

2017 IL App (2d) 150117-U
No. 2-15-0117
Order filed May 12, 2017

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Du Page County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 12-CF-2306
)	
JOSEPH J. SPITALLI,)	Honorable
)	Daniel P. Guerin,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Hutchinson and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* The State proved defendant guilty beyond a reasonable doubt of aggravating kidnapping, as the jury could infer that defendant intended to secretly confine the victim in his car and/or his apartment.

¶ 2 Following a jury trial, defendant, Joseph J. Spitalli, was found guilty of the first-degree murder of Teymur Huseynli (720 ILCS 5/9-1(a)(1) (West 2012)) and the aggravated kidnapping of Kristina Baltrimaviciene (720 ILCS 5/10-2(a)(5) (West 2012)). He was sentenced to consecutive prison terms of 50 years and 18 years, respectively. Defendant's sole contention on

appeal is that the evidence was insufficient to prove him guilty beyond a reasonable doubt of aggravated kidnapping. We affirm.

¶ 3

I. BACKGROUND

¶ 4 The evidence presented at defendant's jury trial established the following. On the evening of November 16, 2012, Kristina, who had previously dated and lived with defendant, was at her apartment in Darien with Teymur, whom she was dating, and her 11-year-old daughter. When Teymur decided to leave, Kristina exited the apartment with him to walk him to his car. Defendant appeared and approached them. Teymur and defendant exchanged words. Kristina and Teymur turned to walk away and defendant did the same. When Kristina turned around to confirm that defendant was leaving, she saw defendant approaching quickly. As Teymur attempted to call the police, defendant attacked him with a knife, slicing Teymur's neck so deeply that he cut into Teymur's spine. Kristina felt warm blood and her fingers were hurt.

¶ 5 Kristina began to scream. Defendant told her to shut up or he would kill her. Holding the knife in one hand, defendant grabbed Kristina with his other hand and pulled her toward some bushes. Defendant dragged her through a grassy area toward an office parking lot. When they reached defendant's car, he told her to get in. She entered and sat in the front passenger seat. While sitting in the car, defendant told her that he was going to kill her and himself. When she told him to think of his son and her daughter, he told her that he had already killed his son. Defendant drove toward his house but passed it. He continued to drive around; he was crying and told her that he was going to kill them both. In an effort to stay alive, Kristina told defendant that she loved him and would get back together with him. She also told him that she would make up a story about being attacked so that he would not get in trouble. Defendant told her that he knew she would tell the truth anyway. After Kristina convinced defendant that she would make

up a story, she tried to take the knife away from him but was unable to do so. Eventually, she convinced defendant to throw the knife out the window.

¶ 6 Kristina asked defendant to go to the police station. He passed by her apartment and saw that there were no police or paramedics present. Defendant was happy that no one had called the police. Thereafter, defendant drove to his apartment in Darien and brought Kristina inside. She asked him to call the police, but he told her that he did not have a phone. She did not see anyone else in the apartment, but she heard water running in the bathroom. Defendant went into his bedroom and retrieved a screwdriver. With the screwdriver in his hand, defendant began pushing Kristina into his bedroom. At that point, the bathroom door opened, and defendant's roommate appeared. Defendant told the roommate that he would have to say that Kristina ran into the apartment to ask for help. Defendant then told Kristina that he would take her to the police.

¶ 7 Defendant and Kristina left defendant's apartment and entered his car. However, instead of going to the police station, defendant took Kristina to his parents' house in Darien. On the drive there, he told Kristina that if she told the truth about what happened he would send someone to her house to kill her daughter. When they arrived at defendant's parents' house, defendant's father gave Kristina a phone to call 911. She told the operator that two black men attacked her and a friend. The police and paramedics arrived and treated Kristina's hand. When she found herself alone with a paramedic, she told him that defendant killed someone. She eventually left in an ambulance.

