearby BP station revealed that, several minutes before the incident, the same SUV that struck Alfredo entered the BP lot. The driver, who was later identified as defendant, backed the SUV into a parking space at the front of the station, exited, and went into the station. Shortly thereafter, a light-colored SUV drove onto the BP lot, slowed down adjacent to the gas pumps, drove back onto Dundee Avenue, and turned west onto Seneca Street. Defendant then hurriedly exited the station, entered his SUV, drove rapidly across the lot, and appeared to follow the light-colored SUV onto Seneca Street.

¶ 12 A short time after the SUV struck Alfredo, an Elgin police officer received a call to go to defendant's mother's home on Ann Street in Elgin. He observed the suspect SUV parked in the yard at the rear of the house with its back end near a wood privacy fence. The SUV was not visible from the street and could be seen only by walking a substantial way down the driveway located alongside

the house. An inspection of the SUV revealed that its tinted rear window was broken out and that it had a large dent on the driver's side just above the rear bumper. Defendant, who spoke to the police several days after the incident, stated that he could not recall the last time he had either been in Elgin or driven the SUV.

¶ 13 Defendant was charged with the two counts of aggravated battery, as well as one count of attempted first-degree murder (720 ILCS 5/8-4(a), 9-1(a)(1) (West 2010)). The jury found him not guilty of attempted first-degree murder, but guilty of both counts of aggravated battery. In this appeal, he argues only that he was not proved guilty beyond a reasonable doubt of having acted intentionally when he struck Alfredo.

¶ 14

II. ANALYSIS

¶ 15 When considering a challenge to the sufficiency of the evidence in a criminal trial, our rule is not to retry the defendant. *People v. Lloyd*, 2013 IL 113510, ¶ 42. Rather, we inquire 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 offense beyond a reasonable doubt. *Lloyd*, 2013 IL 113510, ¶ 42. Therefore, we must allow all reasonable inferences from the record in favor of the prosecution. *Lloyd*, 2013 IL 113510, ¶ 42. We will not reverse a conviction unless the evidence is so unsatisfactory, improbable, or inconclusive that it creates a reasonable doubt of the defendant's guilt. *Lloyd*, 2013 IL 113510, ¶ 42.

¶ 16 Both forms of aggravated battery, as charged in this case, required proof that defendant acted intentionally. A person acts intentionally if his "conscious objective or purpose is to accomplish [the] result." 720 ILCS 5/4-4 (West 2010). Whether a person acted intentionally with respect to bodily harm resulting from his actions is, by its very nature, often proved by circumstantial, rather

than direct, evidence. *People v. Lattimore*, 2011 IL App (1st) 093238, ¶ 44. Intent may be inferred from the defendant's conduct surrounding the act and from the act itself. *Lattimore*, 2011 IL App (1st) 093238, ¶ 44. It is not necessary that the defendant intended the particular injury or consequence that resulted from his actions. *Lattimore*, 2011 IL App (1st) 093238, ¶ 44.

¶ 17 In the present case, when we view the evidence in the light most favorable to the prosecution, we conclude that the State proved beyond a reasonable doubt that defendant acted intentionally in striking Alfredo with the SUV. The evidence showed that defendant was driving west on Seneca Street and that, as he approached Alfredo, he turned into a driveway and backed out facing east. Instead of driving east, however, defendant continued driving in reverse for a distance of about 150 feet. He then drove up over the curb at the exact spot where Alfredo and Paulino were walking. Additionally, by driving the SUV in reverse he concealed his identity behind the tinted rear window. After striking Alfredo, he continued driving onto the adjacent grassy area for an additional 40 feet. Then, instead of stopping, he put the SUV in forward and drove off east, squealing the tires. The SUV was discovered a short time later, parked where it could not be seen from the street. Not only that, but it was parked in a position that essentially hid its damaged rear area from view. Viewed collectively, and in the light most favorable to the prosecution, this evidence readily supports the jury's conclusion that defendant intentionally struck Alfredo with the SUV.

¶ 18 Further, the jury could have found that defendant's actions in striking Alfredo were somehow connected to the light-colored SUV. It certainly appeared from the timing of the events and defendant's actions at the BP station that he recognized the light-colored SUV or its occupants and consciously followed it onto Seneca Street. Added to that, a light-colored SUV just happened to be standing in the street near Alfredo at the time of the incident. According to Paulino, that was his

vehicle being driven by his brother. It was reasonable for the jury to infer from this evidence that defendant's actions in striking Alfredo were somehow related to the light-colored SUV and its occupants, or to Paulino, and that the incident was not merely happenstance.

¶ 19 All of the foregoing evidence gave the jury a more-than-adequate basis to find that defendant acted intentionally in driving the SUV in reverse and striking Alfredo. Although defendant offers an innocent explanation for his actions, that he was merely driving negligently or recklessly when he struck Alfredo, the jury was free to reject that explanation and not elevate it to the level of reasonable doubt. See *People v. Milka*, 336 Ill. App. 3d 206, 228 (2003).

¶ 20

III. CONCLUSION

¶ 21 For the reasons stated, we affirm the judgment of the circuit court of Kane County.

¶ 22 Affirmed.