

No. 1-15-0844

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST 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 11834 |
| |) | |
| TROYLON TURNER, |) | Honorable |
| |) | Thomas V. Gainer Jr., |
| Defendant-Appellant. |) | Judge Presiding. |

PRESIDING JUSTICE MIKVA delivered the judgment of the court.
Justices Griffin and Walker concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's conviction for aggravated battery of a peace officer is affirmed. The State presented sufficient evidence to show that the officer was performing the official duties of a peace officer and that defendant knew the officer was performing those duties.

¶ 2 Defendant Troylon Turner was found guilty by a jury of aggravated battery of a peace officer (720 ILCS 5/12-3.05(d)(4) (West Supp. 2013)) and sentenced to six-and-a-half years' imprisonment. On appeal, Mr. Turner contends that the evidence presented at trial was insufficient to support his conviction because the State failed to prove beyond a reasonable doubt

that (1) the victim was performing the official duties of a police officer; and (2) Mr. Turner knew that the victim was performing the official duties of a police officer. We affirm.

¶ 3

I. BACKGROUND

¶ 4 Mr. Turner was arrested on May 30, 2013, at the 5700 block of Wolcott Avenue, and charged with two counts of aggravated battery. Count 1 alleged that Mr. Turner knowingly caused bodily harm to Officer Robert Williams by striking him in the face while the officer was performing his official duties, and that Mr. Turner knew Officer Williams to be a police officer. 720 ILCS 5/12-3.05(d)(4)(i) (West Supp. 2013). Count 2 alleged that Mr. Turner knowingly caused bodily harm to Officer Williams by striking him in the face with a closed fist, that Officer Williams was battered in retaliation for performing his official duties, and that Mr. Turner knew Officer Williams was a police officer. 720 ILCS 5/12-3.05(d)(4)(iii) (West Supp. 2013).

¶ 5 At trial, Officer Williams testified that, in May 2013, he held two occupations—one as a police officer for the Chicago Police Department (CPD), and the other as an officer for Chicago Public Schools (CPS) at Henderson School, located in the Englewood neighborhood. On the afternoon of May 29, 2013, Officer Williams was working at Henderson and wore a dark blue, short-sleeved shirt with “police” written in blue and white writing on the front and back of the shirt. Officer Williams explained that the lettering on the front of the shirt is about an inch large, and the lettering on the back of the shirt is about five to six inches tall. Officer Williams also wore a badge on his duty belt and had an expandable baton, otherwise known as an ASP, on his person. According to Officer Williams, he was wearing a “version” of his CPD uniform.

¶ 6 Shortly before the students were dismissed at 2:50 p.m., Officer Williams, at a teacher’s request, escorted Mr. Turner’s stepdaughter Arlissa to the assistant principal’s office. Because Arlissa had refused to go to the principal’s office, Officer Williams had to physically lead her

there. As he did so, Arlissa was “irate, upset, yelling profanities, [and] making threats.”

¶ 7 Officer Williams and the other witnesses for the State testified that after Arlissa was taken to the principal’s office, the officer went outside the school to perform one of his assigned duties, protecting the students from other children in the neighborhood. Officer Williams described the neighborhood as “gang infested,” and explained that another reason he goes outside during dismissal is to protect teachers from “any incidents.” As Officer Williams and a teacher, Miss Christopher, walked towards the front of the school from their post in the back of the school, Mr. Turner approached Officer Williams. According to Officer Williams, Mr. Turner was “very irate” and was yelling obscenities. Mr. Turner also said something about his child. Officer Williams told Mr. Turner to relax and calm down, and said “I’m the police. I work here. Whatever problem you have I can help you.” As he talked with Mr. Turner, Officer Williams turned his head to look at an individual who was “creeping behind” him. Mr. Turner then struck Officer Williams in the eye with his fist, yelled more obscenities, and said, “I’m mother f***in’ Ya-Ya. I run this block,” before walking away.

¶ 8 Officer Williams called 9-1-1 and asked for assistance at the scene. When additional officers arrived, he filed a police report. Officer Williams suffered a one inch “gash” under his eye, and was treated at Gottlieb Hospital before he went to work for the CPD that night. Early the next morning, Officer Williams went with other officers to arrest Mr. Turner.

