

NOTICE
Decision filed 11/25/14. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2014 IL App (5th) 120238-U

NO. 5-12-0238

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Massac County.
)	
v.)	No. 11-CM-155
)	
CHARLOTTE ANN KIDD,)	Honorable
)	Joseph Jackson,
Defendant-Appellant.)	Judge, presiding.

JUSTICE CATES delivered the judgment of the court.
Justices Goldenhersh and Chapman concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court properly found the defendant guilty of domestic battery after determining that the victims were members of the defendant's household.
- ¶ 2 The defendant, Charlotte Ann Kidd, was convicted, after a bench trial in the circuit court of Massac County, of two counts of domestic battery, and was sentenced to 12 months' conditional discharge. The defendant appeals her conviction claiming that the State failed to prove her guilty of domestic battery beyond a reasonable doubt when the evidence did not establish that the victims were family or household members of the defendant.

¶ 3 The evidence presented at trial reveals that the defendant lived with her husband and their three children. According to the defendant's husband, shortly before the incident involved in this case, the defendant and her husband agreed to allow two women, Mary Harrison and Alexandria Patrick, to move in with them as "temporary house guests." The two women needed a place to stay for a couple of weeks while they saved up money for an apartment. Mary testified that she had met the defendant while living at a homeless shelter before she was asked to leave the shelter for allegedly shoplifting. Alexandria testified that she ran into trouble with one of Mary's friends with whom they were then living, and the defendant agreed to take them both in while they saved money for an apartment. Mary believed that she and Alexandria lived with the defendant and her family for a month or two before the incident and that they were never told they could only stay for two weeks. According to Alexandria, they were allowed to stay for a little while as long as they helped out and watched the children. The defendant's husband testified that the women were only allowed to stay two weeks, had only stayed in the house two weeks, and in fact, were moving out on the day of the alleged incident.

¶ 4 On July 15, 2011, the day of the incident, Mary, Alexandria, the defendant and the defendant's oldest daughter, Caellagh, went to Paducah, Kentucky, to get their hair done and go shopping. At some point during the trip, they stopped at a gas station. The defendant went inside the station and, unbeknownst to most of the women, purchased a bottle of whiskey. After they returned home later in the day, the defendant appeared to be intoxicated. She started screaming at the children and was acting violently. Mary testified they called the defendant's husband at work to determine what to do. The

defendant allegedly had a history of becoming violent when intoxicated. According to Mary, the defendant's husband instructed the three of them to take the alcohol away from the defendant and get rid of it. The defendant's husband, however, denied that he received such a call from either Mary or Alexandria that day. He did confirm, however, that the defendant, in the past, had become violent when intoxicated and he has had to restrain her to prevent her from hurting him and others. Mary and Alexandria agreed to hold the defendant down on her bed by her arms so that Caellagh could take the bottle away from the defendant and dump it outside. While each of the women held the defendant down, the defendant bit both Mary and Alexandria on their arms. After the defendant calmed down, she later instructed them to take her husband his lunch. On their return trip, they got a call from one of the defendant's neighbors alerting them that the defendant was upset about her car being gone. When the three arrived back at the house, the defendant came outside and started yelling at them that they had stolen her car. She told them to get out of her house. Mary called the defendant's husband again and told him what had happened. He instructed them to stay with the children and call the police. The police were called, which ultimately resulted in the defendant's arrest. One of the officers who responded to the call to the defendant's residence testified he first observed the defendant as being upset and a little intoxicated. When he went inside the house, he could smell the odor of alcohol. The defendant told the officer she wanted the women removed from her house. He responded by asking her if the women lived there. When the defendant answered yes, he explained the eviction process to her and told her that she could not just kick them out. Because they were living there, the officer believed they

had a right to be in the residence and could come back into the house. The police then photographed the bite mark injuries that both Mary and Alexandria received, took statements and took defendant into custody. While Caellagh also received injuries that day, the charges against the defendant with respect to her daughter were no longer pursued after Caellagh was killed in a car accident prior to the defendant's trial.

¶ 5 The court found that the two women, Mary and Alexandria, were household members under the domestic battery statute and found the defendant guilty of two counts of domestic battery. The defendant was sentenced to 12 months' conditional discharge, ordered to pay \$510 in fines and fees, and further ordered to complete an alcohol substance abuse evaluation along with any recommended treatment. The defendant argues on appeal that Mary and Alexandria were not family members within the intendment of the domestic battery statute and therefore the State failed to prove her guilty beyond a reasonable doubt of domestic battery.

¶ 6 A defendant's conviction will not be set aside unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *People v. Collins*, 106 Ill. 2d 237, 261, 478 N.E.2d 267, 276 (1985). The relevant question 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. *Collins*, 106 Ill. 2d at 261, 478 N.E.2d at 277.

¶ 7 To convict the defendant of domestic battery, the State had to prove that Mary and Alexandria were each a "family or household member" within the intendment of the

statute. 720 ILCS 5/12-3.2(a)(1) (West 2010). Section 112A-3(3) of the Code of Criminal Procedure of 1963 defines "family or household members" to include:

"spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers ***. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship." 725 ILCS 5/112A-3(3) (West 2010).

¶ 8 The definition is broad, and by it, the legislature meant to "capture all of the myriad types of 'familial' relationships, both past and present, as well as various situations of cohabitation and shared living arrangements." *People v. Almore*, 241 Ill. 2d 387, 396, 948 N.E.2d 574, 579 (2011). Factors to consider include the nature of the living arrangements; whether the parties had any other living accommodations; whether they kept personal items at the shared residence; and whether the parties shared in the privileges and duties of a common residence, such as contributing to household expenses or helping with maintenance. *Almore*, 241 Ill. 2d at 396, 948 N.E.2d at 579. No particular length of time is required, nor is length of time a dispositive factor. *Almore*, 241 Ill. 2d at 396, 948 N.E.2d at 579. Each case, therefore, must be decided based on its

specific facts and the totality of the circumstances; there simply is no bright-line test for determining household membership. *Almore*, 241 Ill. 2d at 396, 948 N.E.2d at 579.

¶ 9 The defendant asserts that Mary and Alexandria were only temporary house guests, and that their stay had no degree of permanence as they were in the process of getting their own apartment. The defendant describes the circumstances as a casual or business relationship in which Mary and Alexandria were permitted to stay in the defendant's home in exchange for services as payment for lodging. Other evidence, however, also shows that the two women shared responsibility for the welfare of the children in the home. Even the defendant's husband asked them to stay with the children on the day of the incident when the defendant had ordered them to leave the residence. They were permitted to drive the defendant's car, they took the defendant's husband his lunch, took the defendant shopping and helped manage the defendant when she became intoxicated. Clearly they kept personal items in the defendant's residence given that they had no other residence in which to leave them. It was not unreasonable, therefore, for the trial court to conclude that Mary and Alexandria were household members, not just temporary house guests. While both women may have anticipated moving out at some point in the near future, they were living as household members, sharing a common dwelling, at the time the defendant battered them. Looking at the totality of the circumstances, viewed in the light most favorable to the prosecution, we agree that the defendant was proved guilty of domestic battery beyond a reasonable doubt.

¶ 10 For the foregoing reasons, we affirm the judgment of the circuit court of Massac County convicting the defendant of domestic battery.

¶ 11 Affirmed.