

No. 1-12-3705

**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  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 09 CR 20237
	)	
CONSTANCE TRUJILLO,	)	Honorable
	)	Michele M. Simmons,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE MASON delivered the judgment of the court.  
Justices Lavin and Hyman concurred in the judgment.

**O R D E R**

¶ 1 *Held:* Defendant was proven guilty beyond a reasonable doubt of misdemeanor battery where the victims' testimony that defendant was the initial aggressor contradicted defendant's evidence of self-defense. Affirmed.

¶ 2 Following a bench trial, Constance Trujillo was acquitted of two counts of aggravated battery against a peace officer but convicted of two counts of the lesser included offense of misdemeanor battery and sentenced to 18 months' probation with anger management counseling.

On appeal Trujillo contends that because the trial court found that the State failed to prove

beyond a reasonable doubt that Trujillo knew the victims were police officers, the State failed to prove that any physical contact was unjustified. We affirm.

¶ 3 Trujillo was indicted on two counts of felony aggravated battery to peace officers, one count of escape, and one count of criminal damage to government supported property. The charges stemmed from an altercation between Trujillo and two Cook County Sheriff's Deputies, James Minor and Thomas Wilcox, on July 7, 2009. The altercation began as Trujillo returned to her home that evening and the deputies attempted to execute arrest warrants for Trujillo issued in connection with a civil contempt proceeding.

¶ 4 In the State's case in chief, Minor testified that at about 8 p.m. on July 7, 2009, he and Wilcox went to Trujillo's home in an unmarked police vehicle to execute two body attachments for Trujillo. The officers were in uniforms resembling black fatigues that had patches on both shoulders—one representing the Cook County flag and the other for the Cook County Sheriff's Department; each also wore a star badge and a bullet-proof vest with "Sheriff's Warrant Unit" written on the back. When the deputies knocked on Trujillo's door, Cathleen Trujillo, Trujillo's 15 year-old daughter, answered. Minor explained why they were there. Cathleen informed them that Trujillo was not home but allowed the deputies in to search the home for her. Minor conducted a search of the home while Wilcox remained with Cathleen. After the search, the deputies went outside to wait for Trujillo.

¶ 5 Minor moved the police vehicle from Trujillo's driveway to a neighbor's driveway down the street. Wilcox remained on Trujillo's front porch. Around 10:30 p.m., Cathleen informed the deputies that her mother had called and that she would return shortly. Minor testified that after about 30 minutes, Trujillo's van passed him and "rolled" through a stop sign. Minor activated his lights and stopped Trujillo's van in front of her home. Both Wilcox and Minor approached

Trujillo's driver-side window. At Trujillo's request, the deputies allowed Trujillo to pull her van completely into the driveway. Minor returned to the squad car and followed Trujillo's van into the driveway. Wilcox again approached Trujillo's closed driver-side window and asked Trujillo for identification.

¶ 6 Wilcox testified that Trujillo forcefully opened the van's door, causing it to hit him. Upon exiting the vehicle, Trujillo thrust her identification card near Wilcox's face. When he saw Trujillo's name, Wilcox informed Trujillo that she was under arrest. Trujillo slapped Wilcox across the face and subsequently kicked him in the groin. Wilcox grabbed Trujillo around the arms.

¶ 7 Minor testified that he ran to assist Wilcox. While the deputies attempted to handcuff Trujillo, she proceeded to elbow and kick the deputies. Throughout the encounter Trujillo prayed and spoke unintelligible words. Trujillo kicked and kneed Minor in the chest and in the groin multiple times. Minor further testified that Trujillo grabbed his radio microphone and struck him in the head three times. All three individuals fell to the ground.

¶ 8 Wilcox radioed for back up. The deputies succeeded in handcuffing Trujillo's arms in front of her body as she lay on the ground on her back. A short time later officers from the Hazel Crest Police Department arrived. Minor approached the arriving officers while Wilcox and Trujillo got to their feet. Trujillo began to kick and strike Wilcox. She then kicked him in the groin causing Wilcox to fall to the ground. Minor and three Hazel Crest Police officers grabbed Trujillo and carried her to the squad car. They placed Trujillo in the backseat. Minor testified that Trujillo managed to unlock and open the squad car door and ran towards the house. Minor chased and tackled Trujillo. Minor and the Hazel Crest officers again placed Trujillo in the squad car.

