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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 14 CR 11694
)	
ERICK ROGERS,)	Honorable
)	Thomas V. Gainer Jr.,
Defendant-Appellant.)	Judge, presiding.

JUSTICE HYMAN delivered the judgment of the court.
Justices Pucinski and Mason concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant's conviction for aggravated battery is affirmed over his contention that the State failed to prove beyond a reasonable doubt that he knowingly made contact with a transit employee.
- ¶ 2 Following a bench trial, the judge found defendant Erick Rogers guilty of two counts of aggravated battery and sentenced him to five years' imprisonment. On appeal, Rogers contends that the State failed to prove beyond a reasonable doubt that he knowingly made contact with a CTA train conductor, and accordingly, his conviction should be reversed. We affirm.

Considering all of the evidence in the light most favorable to the State, the evidence was not so unreasonable, improbable, or unsatisfactory as to create a reasonable doubt of Rogers' guilt.

¶ 3 Background

¶ 4 Rogers was charged by indictment with two counts of aggravated battery (720 ILCS 5/12-3.05(b) (7) (West 2014)). Count one alleged that Rogers, in committing a battery, knowingly caused bodily harm to the Quintin Tanner by striking him about the body, knowing him to be a Chicago Transit Authority train conductor performing his official duties. Count two alleged that Rogers in committing a battery, knowingly made physical contact of an insulting or provoking nature knowing that Tanner was a CTA train conductor performing his official duties.

¶ 5 At trial, Tanner testified that as a train operator for the CTA he wore a uniform identifying him as a CTA employee. He carried a flashlight, keys, and a CTA radio. At about 8:15 a.m. on June 2, 2014, he was operating a Red Line train and leaving the 47th Street station. As he did so, he received a call through the Passenger Intercom Unit (PIU). He was unable to get a response through the PIU and proceeded north to the 35th Street station, where he again attempted unsuccessfully to get a response. He radioed the controller that he was going to leave his driver's compartment to check on the source of the PIU. He then walked onto the platform.

¶ 6 Tanner saw Rogers get off the train, and asked Rogers if there was a problem. Rogers replied "[G]et the f*** out of my face and mind your own business before [you] get [your] s*** split." Tanner told Rogers "don't go back on my train." Rogers walked onto the train and Tanner, who had his radio in his hand, walked over to the car and told Rogers to get off. Rogers did so, and "somehow got behind" Tanner. Rogers admitted to hitting the back of Tanner's hand, which caused him to drop the radio onto the platform. When Tanner was hit, Rogers was the only

person behind him. Tanner picked up the radio and informed his controller that he needed help. He then saw Rogers fighting with another passenger.

¶ 7 Tanner boarded the train and headed toward the Roosevelt Street stop. He noticed his hand hurting and called for medical assistance. Eventually, he was diagnosed with a fracture of his hand. In court, Tanner viewed a video of the incident at the 35th Street station and identified Rogers and himself, but could not identify when Rogers hit his hand. The court considered the video only for the fact that Tanner wore a CTA uniform and that Rogers was present on the platform.

¶ 8 On cross-examination, Tanner acknowledged he never told Rogers he was a CTA employee and never said he was on duty. He admitted he was looking forward when Rogers struck his hand from behind.

¶ 9 Chicago police officer Terry Hoover testified that she and her partner responded to a call of a battery in progress at the 35th Street Red Line elevated stop. When she arrived, she saw Rogers and another man, Lamar Davis, circling each other. Davis was waving a small knife at Rogers, who was moving aggressively toward Davis. The officers approached Rogers and asked him to “stop being aggressive.” Rogers refused, and was placed under arrest.

¶ 10 Rogers testified that he was on a Red Line train heading to work when he got into an argument with a man named “Larry.” Rogers and Larry agreed to get off the train at the 35th Street station and settle their disagreement. Once there, Larry began “flicking” a knife in Rogers’s direction and cut him on the left side of the neck. Rogers became “angry and upset.” Rogers testified that he remembered knocking the radio out of the Tanner’s hand as the

conductor attempted to use it, but did not remember making physical contact. Rogers acknowledged that he knew Tanner worked for the CTA but did not know that he was on duty.

¶ 11 The court found Rogers guilty on both counts. In announcing its ruling, the court noted that the State proved beyond a reasonable doubt that Tanner worked for the CTA, that he was engaged in the performance of his official duties, that Rogers hit a portion of Tanner's body, and that Rogers made contact of an insulting or provoking nature. The court denied Rogers's motion for new trial. After merging the counts, Rogers received five years' imprisonment on count 1.

¶ 12 Analysis

¶ 13 Rogers contends that the evidence was insufficient to find him guilty of aggravated battery because the State did not prove beyond a reasonable doubt that he knowingly battered Tanner. According to Rogers, we should apply a *de novo* standard of review because he is not questioning the credibility of the witnesses, but rather whether the uncontested facts suffice to convict. The State insists we follow the standard of review in *Jackson v. Virginia*, 443 U.S. 307 (1979). We agree with the State.

