

No. 1-14-1913

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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. 13 CR 6992
	)	
WILLIAM DOMENECH,	)	Honorable
	)	Clayton J. Crane,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE REYES delivered the judgment of the court.  
Presiding Justice Gordon and Justice Hall concurred in the judgment.

**O R D E R**

¶ 1 *Held:* Defendant's conviction for aggravated domestic battery is affirmed. The trier of fact considered the victim's initial recantation of her accusations against defendant and her subsequent return to the original account of being assaulted. Moreover, the photographs entered into evidence corroborated the victim's description of the attack, and the delay between the assault and the victim's contact with police did not render her version of events improbable.

¶ 2 Following a bench trial, defendant William Domenech was convicted of the aggravated domestic battery of his wife, Crystal Aderman. Due to his criminal background, defendant was sentenced as a Class X offender to six years in the Illinois Department of Corrections. On appeal,

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defendant contends that the State failed to prove his guilt beyond a reasonable doubt because Aderman recanted her statement in which she inculpated him in this offense and then proceeded to withdraw that recantation and again accuse him of the acts supporting his conviction. Defendant also argues that Aderman's explanation of her injuries was not credible and was contradicted by photos presented at trial.

¶ 3 Defendant was charged with one count of aggravated domestic battery and two counts of felony domestic battery based on events that took place on March 7, 2013. Before trial, the circuit court granted the State's motion to admit proof of defendant's prior acts of domestic violence against Aderman pursuant to section 115-7.4 of the Code of Criminal Procedure (the Code) (720 ILCS 5/115-7.4 (West 2012)). According to the motion, those acts occurred between June 2010 to September 2012.

¶ 4 At trial, Aderman testified that she and defendant were married on March 23, 2011. On March 7, 2013, at approximately 10:15 p.m., she left her job at Nicky's Restaurant located at 3501 South Western Boulevard in Chicago. Aderman crossed the street to go talk to Joe, whose relationship to Aderman was not explained in her testimony. Aderman testified that while she spoke with Joe, she was "repeatedly \*\*\* getting phone calls" from defendant on her cell phone and that defendant called her "at least 15" times. Defendant was "swearing, cussing me out" and asking why Aderman was not home. Defendant arrived at the store a few minutes later and told Aderman to go home. As defendant left, he struck the store window with his hand.

¶ 5 About five minutes later, Aderman arrived at their apartment. Defendant and Aderman argued in their living room, and Aderman unplugged the gaming console defendant was using. Aderman testified that defendant began to choke her, standing in front of her with his hands

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around her neck. Defendant's hands were around her neck for 10 to 12 seconds, applying pressure to her neck. Aderman testified she was unable to "breathe right" and was trying to escape from his grip. Defendant called Aderman a "b----" and asked why she "[made] him do things like this." Defendant pushed her in the back, causing her to fall. He then stood behind her, placing his arm around her neck in a chokehold for 8 to 10 seconds, which prevented her from breathing.

¶ 6 Aderman testified that she sustained bruises on her neck, arms and legs. The right side of her body was bruised when she fell. Aderman, during her testimony, could not describe what she fell on. Her testimony was that she hit something on her right side as she fell toward the dining room.

¶ 7 The State entered photographs into evidence which depicted two marks on Aderman's neck and bruises on Aderman's right and left arm and right hip. Aderman identified her bruises in each of the photographs and testified that her injuries were caused by defendant. Aderman also identified a photograph of the living room area where she fell. The photograph depicts a radiator that was near a "pedestal" or a "divider of the pillar" between the living room and dining room. She later testified there were two pillars in the room and that she fell on the pillar opposite the radiator.

¶ 8 Aderman testified that she went into another room to call the police, but defendant took the phone from her. Aderman kept a second phone hidden in a makeup case in the bathroom but that phone was missing as well. Aderman remained in their apartment overnight and went to work the next day at 2:15 p.m., returning home at 10:15 p.m. When asked why she did not go to the police station the day of the incident, Aderman responded that she "didn't have a chance" and

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that defendant did not let her go anywhere. Aderman told her boss she was late because she fell down the stairs and did not tell him about the abuse because she "didn't want to get him involved."

