2018 IL App (1st) 153042-U

No. 1-15-3042

Order filed May 10, 2018

Fourth Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 14 CR 8794
	)	
DARIUS DOTSON,	)	Honorable
	)	Mary C. Roberts,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE BURKE delivered the judgment of the court.
Justices McBride and Gordon concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's conviction for home invasion affirmed over his contention that the State did not prove, beyond a reasonable doubt, that he intentionally caused injury to the victim. Defendant's conviction for domestic battery must be vacated pursuant to the one-act, one-crime rule because it is based upon the same physical act as his conviction for home invasion.

¶ 2 Following a bench trial, defendant Darius Dotson was found guilty of home invasion, robbery, and domestic battery. He was sentenced to 10 years in prison for home invasion, 5 years for robbery and 2 years for domestic battery. All sentences were to run concurrent. On appeal,

defendant contends that his conviction for home invasion should be vacated because the State failed to prove, beyond a reasonable doubt, that he intentionally caused injury to the victim. In the alternative, defendant contends that his conviction for domestic battery should be vacated pursuant to the one-act, one-crime rule because it is based on the same physical act as his conviction for home invasion. We affirm in part and vacate in part.

¶ 3 Following an April 8, 2014 incident, defendant was charged with, *inter alia*, home invasion and domestic battery. Specifically, he was charged with home invasion in that he knowingly entered the home of Laneasha Durham and knew, or had reason to know, that one or more persons was present and that he intentionally caused injury to Durham by striking her about the body. He was also charged with domestic battery in that he intentionally or knowingly, without legal justification, caused bodily harm to Durham when he struck her about the body and they were previously involved in a dating relationship and he was previously convicted of domestic battery.

¶ 4 At trial, Laneasha Durham, who shared two children with defendant, testified that on January 16, 2011 she called the police because defendant was hitting her on the head and body. She also called the police in July 2012 because defendant punched her in the head, and again in December 2013 because he "stomped" on her head. In April 2014, she was not dating defendant and their children were living with defendant's mother. Around 5 a.m. on the morning of April 8, 2014, Durham heard the "loud noise" of the front door being kicked in and "woke up" to defendant standing over the bed she shared with her boyfriend. Defendant wanted her income tax refund because she had claimed their children as dependents on her taxes. He used both hands to push her against a wall and demanded "the money." Durham's head hit the wall. Defendant

continued to demand money and ultimately removed $800 from her purse. He then left. She contacted the police and told officers that defendant had been in her apartment. She had bruises to both arms and bad headaches following this incident.

¶ 5 Durham later received phone calls as well as letters from defendant. In the letters, defendant apologized and asked her to "change" her testimony. She turned some of the letters over to the State. She admitted that in 2011 she "poked" defendant with a knife.

¶ 6 Anthony Deshazor, Durham's boyfriend, testified that he had previous convictions for possession of a controlled substance. When he woke up on the morning of April 8, 2014, defendant was "standing over" him. Defendant asked Durham where the "money" was, and then grabbed her and pushed her into a wall. Deshazor described defendant as "speaking with anger." He observed defendant take money out of Durham's purse and then run out of the apartment. Deshazor spoke to police and later indentified defendant in a photographic array.

¶ 7 The State then admitted into evidence a certified copy of defendant's conviction for domestic battery in case number 12 DV 74016.

¶ 8 Defendant next testified that he knew where Durham lived but that he was home on the morning of April 8, 2014. He denied breaking down Durham's door, taking anything from her, and trying to hurt her. During cross-examination, defendant testified that he and Durham broke up in 2013. He admitted that he was at Durham's apartment on the afternoon of April 8, 2014, to address a custody issue but denied knowing that Durham claimed their children as dependents on her taxes. He also denied speaking to police officers; rather, he spoke to assistant State's Attorneys. Defendant denied hitting Durham although he admitted that he was arrested for hitting her "[a]t least" three times.

¶ 9 In rebuttal, Detective David Scarriot testified that during a conversation with defendant after he was taken into custody defendant denied knowing where Durham lived.

¶ 10 The trial court found defendant guilty of home invasion, residential burglary, robbery, and domestic battery. The trial court merged the residential burglary conviction into the home invasion conviction, and sentenced defendant to 10 years in prison for home invasion. Defendant was also sentenced to five years in prison for robbery and to two years for domestic battery. All sentences were to run concurrent.

¶ 11 On appeal, defendant first contends that his conviction for home invasion should be vacated because the State failed to prove beyond a reasonable doubt that he intentionally caused injury to Durham. He specifically argues that although "the State may have proven that [defendant] should have known he could injure Durham" by pushing her against the wall, "the State did not prove that [defendant] intended to injure her." Defendant concludes that the evidence merely showed that he intended to take money from Durham rather than injure her.

¶ 12 When reviewing a challenge to the sufficiency of the evidence, the relevant question is whether, after viewing 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. *People v. Brown*, 2013 IL 114196, ¶ 48. 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. *People v. Bradford*, 2016 IL 118674, ¶ 12. A reviewing court will not substitute its judgment for that of the fact finder on questions involving the weight of the evidence or the credibility of the witnesses. *Id*. This court reverses a defendant's conviction only where the evidence is so unreasonable, improbable or unsatisfactory that a reasonable doubt of his guilt remains. *Id*.