¶ 8

II. ANALYSIS

¶ 9 A reviewing court will not set aside a criminal conviction 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 (1985). When we review a challenge to the sufficiency of the evidence, “ ‘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.’ ” (Emphasis in original.) *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). The trier of fact is responsible for resolving conflicts in the testimony, weighing the evidence, and determining what inferences to draw, and a reviewing court ordinarily will not substitute its judgment on these matters for that of the trier of fact. *People v. Cooper*, 194 Ill. 2d 419, 431 (2000).

¶ 10 Section 10-1(a)(2) of the Criminal Code of 2012 provides that “[a] person commits the offense of kidnapping when he or she knowingly *** by force or threat of imminent force carries another from one place to another with intent secretly to confine that other person against his or her will.” 720 ILCS 5/10-1(a)(2) (West 2012). One commits the offense of aggravated kidnapping when he or she commits kidnapping while armed with a dangerous weapon, other than a firearm. 720 ILCS 5/10-2(a)(5) (West 2012).

¶ 11 The only argument raised by defendant is that the evidence was insufficient to prove that he acted with the intent to secretly confine Kristina. “ ‘Intent must ordinarily be proved circumstantially, by inferences drawn from conduct appraised in its factual environment.’ ” *People v. Calderon*, 393 Ill. App. 3d 1, 7 (2009) (quoting *People v. Johnson*, 28 Ill. 2d 441, 443 (1963)). “Whether proof of circumstances gives rise to the requisite intent to prove kidnapping is ordinarily a question of fact for the jury.” *Id.*

¶ 12 Secret confinement “may be shown by proof of the secrecy of the confinement or the secrecy of the place of confinement.” *People v. Siguenza-Brito*, 235 Ill. 2d 213, 227 (2009). “Secret” means “concealed, hidden, or not made public.” *Id.* “Confinement” generally means to

be enclosed “within something, most commonly a structure or an automobile.” *Id.* Secret confinement may also be shown through evidence that the defendant isolated his “victim from meaningful contact with the public.” *People v. Gonzalez*, 239 Ill. 2d 471, 480 (2011).

¶ 13 Defendant argues that, although he might have intended to confine Kristina in his car, there was no evidence that he intended the confinement to be secret. He argues that he did not hide Kristina from view while in the car, disguise her appearance, or do anything else to make her presence unknown. However, the intent to secretly confine someone may be established even where the defendant confines the victim in a moving vehicle in plain view of the public. See *People v. Bishop*, 1 Ill. 2d 60, 64 (1953) (evidence that the defendant forced the victim at gunpoint to drive to various locations in full view of the public, and before releasing the victim forced the victim to hand over his personal belongings, supported a finding that the defendant secretly confined the victim). Indeed, “[a] person forcibly confined in an automobile constantly moving from place to place may be more secretly and effectively confined from the kidnapper’s standpoint than one kept in a building or other place of incarceration.” *Id.*

¶ 14 Moreover, defendant’s acts did not consist solely of confining Kristina in the car. In *Calderon*, the court found that the overall circumstances were sufficient to give rise to an inference of the defendant’s intent to secretly confine the victim where the defendant entered the victim’s car at a gas station, remained in the car with the victim for over an hour (threatening the victim that he would be beaten up by others nearby if he exited), ordered the victim to drive to the victim’s friend’s apartment, entered the apartment to rob the friend, and then left the scene, leaving the victim behind. *Calderon*, 393 Ill. App. 3d at 3-4, 6-11. The court noted that the victim “could not be sure what to expect en route or at the intended destination. Nor was it clear

that [the friend's] home was the final destination the defendant would take the [victim]." *Id.* at 9-10.

¶ 15 Here, as in *Calderon*, not only did defendant confine Kristina in the car as he drove around, he also drove her to his apartment where he attempted to push her into his bedroom, only to be interrupted by his roommate's sudden appearance from the bathroom, before ultimately driving her to his parents' house. Given these circumstances, the jury could determine beyond a reasonable doubt that defendant intended to secretly confine Kristina.

¶ 16

III. CONCLUSION

¶ 17 For the reasons stated, we affirm the judgment of circuit court of Du Page County. As part of our judgment, we grant the State's request that defendant be assessed \$50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2014); see also *People v. Nicholls*, 71 Ill. 2d 166, 178 (1978).

¶ 18 Affirmed.