¶ 9 Aderman sent her longtime friend Cheryl Piernikowski a text message on March 11 with a picture of the bruises on her side. Aderman went to Piernikowski's residence that morning and together they went to the police station. Aderman said defendant had called her several times before she went to the police station and she decided she "couldn't do it again." While Aderman was completing a police report at the station, defendant continued to call her and said that she should not share her account with Piernikowski. Aderman activated her phone's speaker to allow the police officer to listen to the defendant.

¶ 10 About four months later, on July 17, 2013, Aderman told an investigator from the Cook County public defender's office that she did not want defendant to be prosecuted in this case. Aderman visited defendant while he was incarcerated several times before and after July 17, and defendant asked her to drop the charges. Aderman said she initially agreed to drop the charges because she "loved him, that was my husband." Aderman testified, however, that she changed her mind and proceeded with the case because "[i]t wasn't right what he did."

¶ 11 Aderman also testified to five prior incidents in which defendant struck her or injured her as they argued. On June 20, 2010, defendant "head-butted" her and gave her a "busted lip" while they argued at a grocery store. Police were present there, and a photograph of her lip that was taken after that incident was introduced into evidence. The State also presented the testimony of Chicago Police Officer Carlos Cortes as to the June 2010 incident. Officer Cortes testified that Aderman's lip was red and swollen, and the remainder of his testimony did not substantially

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differ from Aderman's account. In addition, the parties stipulated that Chicago Police Officer Dominick Catinella also was present following that incident and would offer similar testimony.

¶ 12 Aderman also testified that on May 30, 2011, defendant closed a window on her finger during an argument, requiring her to have six stitches. The parties stipulated that Chicago Police Officer Lisa Rocco-Pignato would testify that she responded to a call on that date regarding a domestic disturbance and that Aderman had a laceration on her left hand that needed six stitches. A certified copy of defendant's domestic violence conviction in that case was admitted into evidence.

¶ 13 On December 28, 2011, defendant struck her in the face with his hand when she tried to take a gaming console away from him. On September 9, 2012, defendant became upset when their landlord told defendant he had to move out, and defendant pushed Aderman and slapped her face. Aderman acknowledged that she had a 2004 felony conviction for aggravated battery.

¶ 14 On cross-examination, Aderman said she had known defendant for 9 or 10 years. Aderman said defendant put his thumbs on her throat as she struggled to get away. She was not sure what she fell against when defendant pushed her; she informed police and prosecutors she thought she had fallen onto a pole or a radiator. When shown the photograph of the living room, Aderman testified that she initially thought she had fallen on a pole protruding from the lower part of the radiator and that the photograph did not depict the area where she actually fell.

¶ 15 Aderman testified that the day after defendant choked her, defendant still had her cell phone, and he returned it to her when she arrived home from work. Her sister also came to their apartment that same day and gave her a phone. Aderman did not display to Piernikowski any bruising on her neck. She changed her last name to Domenech because defendant told her to do

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so while he was incarcerated in 2013; she changed her name back to Aderman when she moved to Indiana in August 2013.

¶ 16 After defendant was arrested for the choking incident, Aderman accepted his phone calls and visited him while he was incarcerated because they "were still legally married" and she felt sorry for him. Defendant told her to write letters to him "so that it would look good on his behalf to get him out" and told her he was going to Puerto Rico and would not bother her anymore.

¶ 17 Aderman acknowledged recanting her statement and telling an investigator that defendant did not strangle her. She did not recant her account to the prosecutors until a few days before trial.

¶ 18 Aderman was asked by defense counsel on cross-examination about her discussions with defendant to testify in his favor, as opposed to giving her present account of his abuse:

"Q. That led you to talk to my investigator to tell him one thing that we've covered. But at some point you decided to change your story back to the first story, right?

