

No. 1-15-0048

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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. 14 CR 8043
	)	
JAMES HICKS,	)	Honorable
	)	Gregory R. Ginex,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE PIERCE delivered the judgment of the court.  
Presiding Justice Hyman and Justice Mason concurred in the judgment.

**O R D E R**

- ¶ 1 *Held:* Motion to withdraw as appellate counsel granted over defendant's response; trial evidence was sufficient to convict defendant of aggravated domestic battery.
- ¶ 2 Following a 2014 bench trial, defendant James Hicks was convicted of aggravated domestic battery and sentenced as a mandatory Class X offender to seven years' imprisonment.
- ¶ 3 The State Appellate Defender, who represents defendant on appeal, has filed a motion for leave to withdraw as appellate counsel. Counsel has submitted a brief in support of her motion,

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pursuant to *Anders v. California*, 386 U.S. 738 (1967), concluding that an appeal in this cause would be without arguable merit. Copies of the motion and brief were sent to defendant, who was advised that he might submit any points in support of his appeal.

¶ 4 Defendant has responded, attacking his conviction based on an affidavit in the record. He was charged in relevant part with aggravated domestic battery for allegedly strangling Tina Jamison, a family or household member, on or about April 12-13, 2014. Before trial, the court received a June 2014 affidavit from Jamison and denied a defense motion to dismiss based on that affidavit. Jamison's affidavit was to the effect that "what was suppose[d] to happen on April 13, 2014, didn't happen" but were her false allegations because she was angry with defendant because "he had another woman" and Jamison "had been drinking all that day [and] under the influence of drugs." She asked the court to drop the charges against defendant and professed that she loved him and planned to marry him. To the extent that defendant is now claiming that the evidence was insufficient to convict him beyond a reasonable doubt in light of Jamison's affidavit and trial testimony, we shall address that claim below.

¶ 5 At trial, police officer Brian Reiter testified that he and other officers responded at about 1:45 a.m. on April 13 to a report that a woman phoned from a particular hotel and screamed before the call was cut off. Officer Reiter heard crying and screaming from one of the hotel rooms and knocked on the door. Defendant answered the door, and Officer Reiter saw inside the room a woman sitting on the bed, weeping and holding a rag to her face. The woman told the officers that "he hit me" and, more particularly, that defendant had punched her in the face and choked her. She identified herself as Tina Jamison. Officer Reiter noticed fresh blood on the bed where Jamison had been seated and saw that she had been crying, had marks on her lower lip, blood was coming from her nose, and her shirt was torn. In looking around the room, Officer Reiter saw a cellphone

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broken in two – which Jamison indicated was hers – and empty liquor bottles but no signs of drug use. Jamison was taken to a hospital and defendant was arrested. Officer Reiter accompanied her to the hospital, where she maintained that defendant punched her in the face. Officer Reiter photographed her injuries, including a bloody nose and cuts to her face and lip. When Jamison was released from the hospital, Officer Reiter brought her to the police station where she gave a written statement to Assistant State's Attorney (ASA) Holly Grosshans in Officer Reiter's presence. At trial, he identified photographs of the bloody hotel bed, broken cellphone, and Jamison's injuries. On cross-examination, Officer Reiter testified that the hotel desk clerk did not report a disturbance, Jamison smelled of alcohol, and Officer Reiter did not search the drawers in the hotel room.

¶ 6 Tina Jamison testified that she was in a hotel room on the night in question, "drinking and getting high," when defendant came to her hotel room. She denied knowing "what happened next" except that he did not punch or choke her nor did he break her cellphone. She did not recall any other detail of the events in the hotel room, hospital, or police station when asked *seriatim*. She also did not recall any particulars of the statement when asked *seriatim*. She acknowledged making the statement voluntarily albeit under the influence of drugs and alcohol, initialing and signing the statement, that the signatures on the statement were hers, and that the photograph of her holding the statement was indeed her. The broken cellphone in the hotel room was hers and was not broken when she came to the hotel, but she did not recall how it broke. On cross-examination, Jamison testified to having "a drug and alcohol problem" for years, with intermittent treatment, and she had been drinking for hours on the day of the incident. She contacted defendant's counsel unbidden in an effort to drop the charges against him, but counsel told her that the State had to drop the charges. Without counsel's assistance, and when she had been sober for a few months, she prepared and signed her June 2014 affidavit.

¶ 7 ASA Holly Grosshans testified to interviewing Jamison beginning at about 6:45 a.m., accompanied by Officer Reiter. During their 20-minute conversation, Jamison seemed upset and frightened. At about 7:30 a.m., Jamison agreed that ASA Grosshans would re-interview her and prepare a written statement that she would read and sign. ASA Grosshans was close to Jamison as she took the statement but did not notice any smell of alcohol, and she did not believe Jamison to be under the influence of drugs or alcohol. When the statement was prepared, ASA Grosshans read it aloud to Jamison; a few corrections were made that Jamison initialed, and Jamison signed each page of the statement. ASA Grosshans asked Jamison out of the presence of Officer Reiter if she had been well-treated by the police, and photographed her holding the statement.

