

**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).

2016 IL App (4th) 140651-U

NO. 4-14-0651

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

July 22, 2016

Carla Bender

4<sup>th</sup> District Appellate Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McLean County
JAMES HUBERT SHERROD,	)	No. 13CF1614
Defendant-Appellant.	)	
	)	Honorable
	)	John Casey Costigan,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.  
Presiding Justice Knecht and Justice Holder White concurred in the judgment.

**ORDER**

¶ 1 *Held:* The evidence was sufficient to prove beyond a reasonable doubt that defendant knowingly made physical contact of an insulting or provoking nature, which was a necessary element of aggravated battery.

¶ 2 In December 2013, Bloomington police officer Ryne Donovan discovered defendant, James Hubert Sherrod, highly intoxicated inside a Bloomington business. Donovan called an ambulance to take defendant to the hospital for an evaluation. Donovan rode along with defendant in the ambulance. During the ride, defendant's head made contact with Donovan's chest, which Donovan described as a "head-butt."

¶ 3 After an April 2014 jury trial, the jury found defendant guilty of aggravated battery for knowingly striking Donovan. The trial court sentenced him to three years in prison. Defendant now appeals, arguing that the evidence was insufficient to prove that he knowingly made contact with Donovan. We disagree and affirm.

¶ 4

## I. BACKGROUND

¶ 5 In December 2013, the State charged defendant with aggravated battery (720 ILCS 5/12-3.05(d)(4) (West 2012)), alleging that he used his head to strike Donovan in the abdomen, knowing that Donovan was a peace officer.

¶ 6 At an April 2014 jury trial, Donovan testified that on September 2, 2012, he found defendant "highly intoxicated" inside the Market Street Currency Exchange in Bloomington. Defendant's speech was slurred, he was very lethargic, and his balance was so poor that Donovan had to grab his arm to prevent him from falling down. Defendant told Donovan that he was very drunk and had been drinking earlier that day. Donovan asked defendant how much he had drunk, but defendant was not able to answer. Donovan called an ambulance to take defendant to the hospital for medical attention because of his intoxication. Donovan asked defendant to come outside with him, and defendant complied. Donovan described defendant as "[d]runk, but cooperative." While waiting for the ambulance, Donovan issued defendant a municipal ordinance violation for public intoxication. Defendant responded, "Fuck it, I'm not going to pay no fucking ticket anyway."

¶ 7 Donovan explained that when the ambulance arrived, defendant "became very combative." Defendant got in a "fighting stance, he clenched up his fists, bent his knees and kind of staggered his stance apart." According to Donovan, defendant's behavior was indicative of someone who was "ready to fight." Defendant told Donovan that he "hate[d] the fucking police" for killing his grandfather. Donovan told defendant to calm down, which defendant did. Defendant walked to the ambulance, got in, and sat on a bench located on the right side of the ambulance. Donovan rode along in the ambulance because of defendant's aggressive behavior.

¶ 8 Donovan testified further that during the ride to the hospital, defendant became

verbally aggressive, mentioning again that he hated police. When a paramedic attempted to take defendant's vitals, defendant refused, clenched up his fists, and said, "I'll punch you in the fucking face." Donovan then asked defendant to lean forward so that Donovan could handcuff defendant's hands behind his back. Defendant complied, and Donovan handcuffed him. Defendant remained seated on the bench. Donovan stood about three feet from defendant to ensure that he did not attack the paramedic. Donovan testified that defendant then yelled something at him, before defendant hunched over, turned toward Donovan, and "head-butted" Donovan in the chest while yelling, "Fuck you." Donovan stated that after defendant made contact with him, he could feel defendant continue to push his weight into him as if to knock him off balance. Donovan restrained defendant, who continued pushing his body weight toward Donovan. After a few seconds, defendant said, "Okay, I'll calm down." Donovan released defendant, who did not initiate any other physical altercations. Donovan testified further that after they arrived at the hospital, defendant became "irate" and began yelling and cursing at the hospital personnel. Defendant said, "Fuck you, pigs, I'll kill you and your families."

¶ 9 Paramedic Clayton Matteson testified that he responded to the call involving defendant, who was "obviously intoxicated." He was wobbly on his feet and needed assistance to stand up straight. He was agitated and aggressive and threatened violence against Matteson. During the ride to the hospital, defendant was seated on the bench located against the wall of the ambulance and was wearing a seat belt. Defendant refused to allow Matteson to evaluate him. Defendant became "extremely aggravated" and "head-butted" Donovan in the chest. Matteson testified that Donovan then placed defendant in handcuffs. According to Matteson, Donovan was standing less than a foot away from defendant when defendant head-butted him.