A. To what happened.

Q. Right. When did you make that decision that you weren't going help out and I'm using the words help out [defendant] any more?

A. Our last conversation on the phone. He started screaming and yelling at me telling me that I have to do what he says to make things look how they should look so that I can get him out. But it wasn't gonna [sic] because I couldn't do it.

Q. You couldn't do what?

A. I wasn't going to lie.

Q. Why weren't you going to lie anymore?

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A. Because it's not right what he did to me.

Q. But what had changed?

A. The way he started talking to me was going back to like, he would tell me; oh, I'm going to change, I swear babe, do this for me, help me out, you know, I'll never do it again, things will be different. But then I picked up the phone call that one time he starts yelling and screaming why ain't I answering my calls, what the f--- are you doing, what the f---, where you at, who you[] with \*\*\* it was already back to the same attitude.

Q. You felt he was accusing you –

A. No, he just was –

Q. – of being with somebody else. That's what the fight was about, right?

A. No, it wasn't about being with someone. It was why I wasn't accepting his calls anymore or why I ain't sending money or why ain't I writing letters, 'cause it was already getting back to the old ways.

Q. But why was he so upset? If the letters were fake anyway, why was he so upset, did he tell you?

A. I wasn't accepting no more calls, no more nothing. That was it, it was done.

Q. Why did you stop?

A. Because it's not right."

¶ 19 Aderman said that argument with defendant occurred approximately in September 2011.

¶ 20 On redirect examination, Aderman said she was not sure what object or fixture her body struck when she fell in the apartment. She acknowledged that in her first encounter with a Cook County State's attorney, she informed them she did not want to assist in prosecuting defendant

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but instead wanted to help defendant. She testified these events "happened" even though she told the public defender's investigator that she did not want to proceed with the case.

¶ 21 Piernikowski testified she had been Aderman's best friend for 25 years and had known defendant since his involvement with Aderman. Piernikowski offered testimony consistent with that of Aderman as to the March 11 photo of Aderman's bruising, their trip to the police station and defendant's phone calls to Aderman while at the police station.

¶ 22 Chicago Police Officer Renee Whittingham testified that at about 11:30 p.m. on March 11, 2013, she was dispatched to defendant and Aderman's apartment to arrest defendant for domestic battery. Aderman signed the complaint against defendant and informed the officer that defendant was at the liquor store. Officer Whittingham testified that Aderman showed the officer a "large black and blue bruise on her right hip."

¶ 23 The defense presented no evidence. In finding defendant guilty of aggravated domestic violence, the circuit court stated that it had observed the witnesses and considered their interests and biases in this case. Noting its consideration of defendant's prior crimes, the court stated:

"\*\*\* I have no doubt this took place, I have note doubt [*sic*] who the aggressor was in this case, it is clear to me. The actions of Crystal don't seem that strange to me after the 16 years of having been exposed to this situation. Finding of guilty on all three counts."

¶ 24 The court denied defendant's motion for a new trial. The court merged all counts into the aggravated domestic violence count and sentenced defendant to six years in prison.

¶ 25 On appeal, defendant challenges the sufficiency of the evidence to establish his guilt. He first argues that his conviction should be reversed because Aderman's version of events was



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inconsistent and included her recantation of her initial accusation. Defendant points out that after Aderman informed the investigator from the public defender's office in July 2013 that she did not want defendant to be prosecuted, she later reversed course and proceeded with the case.