¶ 9 Minor testified that Trujillo then kicked out both of the squad car's rear side windows causing glass to hit him. (Photographs of the damage to the vehicle were introduced at trial, but are not contained in the record on appeal.) An ambulance was called, because Trujillo had cut her legs on the car windows. Once the ambulance arrived, Minor and the Hazel Crest officers pulled Trujillo out of the car and placed her on a gurney. Trujillo was then taken to the hospital.

¶ 10 Officer Adam Grant, one of the Hazel Crest police officers who arrived on the scene to assist Minor and Wilcox, corroborated the deputies' testimony that Trujillo was kicking wildly at and striking the officers who were attempting to arrest her.

¶ 11 Following the close of the State's case in chief, the trial court granted a motion for directed finding as to the escape charge, stating that the evidence showed only an attempted escape not a completed escape. The court also granted a directed finding on the count of criminal damage to government supported property, citing insufficient evidence as to the squad car's funding.

¶ 12 Trujillo testified on her own behalf. She stated that on the evening July 7, 2009, she was leaving her bible study class around 10:30 p.m. when she tried to call her daughter. Trujillo called her daughter at least seven times on three separate phone lines, but received no answer. Fearing an emergency, Trujillo became frightened and worried and sped home. Trujillo further testified that she was especially afraid because of an ongoing divorce with her husband, a police officer.

¶ 13 Upon arriving home Trujillo saw her daughter standing at the end of the driveway, became distracted, and drove a short distance past the driveway. She testified that an unknown car then pulled up behind her and she asked the driver of car, later identified as Minor, to allow her to pull into her driveway. After pulling into her driveway, Trujillo testified that she could no

longer see her daughter. A man, later identified as Wilcox, then approached Trujillo's window and asked for her identification, informing her in a taunting manner that she was under arrest.

Once Wilcox told her she was under arrest, Trujillo admitted she knew he was a police officer.

¶ 14 Trujillo further testified that she was afraid for her daughter and began to pray and speak in "spiritual tongues." Wilcox grabbed Trujillo and she fell to the ground. Trujillo closed her eyes and continued to pray in the fetal position. The deputies began to grab at her arms and legs. Trujillo testified that she did not kick or strike out, but eventually one of the men put his knee in her back and handcuffed her.

¶ 15 Trujillo's daughter, Cathleen Trujillo, testified for the defense. She denied she gave the deputies permission to enter the home. After they entered the home, the deputies refused to allow Cathleen to answer her phone, although it rang many times, and threatened to arrest her if she did. Cathleen testified that one of the deputies instructed her to exit the house and stand in the driveway. After Trujillo pulled into the driveway and exited her car, Cathleen saw a deputy grab Trujillo by the wrist and they began to struggle. Cathleen further testified that she saw a deputy put his knee in Trujillo's back while she was on the ground. In rebuttal, the State presented testimony from an assistant state's attorney that the day after the incident Cathleen gave a statement in which she indicated she let the officers into the home and that she saw her mother kicking her legs as the officers were trying to arrest her.

¶ 16 Following the close of evidence and the parties' arguments, the trial court found that the State had not proven beyond a reasonable doubt that Trujillo knew Minor and Wilcox to be police officers in the performance of their official duties. The court did find that the State had sustained its burden on two counts of the lesser included offense of misdemeanor battery. The

trial court sentenced Trujillo to 18 months' probation with anger management counseling. The trial court denied Trujillo's motion for a new trial. Trujillo appeals.

¶ 17 Trujillo contends that the evidence was insufficient to prove beyond a reasonable doubt that she made unjustified physical contact with either Minor or Wilcox. Trujillo argues that because the trial court found that Trujillo did not know the men to be police officers, she was justified in defending herself or her daughter. The State responds both that evidence was sufficient and that Trujillo cannot claim self-defense or defense of another where she denied striking or kicking the victims at trial.

¶ 18 Due process requires the State to prove each element of a conviction beyond a reasonable doubt. *People v. Cunningham*, 212 Ill. 2d 274, 278 (2004), citing *In re Winship*, 397 U.S. 358, 364 (1970). When reviewing the sufficiency of evidence, a reviewing court must decide "whether, 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, 313 (1979); *Cunningham*, 212 Ill. 2d at 278. The reviewing court must defer to the fact finder on all reasonable questions of witness credibility and conflicting testimony. *People v. Campbell*, 146 Ill. 2d 363, 375 (1992).

¶ 19 In Illinois, a battery occurs when a person (1) knowingly or intentionally (2) by any means causes bodily harm or makes physical contact of an insulting or provoking nature (3) without legal justification. 720 ILCS 5/12-3 (West 2010). An act of force is justified when the actor reasonably believes that the force is necessary to defend one's self or another against the imminent use of unlawful force by a third party. 720 ILCS 5/7-1 (West 2010). An aggressor generally cannot claim justification by self-defense. See 720 ILCS 5/7-4 (West 2010).