¶ 8 In Jamison's written statement, she stated that she had a romantic and sexual relationship with defendant from November 2013 onwards. Though she found out in February 2014 that he had an affair with another woman, Jamison maintained the relationship. When they were in the hotel room on the weekend in question, he insulted and then struck her before leaving the hotel room. When he returned the next day, he was initially apologetic but became violent after they drank, strangling her until she could not breathe. When she resisted, he slapped her and then went to the washroom. She took the opportunity to phone the police, but upon defendant's return he grabbed her cellphone and broke it. When she tried to flee the hotel room, he punched her repeatedly until her nose bled. The police then arrived, and defendant admitted them.

¶ 9 Following closing arguments, the court found defendant guilty as charged. The court found that Jamison's written statement "was lucid and extremely detailed" with no signs from the statement or her photograph that she was under the influence of drugs or alcohol. The court noted her trial testimony that she did not recall any details of her statement, nor even that she spoke with the police, but only that defendant did not strike her, choke her, or break her cellphone. The court

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also noted her earlier affidavit. The court found her testimony incredible and refuted by the circumstances described by Officer Reiter.

¶ 10 Defendant's post-trial motion challenged the sufficiency of the evidence and the admission of Jamison's statement. It was denied after arguments on the sufficiency of the evidence, with the court reiterating that the circumstances corroborated Jamison's credible statement rather than her incredible trial testimony. Following a sentencing hearing, defendant was sentenced on his Class 2 felony offense as a mandatory Class X offender to seven years' imprisonment. 720 ILCS 5/12-3.3(b); 730 ILCS 5/5-4.5-95(b) (West 2014). This appeal followed.

¶ 11 On a claim of insufficiency of the evidence, we must determine whether, taking the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *In re Q.P.*, 2015 IL 118569, ¶ 24. It is the responsibility of the trier of fact to weigh, resolve conflicts in, and draw reasonable inferences from the testimony and other evidence, and it is better equipped than this court to do so as it heard the evidence. *In re Jonathon C.B.*, 2011 IL 107750, ¶ 59. We do not retry the defendant – we do not substitute our judgment for that of the trier of fact on the weight of the evidence or credibility of witnesses – and we accept all reasonable inferences from the record in favor of the State. *Q.P.*, ¶ 24. As witness credibility is a matter for the trier of fact, it may accept or reject as much or little of a witness's testimony as it chooses, and we need not reverse a conviction merely because of conflicting evidence. *People v. White*, 2015 IL App (1st) 131111, ¶ 19. The trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances; instead, it is sufficient if all the evidence taken together satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt. *Jonathon C.B.*, ¶ 60. The trier of fact is not required to disregard inferences that flow normally from the evidence, nor to seek all possible explanations consistent with

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innocence and elevate them to reasonable doubt, nor to find a witness was not credible merely because the defendant says so. *Id.* A conviction will be reversed only where the evidence is so unreasonable, improbable, or unsatisfactory that a reasonable doubt of the defendant's guilt remains. *Q.P.*, ¶ 24.

¶ 12 A person commits aggravated domestic battery by strangling another while committing domestic battery, which includes causing bodily harm to a family or household member including "persons who have or have had a dating or engagement relationship." 720 ILCS 5/12-0.1, -3.2(a), -3.3(a-5) (West 2014). Strangling is "intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual." 720 ILCS 5/12-3.3(a-5) (West 2014).

¶ 13 Here, taking the evidence in the light most favorable to the State as we must, we cannot find that no rational trier of fact would agree with the trial court that defendant was guilty of aggravated domestic battery. Defendant's argument that Jamison's affidavit clearly refutes the charges against him is unavailing, as the court duly considered and rejected that argument in weighing the trial evidence. We do not find it unreasonable, improbable, or unsatisfactory to credit Jamison's inculpatory written statement over her exculpatory affidavit and trial testimony. Officer Reiter testified to screaming coming from the hotel room occupied by defendant and Jamison, followed almost immediately by Jamison's accusation that defendant punched and choked her. Moreover, photographs corroborate Officer Reiter's account of Jamison's injuries and a bloody bed and broken cellphone in the hotel room.

¶ 14 After carefully reviewing the record in light of counsel's brief and defendant's response, we agree with counsel's conclusion. Therefore, the motion of the State Appellate Defender for leave to withdraw as counsel is allowed and the judgment of the circuit court is affirmed.

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¶ 15 Affirmed.