¶ 26 When considering a challenge to the sufficiency of the evidence, a reviewing court must determine whether, viewing the evidence in the light most favorable to the State, a rational trier of fact could have found the required elements of the crime beyond a reasonable doubt. *People v. Bradford*, 2016 IL 118674, ¶ 12. It is the responsibility of the trier of fact to resolve conflicts in the testimony, weigh the evidence and draw reasonable inferences from the facts. *Id.* A reviewing court must draw all reasonable inferences in favor of the prosecution. *People v. Sumler*, 2015 IL App (1st) 123381, ¶ 54, citing *People v. Bush*, 214 Ill. 2d 318, 326 (2005). A conviction will be reversed only if the evidence is so improbable, unsatisfactory or inconclusive that it raises a reasonable doubt of the defendant's guilt. *Id.*

¶ 27 In this case, in order to establish defendant was guilty of aggravated domestic battery, the State was required to prove Aderman was a family member of defendant or that they shared a household and that he knowingly strangled her by squeezing her around the neck. 720 ILCS 5/12-3.3(a-5) (West 2012). The evidence in this case was sufficient to establish that defendant committed that act. Aderman testified that as she and defendant argued on the night in question, defendant placed his hands around her neck for about 10 seconds as he applied pressure. Aderman testified that she was not able to breathe during that time and had bruises on her neck. Aderman was married to defendant at the time of these events.

¶ 28 Still, defendant argues that Aderman's changing account of those events created a reasonable doubt as to his guilt. The State responds, citing *People v. Appelt*, 2013 IL App (4th)

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120394, ¶ 66, that it is not uncommon for domestic violence victims to change their stories and ultimately refuse to testify against their assailants.

¶ 29 According to Aderman's testimony, after initially wanting to protect defendant by withdrawing her accusation that he choked her, she changed her mind and proceeded with the case because "it wasn't right what he did." Aderman admitted on cross-examination that she informed an investigator that defendant did not commit those acts; however, she later stated her recantation was untruthful and that she was trying to aid defendant by changing her story. Aderman said on cross-examination that she "wasn't going to lie" and state that defendant did not choke her.

¶ 30 Defendant asserts that the testimony of a complainant that changes from accusation to recantation, and then returns to the original accusation, cannot support a finding of guilt beyond a reasonable doubt. He also contends that his conviction cannot be affirmed because Aderman recanted her initial statement. This court, however, has held that even if a victim, in her trial testimony, recants a previous statement accusing the defendant of criminal conduct, the recanted prior inconsistent statement can support the defendant's conviction, even in the absence of corroborative evidence. *People v. Douglas*, 2014 IL App (5th) 120155, ¶ 28. There, the victim provided police with a written account stating that the defendant had threatened and stalked her on two separate occasions, including one incident in which the defendant pointed a knife at her; however, at trial, the victim recanted her prior accounts and testified that she and the defendant only argued on one of the dates and that "nothing" happened on the other date. *Id.* ¶¶ 6-7.

¶ 31 On appeal, the defendant in *Douglas* challenged the sufficiency of the evidence to establish his guilt, arguing that the victim's prior inconsistent statements could not establish his

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guilt, even though those prior statements were deemed reliable under section 115-10.1 of the Code (725 ILCS 5/115-10.1 (West 2010)). *Id.* ¶ 24. The appellate court upheld the defendant's conviction, finding the evidence sufficient to convict the defendant of stalking, and stating as follows:

"The cases on which defendant relies are older cases and in no way hold that, as a matter of law, a recanted prior inconsistent statement cannot support a criminal conviction. Here, it is clear why Jayma [the victim] might change her story, as do so many victims of domestic abuse [noting the defendant and victim's marriage and children and that the victim relied on the defendant to care for the children while she worked]. The jury was in the best position to weigh Jayma's credibility. Our review of the transcript shows Jayma's attempt to recant either incident fell flat. The verdict indicates the jury found her prior inconsistent statements more reliable than her in-court testimony. We also point out that there was some corroborating evidence here, namely, the picture of the knife that was submitted into evidence." *Id.* ¶ 31.