¶ 20 Before discussing the merits of Trujillo's justification argument, we must first determine whether she is barred from raising the argument. The State argues that Trujillo cannot claim self-defense or defense of others because during her testimony she denied ever intentionally hitting or kicking the deputies. Yet, the Illinois Supreme Court has held that a defendant is entitled to the benefit of any defense shown by the entire evidence, even if the facts on which such defense is based are inconsistent with the defendant's own testimony." *People v. Bratcher*, 63 Ill. 2d 534, 539 (1976). Therefore, Trujillo may argue self-defense and defense of others based on the entirety of the evidence, even though she denied intentionally making contact with the deputies while testifying.

¶ 21 Turning to the merits of Trujillo's argument, there is ample evidence to support the charges of misdemeanor battery. Both deputies testified that Trujillo struck Wilcox with her van door as she exited the vehicle. Wilcox testified that Trujillo struck him in the face with an open hand and kicked him in the groin before he initiated any physical contact with Trujillo. Minor testified that he only made physical contact with Trujillo after she began to "tussle" with Wilcox. Both deputies testified that they were subsequently elbowed and kicked while trying to restrain Trujillo. Even if the deputies had not been police officers, a rational fact finder could still have found that Trujillo as the initial aggressor was guilty of battery.

¶ 22 Trujillo argues that because the State was unable to prove beyond a reasonable doubt that Trujillo knew the deputies were police officers, this court must accept that self-defense or defense of others justified her actions. Looking at the entirety of the evidence, Trujillo's justification defense, though weak, is not entirely implausible. Trujillo testified that she was scared, believing that she and her daughter were in danger. She testified that she had called home numerous times without answer, increasing her fear. She became even more agitated when she

arrived home to find her daughter standing oddly in the driveway. When Trujillo parked, her daughter had disappeared, replaced by an unknown man jumping out at her. When this is paired with the deputies' accounts of being struck it makes a conceivable argument of self-defense or defense of Trujillo's daughter. Yet, Trujillo's argument ultimately must fail because it is predicated on accepting her testimony as credible, a task committed to the trier of fact.

¶ 23 There is substantial evidence in the record refuting Trujillo's version of events. The State's witnesses described Trujillo not as frightened but as defiant and thrusting her identification in Wilcox's face. Even Trujillo admitted that once Wilcox informed her she was under arrest, she knew that he was a police officer. Both deputies testified that Trujillo's daughter was allowed to answer her phone. Each testified that Trujillo's daughter was not in the driveway when Trujillo arrived. On appeal, we must view the evidence in the light most favorable to the prosecution. The reviewing court is not, and the trial court was not, "required to disregard inferences that flow from the evidence, nor is it required to search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt." *People v. Bull*, 185 Ill. 2d 179, 205 (1998). A rational fact finder could have deemed the deputies more credible than Trujillo, and found beyond a reasonable doubt that Trujillo acted as an aggressor and not in self-defense.

¶ 24 Trujillo relies on *People v. White*, 87 Ill. App. 3d 321 (1<sup>st</sup> Dist. 1980), but that case is distinguishable. In *White*, the defendant was convicted of manslaughter for shooting a man. *Id.* at 322. The *White* defendant's uncontroverted testimony was that the victim had approached him some hours after an altercation and threatened the defendant while brandishing a knife. *Id.* at 323. The victim had cut the defendant with a knife months before. *Id.* The *White* court ruled that given the history between the two men and that the defendant's testimony was "virtually

uncontroverted," the State failed to prove its case beyond a reasonable doubt. *Id.* at 324. In contrast to *White*, Trujillo had no prior relationship with the deputies, the deputies made no threats of violence against Trujillo and, unlike *White*, Trujillo's testimony was not uncontroverted.

¶ 25 When considering a challenge to a conviction, a reviewing court will not reverse "unless the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt." *People v. Collins*, 214 Ill. 2d 206, 217 (2005). Taking the testimony in the light most favorable to the State, a rational fact finder could have discredited Trujillo's testimony and found beyond a reasonable doubt that Trujillo was unjustified in striking and kicking both Minor and Wilcox. For the foregoing reasons, we find that the State presented sufficient evidence to prove Trujillo guilty of misdemeanor battery beyond a reasonable doubt. Accordingly, the judgment of the circuit court of Cook County is affirmed.

¶ 26 Affirmed.