¶ 13 Home invasion occurs when a person: (1) without authority; (2) knowingly enters the dwelling place of another when he knows, or has reason to know, that one or more persons is present or he knowingly enters the dwelling place of another and remains in the dwelling place until he knows or has reason to know that one or more persons is present; and (3) intentionally causes injury to any person in the dwelling place. 720 ILCS 5/19-6(a)(2) (West 2014). Here, defendant contends that no evidence supported the third element of the offense, that is, whether he intentionally caused injury to Durham.

¶ 14 Taking the evidence in the light most favorable to the State (*Brown*, 2013 IL 114196, ¶ 48), there was evidence from which a rational trier of fact could have found that defendant intentionally caused Durham injury when the evidence at trial established that defendant removed Durham from bed and pushed her into the wall, causing her to strike her head against the wall and resulting in bruising to both arms and headaches.

¶ 15 To the extent that defendant argues that the evidence only established that he intended to take money from Durham, we disagree. "Because intent is a state of mind, it can rarely be proved by direct evidence." *People v. Williams*, 165 Ill. 2d 51, 64 (1995). Intent may be proven through circumstantial evidence that may be inferred from the surrounding circumstances (*People v. Witherspoon*, 379 Ill. App. 3d 298, 307 (2008)), and the character of the defendant's actions (*People v. Foster*, 168 Ill. 2d 465, 484 (1995)).

¶ 16 Here, because defendant wanted money from Durham, he broke down her front door, removed her from bed, and pushed her against a wall causing her to strike her head and resulting in bruising to both arms. We cannot say that no rational trier of fact could have found, based upon defendant's actions, that he intended to cause injury to Durham. See *Brown*, 2013 IL

114196, ¶ 48. See also *People v. Terrell*, 132 Ill. 2d 178, 204 (1989) (a "defendant is presumed to intend the natural and probable consequences" of his actions). A trier of fact is not required to disregard the inferences that flow from the evidence or search out all possible explanations consistent with a defendant's innocence and raise them to a level of reasonable doubt. See *In re Jonathon C.B.*, 2011 IL 107750, ¶ 60. This court reverses a defendant's conviction only when the evidence is so improbable or unsatisfactory that it creates a reasonable doubt as to his guilt (*Bradford*, 2016 IL 118674, ¶ 12); this is not one of those cases. Accordingly, we affirm defendant's conviction for home invasion.

¶ 17 In the alternative, defendant contends that his domestic battery and home invasion convictions violate the one-act, one-crime rule because they are based on the same physical act, that is, the act of pushing Durham against the wall. The State concedes defendant's convictions for domestic battery and home invasion are based on the same physical act and cannot stand under the one-act, one-crime rule.

¶ 18 Defendant failed to preserve this issue for appeal because he did not raise it before the trial court. To preserve a claim for review, a defendant must object at trial and include the alleged error in a posttrial motion. *People v. Enoch*, 122 Ill. 2d 176, 187 (1988). However, the State does not argue that defendant has forfeited appellate review of this issue, and has therefore waived any forfeiture argument. See *People v. Williams*, 193 Ill. 2d 306, 347-48 (2000) (rules of waiver and forfeiture apply to the State). Therefore, although defendant did not raise this issue in the trial court, we will consider his claim.

¶ 19 The one-act, one-crime doctrine prohibits multiple convictions which arise from the same physical act. *People v. Miller*, 238 Ill. 2d 161, 165 (2010); *People v. King*, 66 Ill. 2d 551, 566

(1977). When evaluating whether a conviction violates the one-act, one-crime rule, we must determine (1) whether the defendant committed multiple acts and (2) if so, whether any of the charges are lesser-included offenses. *King*, 66 Ill. 2d at 566. We review *de novo* whether a defendant's convictions violate the one-act, one-crime doctrine. *People v. Csaszar*, 375 Ill. App. 3d 929, 943 (2007).

¶ 20 In the case at bar, the parties agree, and the record reflects, that defendant's convictions for home invasion and domestic battery were based on the same physical act, that is, the act of striking Durham's body and head against the wall. Because defendant did not commit multiple acts, convictions for both home invasion and domestic battery violate the one-act, one-crime rule. See *King*, 66 Ill. 2d at 566. Here, defendant's domestic battery conviction is a Class 4 felony (720 ILCS 5/12-3.2(b) (West 2014)), and his home invasion conviction is a Class X felony (720 ILCS 5/19-6(c) (West 2014)), we therefore vacate the less serious offense of domestic battery. See *People v. Lee*, 213 Ill. 2d 218, 226-27 (2004) (under the one-act, one-crime doctrine, sentence should be imposed on the more serious offense). Thus, we vacate defendant's domestic battery conviction, and direct the clerk of the circuit court to correct defendant's mittimus accordingly.

¶ 21 For the foregoing reasons, we vacate defendant's domestic battery conviction for a violation of the one-act, one-crime rule and order the clerk of the circuit court of Cook County to correct his mittimus accordingly. We affirm the judgment of the trial court in all other aspects.

¶ 22 Affirmed in part; vacated in part; mittimus corrected.