¶ 9 On cross-examination, Officer Williams acknowledged that he was not working as a CPD officer when he encountered Mr. Turner at the school. After Mr. Turner hit him, Officer Williams did not try to stop and detain Mr. Turner. On redirect examination, Officer Williams explained that he did not chase after Mr. Turner because children and parents were present, and “it just wasn’t the right environment to engage him at that time.”

¶ 10 Sandra Reed-Senevey testified that she was a teacher at Henderson, and, during dismissal, was standing near the intersection of 57th Street and Wolcott Avenue to ensure the students' safety. She explained that police officers also work at Henderson for purposes of student safety. The officers wear a blue shirt, with "police" written on the front and back, and a badge at their waist. At dismissal time, about 2:45 p.m., Ms. Reed-Senevey stood at her post with Assistant Principal Donald Hudson. There, she observed Arlissa standing in the middle of 57th Street "very angrily hitting her fists, huffing and puffing and cursing," and stating she was going to "f**k him up" because "he" put his hands on her. Arlissa's sister Marcia came up to Arlissa and they had a conversation. Ms. Reed-Senevey then saw Marcia go inside her house. At that point, Mr. Turner came out of the house and walked aggressively toward Officer Williams, eventually getting "right dead" in Officer Williams's face. Mr. Turner asked Officer Williams "did you put your hands on my mother f**kin daughter?" He then told Officer Williams "because I don't allow no one to touch my mother f**kin daughter." As Officer Williams instructed Mr. Turner to calm down and attempted to explain what happened, Ms. Reed-Senevey saw Mr. Turner strike Officer Williams in the face.

¶ 11 The State rested, and the court denied Mr. Turner's motion for a directed verdict.

¶ 12 Mr. Turner called Latasha McNutt, who testified that at 3 p.m. on May 29, 2013, she and her friend Tanja were walking to Henderson to pick up her son from school. There, Ms. McNutt saw a lot of "commotion" and Officer Williams on top of Arlissa, who was laying flat on her back as Officer Williams pinned her down with his hands and knees. Officer Williams, whom Ms. McNutt had seen at Henderson before, was wearing a dark colored T-shirt. Nothing about Officer Williams suggested to Ms. McNutt that he was a police officer, and she could not see him wearing anything around his waist. She saw Mr. Turner run over to Officer Williams and

speak with him. As Mr. Turner was speaking, Officer Williams looked up and pushed him in the chest. Ms. McNutt did not see Mr. Turner punch Officer Williams, but saw Mr. Turner “draw back” and move his arm backwards.

¶ 13 On cross-examination, Ms. McNutt testified that she could only see Officer Williams’ back and side, and acknowledged that she did not know whether his shirt said “police” on the front, or whether he was wearing a badge and an asp at his waist. When she had previously seen Officer Williams at Henderson, he was wearing regular clothes with neither a badge, an asp, nor a shirt that said “police.”

¶ 14 Tanja Safforld testified that she walked with Ms. McNutt to Henderson and, as they approached the school, she saw a man with whom she was unfamiliar standing over a little girl on the ground. The man was wearing a blue T-shirt without writing on it, and Ms. Safforld did not see either a weapon or a badge around his waist. Nothing about the man’s appearance suggested to Ms. Safforld that he was a police officer. She saw Mr. Turner confront the man, who she said pushed Mr. Turner before Mr. Turner hit the man in the face.

¶ 15 Mr. Turner, who admitted to having two prior felony convictions, testified that in the afternoon on the date in question, he went to pick up his children from Henderson. As he walked toward the school, he saw Officer Williams kneeling over someone and saw a white jacket belonging to his stepdaughter, Arlissa, on the ground next to Officer Williams. When he came closer to Officer Williams, Mr. Turner realized that Officer Williams was pinning Arlissa to the ground. Mr. Turner, whose children had just started attending Henderson, was not familiar with Officer Williams, and was upset and concerned that he was hurting Arlissa. Mr. Turner explained that he did not think Officer Williams was a police officer because of the way Officer Williams was dressed. According to Mr. Turner, Officer Williams’s shirt did not have “Police”

written on the front, and he did not have a badge on his belt. Mr. Turner approached Officer Williams, and said “What the f**k you got your hands on my child for?” Officer Williams got up, appeared shocked, and said “whoa, whoa, hold on,” before he pushed Mr. Turner in the upper chest. Mr. Turner then punched Officer Williams in the face.