¶ 14 Although Rogers argues that the facts of the case are uncontested, essentially, he contends that his actions in striking Tanner were more accidental than knowing. Hence, Rogers challenges the inferences the trial court drew from the evidence regarding his mental state "which presents disputed questions of fact." So we decline to apply *de novo* review. *People v. Lattimore*, 2011 IL App (1st) 093238, ¶ 35 (citing *People v. Stewart*, 406 Ill. App. 3d 518, 525 (2010)) (no *de novo* review where defendant challenged "inferences that can be drawn from the evidence" by claiming evidence failed to establish he acted "knowingly."); *People v. Hinton*, 402

Ill. App. 3d 181, 183 (2010) (no *de novo* review where defendant “contest[ed] the inferences that can be drawn from the evidence” by claiming he had no knowledge).

¶ 15 In considering a challenge to the sufficiency of the evidence to sustain a conviction, Illinois courts have adopted the *Jackson* standard of review. Under that standard, the question for us 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. *People v. Wheeler*, 226 Ill. 2d 92, 114 (2007). This standard is applicable in all criminal cases regardless whether the evidence is direct or circumstantial. *People v. Campbell*, 146 Ill. 2d 363, 374-75 (1992). The trier of fact assesses the credibility of the witnesses, weighing the testimony, and drawing reasonable inferences from the evidence. *People v. Hutchinson*, 2013 IL App (1st) 102332 ¶ 27; *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001). When considering the sufficiency of the evidence, the reviewing court does not retry the defendant. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). We will, however, reverse a criminal conviction when the evidence is so improbable or unsatisfactory that there remains a reasonable doubt as to the defendant’s guilt. *Beauchamp*, 241 Ill. 2d at 8.

¶ 16 To sustain Rogers’s conviction for aggravated battery, the State must prove both the commission of a battery and the presence of an additional factor aggravating that battery. *People v. Cherry*, 2016 IL 118728, ¶ 16. “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 2014). For aggravated battery, the State must prove Rogers knew Tanner was a CTA employee performing

his official duties. 720 ILCS 5/12-3.05 (d) (7) (West 2014); *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009) (State must prove each element of offense beyond reasonable doubt).

¶ 17 Rogers does not dispute that Tanner was a CTA employee performing his official duties or that he made physical contact that caused bodily harm. Instead, Rogers contends the State failed to prove that he knowingly committed a battery against Tanner.

¶ 18 But, “[b]ecause of its very nature, the mental element of an offense, such as knowledge, is ordinarily established by circumstantial evidence rather than by direct proof.” *People v. Jasoni*, 2012 IL App (2d) 110217 ¶ 20 (quoting *People v. Farrokhi*, 91 Ill. App. 3d 421, 427 (1980)). A criminal conviction may be based on circumstantial evidence, as long as it satisfies proof beyond a reasonable doubt of the charged offense. *People v. Hall*, 194 Ill. 2d 305, 320 (2000). In a case based on circumstantial evidence, the trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances if all the evidence considered collectively satisfies the trier of fact beyond a reasonable doubt that the defendant is guilty. *Id.*

¶ 19 After reviewing the evidence in the light most favorable to the State, we conclude that a rational trier of fact could have found that defendant committed an aggravated battery. The record shows the State presented ample circumstantial evidence to support the inference that Rogers knowingly battered Tanner. After receiving a call from one of the cars, Tanner stopped the train to investigate the call. He saw Rogers get off the train and asked him if there was a problem. Rogers responded “[G]et the f*** out of my face and mind your own business before [you] get [your] s*** split.” Tanner then asked Rogers not to get back on the train. Rogers got behind Tanner and struck the back of Tanner’s hand causing him to drop his radio. Rogers acknowledged that he was “angry and upset” and recalled knocking the radio out of Tanner’s

hand. This evidence, and the reasonable inferences from it, suffice to establish that Rogers knowingly struck Tanner and thus sustain his conviction for aggravated battery.

¶ 20 Although Rogers testified that he hit Tanner's radio, but not Tanner, the trial court may reject self-serving testimony. See *e.g. People v. Johnston*, 267 Ill. App. 3d 526, 532-33 (1994). This is particularly true here given that, immediately after the incident, Tanner was diagnosed with a fracture to his hand. As mentioned, the trier of fact determines the credibility of the witnesses, the weight to be given to the testimony, and the reasonable inferences to be drawn from the evidence. See *Hutchinson*, 2013 IL App (1st) 102332 ¶ 27. Given its ruling, the court resolved inconsistencies in the State's favor. See *Siguenza-Brito*, 235 Ill. 2d at 228 (although contradicted by defendant, testimony of single witness, if positive and credible, sufficient to sustain conviction). A court need not 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. *People v. Alvarez*, 2012 IL App (1st) 092119, ¶ 51. This is not a case in which the evidence is so unreasonable, improbable, or unsatisfactory as to create a reasonable doubt of Rogers' guilt.

¶ 21 Affirmed.