¶ 32 Here, the evidence to support defendant's conviction is even stronger than that offered in *Douglas*. After Aderman recanted her original account, she testified at trial that defendant battered her, which was consistent with her initial accusations. Aderman's withdrawal of her recantation provided support that her initial account was truthful. Furthermore, Aderman expressly explained to the court why she had wavered in her desire to aid in the prosecution of defendant, who was her husband, and why she ultimately pursued the case against him. It was the purview of the trial court, as the trier of fact in this bench trial, to judge the credibility of Aderman's testimony and weigh the evidence after drawing reasonable inferences from it. See

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*People v. Pena*, 2014 IL App (1st) 120586, ¶ 18. As in *Douglas*, the trial court in this case determined Aderman's credibility based on the totality of her testimony and recantation.

Moreover, in this case, Aderman testified to defendant's prior acts of domestic violence committed against her. Even considering Aderman's recantation and her subsequent return to her initial account, the trial court could have found, viewing the evidence in the light most favorable to the prosecution, that the State proved the essential elements of the crime beyond a reasonable doubt.

¶ 33 Defendant next contends the photographs introduced into evidence by the State did not support Aderman's description of the assault. He argues the photograph of Aderman's neck only depicts two marks on one side of her neck and other photographs only demonstrate "minor bruises" on her arms. He points out that no photographs of her back or legs were introduced into evidence to support her testimony that she was thrown around the room.

¶ 34 In addition, defendant contends Aderman's testimony as to her hip injury was inconsistent. Defendant points out that Aderman stated she did not know what she fell on but later testified she struck her hip near a radiator identified in a photograph introduced into evidence. Defendant argues that Aderman could not have been injured by striking her hip on a pipe that was close to the wall near the radiator based on its position in the room as shown in the photograph.

¶ 35 Contrary to defendant's arguments, the photographs entered into evidence corroborates Aderman's description of her injuries, as they display bruises on her neck and arms, where she testified that defendant grabbed her, and bruises on her right hip. Aderman also explained that her initial impression that she fell on part of the radiator was mistaken and that she in fact fell

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against a pillar that was opposite the area in the photograph. The photograph introduced at trial and included in the record on appeal depicts a decorative column that separates two rooms. An inconsistency in testimony that is minor in nature and that was fully explored at trial does not create a reasonable doubt of the defendant's guilt. *People v. Brown*, 388 Ill. App. 3d 104, 109 (2009).

¶ 36 As with defendant's argument as to the extent of Aderman's neck bruising, it was the trial court's role to consider Aderman's testimony and the photographs entered into evidence and draw reasonable inferences therefrom. Moreover, defendant's point that the State did not introduce a photograph of Aderman's back is unavailing. Aderman did not claim injury or bruising on her back; she testified that defendant pushed her in the back and she fell onto her right side.

Furthermore, the absence of a photograph of defendant's legs does not create reasonable doubt in light of the other photographs entered into evidence which corroborate Aderman's testimony.

¶ 37 Likewise, we reject defendant's remaining contention on appeal that Aderman's testimony was not credible because she did not contact police until four days after the March 7, 2013, incident. Aderman went to the police station on March 11 with Piernikowski. Aderman testified that she did not contact or call the police until the day after the assault because defendant did not return her phone to her until she returned from work that day. It is not illogical or contrary to human experience that Aderman waited several days to proceed with a complaint against defendant, with whom she lived, and who had a history of violent incidents directed toward her. See, e.g., *People v. Jenk*, 2016 IL App (1st) 143177, ¶ 48 (defendant's domestic battery conviction upheld over reasonable doubt argument; victim did not report physical abuse for two months and explained she still loved the defendant and was afraid to report him).

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¶ 38 In conclusion, Aderman's recantation and subsequent return to her original account of being assaulted by defendant, and the four-day period until Aderman reported the crime to police, did not create a reasonable doubt as to defendant's guilt. Moreover, any discrepancies within Aderman's testimony and between that testimony and the photographs entered into evidence were minor and were fully explored at trial. See *People v. Bradford*, 187 Ill. App. 3d 903, 918 (1989).

¶ 39 Accordingly, the judgment of the circuit court of Cook County is affirmed.

¶ 40 Affirmed.