¶ 16 On cross-examination, Mr. Turner testified that he punched Officer Williams in the face to protect Arlissa, and that Officer Williams had his hands on Arlissa in an “aggressive way.” After the confrontation, Mr. Turner went home and called the police, and his wife went to a police station to file a police report.

¶ 17 The State called Officer Anita Silos as a rebuttal witness. She testified that at about 3 p.m. on May 29, 2013, she went to Henderson to respond to a reported battery. There, she took a report from Officer Williams, who was bleeding and had a swollen eye. Officer Williams was wearing a shirt that said “Police,” and had a Chicago police star clipped to his belt. On cross-examination, Officer Silos acknowledged that she did not describe what Officer Williams was wearing in her written report.

¶ 18 Patricia Christopher also testified in rebuttal. She was a teacher at Henderson, and was outside during dismissal on the date of the incident. She saw Arlissa standing in the street, “banging” her fists together, and saw her sister Marcia walk over to Arlissa and have a conversation with her. Marcia left, and Mr. Turner then came to the school and approached Officer Williams, who was wearing a blue shirt that said the word “Police” on both sides. She said that Officer Williams was also wearing a badge. Mr. Turner said something to Officer Williams and then hit him.

¶ 19 The trial court granted Mr. Turner’s request to instruct the jury that he could be found guilty of the lesser-included offense of battery. The court also granted Mr. Turner’s request to

proffer an instruction on self-defense and the defense of others. The jury was instructed that, to sustain the charge of aggravated battery, the State had to prove that Mr. Turner knew Officer Williams was engaged in the execution of his official duties. A separate instruction was given that allowed the jury to sustain the charge of aggravated battery if the State proved that Mr. Turner harmed Officer Williams in retaliation for performing his official duties.

¶ 20 Mr. Turner was found guilty of the charged offenses. The court merged count 2 into count 1 and sentenced Mr. Turner as a Class X offender to six-and-a-half years' imprisonment.

¶ 21 **II. JURISDICTION**

¶ 22 Mr. Turner was sentenced on March 3, 2015, and timely filed his notice of appeal that same day. This court has jurisdiction pursuant to article VI, section 6, of the Illinois Constitution (Ill. Const. 1970, art. VI, § 6) and Illinois Supreme Court Rules 603 and 606, governing appeals from final judgments of conviction in criminal cases (Ill. S. Ct. Rs. 603, 606 (eff. Feb. 6, 2013)).

¶ 23 **III. ANALYSIS**

¶ 24 On appeal, Mr. Turner contends that he was not proven guilty beyond a reasonable doubt of the aggravated battery of a peace officer. When this court reviews 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.) *People v. Jackson*, 232 Ill. 2d 246, 280 (2009) (quoting *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). Reviewing courts apply this standard of review regardless of whether the evidence is direct or circumstantial. *Id.* at 281. It is “the trier of fact’s responsibility to determine the witnesses’ credibility and the weight given to their testimony, to resolve conflicts in the evidence, and to draw reasonable inferences from the evidence; we will not substitute our judgment for that of the trier of fact on these

matters.” *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001). A reviewing court “will not reverse a conviction unless the evidence is ‘unreasonable, improbable, or so unsatisfactory as to justify a reasonable doubt of the defendant’s guilt.’” *Jackson*, 232 Ill. 2d at 281 (quoting *People v. Campbell*, 146 Ill. 2d 363, 375 (1992)).

¶ 25 In this case, Mr. Turner was found guilty of two counts of aggravated battery of a peace officer. A person commits battery “if he or she knowingly without legal justification by any means (1) causes bodily harm to an individual or (2) makes physical contact of an insulting or provoking nature with an individual.” 720 ILCS 5/12-3(a) (West 2012). One of the circumstances under which a person commits aggravated battery is when, “in committing a battery, other than by discharge of a firearm, he or she knows the individual battered to be” a “peace officer” who is “performing his or her official duties” (count 1) or the peace officer is “battered in retaliation for performing his or her official duties” (count 2) (720 ILCS 5/12-3.05(d)(4)(i), (iii) (West Supp. 2013)).