¶ 10 Phillip Longstreth testified that he was a paramedic trainee riding along with

Matteson. On the way to the hospital, defendant was "combative" and made "delusional statements." When Longstreth and Matteson attempted to check defendant's vitals, defendant "lunged" at them. Donovan then stepped toward defendant, and defendant head-butted Donovan in the chest. After the head-butt, Donovan placed defendant in handcuffs.

¶ 11 The jury found defendant guilty. The trial court sentenced him to three years in prison. This appeal followed.

¶ 12 II. ANALYSIS

¶ 13 Defendant argues that the State failed to prove him guilty beyond a reasonable doubt of aggravated battery. Specifically, defendant argues that the evidence was insufficient to prove that he *knowingly* made contact with Donovan instead of "drunkenly and accidentally" doing so.

¶ 14 A. Standard of Review

¶ 15 The fourteenth amendment to the United States Constitution requires that the State must prove beyond a reasonable doubt every essential element of the charged crime. *People v. Wheeler*, 226 Ill. 2d 92, 114, 871 N.E.2d 728, 740 (2007). When reviewing a challenge to the sufficiency of the evidence, this court asks whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Id.* In doing so, we allow all reasonable inferences from the record in favor of the prosecution. *People v. Beauchamp*, 241 Ill. 2d 1, 8, 944 N.E.2d 319, 323 (2011).

¶ 16 B. Statutory Language

¶ 17 As charged in this case, a person commits aggravated battery when, in committing a battery, that person knows that the person battered is a peace officer. 720 ILCS 5/12-3.05(d)(4) (West 2012). A person commits battery when that person "knowingly without legal

justification by any means \*\*\* makes physical contact of an insulting or provoking nature with an individual." 720 ILCS 5/12-3(a) (West 2012). A person acts knowingly when he is "consciously aware" of the nature his conduct. 720 ILCS 5/4-5 (West 2012).

¶ 18 C. The Evidence in This Case

¶ 19 In this case, the State was required to prove beyond a reasonable doubt that defendant *knowingly* made contact of an insulting or provoking nature with Donovan. The jury concluded that the State met its burden, and the evidence before this court fully supports the jury's verdict.

¶ 20 All three witnesses testified that, prior to the contact with Donovan, defendant was verbally combative and threatened violence toward Donovan and the paramedics. In addition, all three witnesses testified that defendant head-butted Donovan and not that defendant accidentally moved his head due to intoxication or some other reason. Further, Donovan testified that after defendant made contact with Donovan's chest, defendant continued to push his weight into Donovan as if to knock him off balance. That testimony tended to show that defendant was consciously aware of the nature of his conduct and that he knowingly head-butted Donovan.

¶ 21 Defendant argues that "[his] state of intoxication negated his ability to control his body movements." However, the testimony belies that claim. Although the testimony established that defendant was highly intoxicated, it likewise established that defendant remained in control of his movements. For example, defendant was able to voluntarily lean forward when Donovan asked to handcuff him. In addition, defendant clenched his fists when threatening to hurt Matteson.

¶ 22 Defendant argues that "the close proximity between Donovan and [defendant], while in a moving ambulance traveling along a route that included turns, supported the reasona-

ble inference that [defendant] drunkenly and accidentally bumped into Donovan." Even if we accepted defendant's argument as true—that the jury rationally could have inferred that defendant acted accidentally—our decision would remain the same. The standard of review in this case does not ask whether a rational jury could have found defendant *not guilty*. Instead, quite the opposite, the standard asks whether a rational jury could have found defendant *guilty*. *Wheeler*, 226 Ill. 2d at 114, 871 N.E.2d at 740. As a result, we draw all reasonable inferences in favor of the State, not defendant. *Beauchamp*, 241 Ill. 2d at 8, 944 N.E.2d at 323. In this case, we conclude that a rational jury could have inferred from the evidence that defendant—although intoxicated—knowingly made contact with Donovan by head-butting him. The evidence was therefore sufficient to prove defendant guilty beyond a reasonable doubt.

¶ 23

### III. CONCLUSION

¶ 24 For the foregoing reasons, we affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002 (West 2014).

¶ 25 Affirmed.