¶ 26 While there was some dispute between the State and the defense witnesses as to whether Mr. Turner actually saw Officer Williams with Arlissa, Mr. Turner does not dispute that he battered Officer Williams. Rather, he argues that he was not proven guilty beyond a reasonable doubt of aggravated battery of a peace officer because the State offered “virtually no evidence” that Officer Williams was performing his official duties as a peace officer or that Mr. Turner knew that Officer Williams was a peace officer performing his official duties at the time of their confrontation. In setting forth this argument, Mr. Turner relies on principles of statutory construction, contending that the State was required to prove that Officer Williams was engaged in a specific, articulable job duty when he was battered. Mr. Turner also maintains that the State did not introduce any evidence regarding what constitutes the official duties of a peace officer or

whether those duties intersect with the duties of a security officer at a Chicago Public School.

¶ 27 We agree with Mr. Turner that, under the aggravated battery statute, the State was required to prove that Officer Williams was a peace officer performing his official duties and that Mr. Turner knew this. See 720 ILCS 5/12-3.05(d)(4)(i) (West Supp. 2013). We also agree with Mr. Turner that not every action of a police officer, particularly when that officer is not on duty, may be considered part of the performance of his or her official duties. However, as this court recently found in *People v. Brewer*, 2018 IL App (1st) 160155, ¶ 42, “a police officer has a duty to prevent the commission of crime and to defend all lives, including his own.” Here, as in *Brewer*, the fact finder concluded that a crime occurred while the victim was performing the official duties of a peace officer. See *Id.* ¶ 42. We reject Mr. Turner’s suggestion, raised for the first time on appeal, that the State was required to obtain a jury finding regarding what specific official duty Officer Williams was engaged in.

¶ 28 This court has previously concluded that a police officer who was assaulted when working as a school security guard was engaged in his official duties within the meaning of the aggravated battery statute. See *In re Joel L.*, 345 Ill. App. 3d 830, 833-35 (2004); see also *People v. Barrett*, 54 Ill. App. 3d 994, 996-7 (1977) (an officer’s duties are not constrained by specific time or place limitations, and off-duty police officers can be engaged in the performance of their official duties depending on the nature of their acts); *People v. Weaver*, 100 Ill. App. 3d 512, 514 (1981) (“a police officer has the duty to maintain public order wherever he may be, as long as he is within the State. His duties are not confined to a specific time and place”). In *Brewer*, we affirmed the trial court’s conclusion that an officer who was murdered while trying to defend himself against a violent aggressor was performing his official duties. *Brewer*, 2018 IL App (1st) 160155, ¶¶ 42-43. In keeping with all of these cases, we reject Mr. Turner’s argument that no

rational trier of fact could conclude that Officer Williams was performing official duties when he was assaulted.

¶ 29 We next consider whether the evidence also supports the jury's finding that Mr. Turner knew that Officer Williams was a peace officer performing his official duties. There is no question that Mr. Turner knew Mr. Officer Williams was physically restraining Arlissa. And, as we have already concluded, the jury was entitled to find that those were the official duties of a peace officer. The question is whether the jury could also find that Mr. Turner knew that Officer Williams was a peace officer. On this point there was conflicting testimony. Officer Williams and several other witnesses testified that Officer Williams wore a "version" of his CPD uniform, which included a shirt with "police" written on the front and back of the shirt. He also wore his police badge on his duty belt and an asp. Officer Williams testified that he informed Mr. Turner that he was a police officer who worked at the school and attempted to explain the situation. Although Mr. Turner and the defense witnesses disputed this, the jury was entitled to make a determination that the State's witnesses were more credible. See *People v. Villarreal*, 198 Ill. 2d 209, 231 (2001) (where a jury is presented with conflicting versions of events, it is entitled to choose which version it accepts).

¶ 30 Reviewing this evidence in the light most favorable to the State, we find that a rational trier of fact could conclude both that Officer Williams was a peace officer performing his official duties and that Mr. Turner knew this. There is no basis for disturbing the jury verdict in this case.

¶ 31 IV. CONCLUSION

¶ 32 For the reasons stated, the judgment of the trial court is affirmed.

¶ 33 Affirmed.