

2018 IL App (1st) 160923-U

No. 1-16-0923

Order filed June 29, 2018

First Division

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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 12797
)	
CARL GARRETT,)	Honorable
)	Thomas V. Gainer, Jr.,
Defendant-Appellant.)	Judge, presiding.

PRESIDING JUSTICE PIERCE delivered the judgment of the court.
Justices Harris and Griffin concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence was sufficient to prove defendant guilty beyond a reasonable doubt of attempted armed robbery.

¶ 2 Following a bench trial, defendant Carl Garrett was convicted of attempted armed robbery, vehicular invasion, and aggravated battery on a public way. He was sentenced to concurrent terms of six, six, and three years in prison, respectively. On appeal, defendant contends that the evidence was insufficient to prove him guilty of attempted armed robbery

where there was no evidence he had the intent to rob the victim of her purse. Rather, he asserts that he only grabbed the purse in order to remove the single obstacle that frustrated his attempt to stab the victim. For the reasons that follow, we affirm.

¶ 3 Defendant's conviction arose from the events of June 27, 2014. Following his arrest, defendant was charged with four counts of armed robbery, one count of attempted armed robbery, two counts of attempted aggravated vehicular hijacking, one count of vehicular invasion, one count of aggravated battery, and three counts of aggravated unlawful restraint.

¶ 4 At trial, the State presented evidence that around 4:15 p.m. on the date in question, Marchell French parked her SUV in the fire lane outside a Chicago Walgreens store and went inside, leaving her sister, Tina French, in the front passenger-side seat, and their friend, Lisa Manny, in the back passenger-side seat. The windows of the SUV were down and the keys were in the ignition. While Marchell was in the store, defendant walked up to the SUV.

¶ 5 Tina French testified that when defendant approached the SUV, he asked her for a quarter. He then asked if she was interested in a blazer. When she said no, he produced a blazer and proceeded to show it to Tina and then to Lisa. Lisa said something to defendant, after which defendant told Lisa he would kill her and pointed his finger at her like a gun. Defendant then started stabbing Lisa with an object Tina described as a silver-colored metal turkey baster with a thermometer and a skinny point on the end.

¶ 6 Tina climbed over to the driver's seat and got out of the SUV so that she could help Lisa. As Tina ran around the car, defendant moved toward her and started swinging a diaper bag at her. Tina saw a red cap in defendant's hand and heard a hissing sound, which she assumed was mace, so she ran away from him. Defendant then said he was going to take the car and opened

the passenger-side front door. Tina ran to the driver's side and grabbed the keys from the ignition. Defendant took what Tina thought was her phone from the cup holder.

¶ 7 Tina testified that at this point, Marchell came out of the store and Tina told her that defendant had her phone. The two women, a Walgreens security guard, and "everybody else" started chasing defendant, who was spraying mace. Eventually, the security guard and a pedestrian stopped defendant. Tina took the phone from defendant and realized that it was not hers, but was Marchell's. When the police arrived, she told them what happened.

¶ 8 Lisa Manny testified that when defendant came up to the car, he asked Tina for a quarter and showed her a jacket. He then showed Lisa the jacket. Lisa told defendant she and Tina did not have any money. In response, defendant called her a bitch, said he would kill her, and pointed his finger at her. In court, she demonstrated this action "with her fingers *** pointing a gun and going pew." With regard to what happened next, Lisa testified as follows:

"A. He came to the back of the car where I was located and opened the door and tried to stab me. But unfortunately I had a purse that was across my shoulder and I had a compact in there and that stopped him from stabbing me. Then he tried to stab my purse.

Q. Let me slow you down. The defendant opened the door?

A. Yes.

Q. Did he enter the vehicle?

A. Yes.

Q. What were you doing as he was coming into the vehicle?

A. Trying to kick him out.

Q. The object you are talking about, were you able to see what it was?

A. Yes.

Q. Describe what you saw.

A. A long skinny with a round top. It's a turkey baster.

Q. And did you notice a color?

A. Silver.

Q. Was the defendant able to take your purse?

A. No.

Q. Why not?

A. Because it was across my shoulder.

Q. Was it -- did it have a strap?

A. Yes.

Q. Were you wearing it?

A. Yes."

¶ 9 In response to the question, "What happened next after the defendant was unable to take your purse?" Lisa stated that defendant went to the driver's side of the car, reached in the window, and tried to take the keys from the ignition. However, he was unsuccessful because Tina, who had gotten out of the SUV and ran around it, twisted his hand and got the keys first. Defendant tussled with Tina and then took off running. A store security guard and some other people arrived on the scene, and eventually, defendant was stopped.

¶ 10 On cross-examination, defense counsel and Lisa engaged in the following exchange regarding her purse:

“Q. When [defendant] was striking you, you held up your purse. Is that correct?”

A. Not my purse. It was right here. The purse is -- first let me explain. The purse is a high purse. I was holding it like this. It was blocking things.

Q. What were you doing with your hands?

A. I was leaning my back back so I can kick him out the car.

Q. So you were kicking your feet at him. Is that correct?

A. Hm-hmm.”

¶ 11 Marchell French testified that when she came out of Walgreens, she saw Tina fighting with defendant in the parking lot. Tina said that defendant had her phone, so Marchell ran over to help. When Marchell joined in the fight, hitting defendant with her purse, defendant sprayed something in her face that made her choke and cough and made her face burn. Marchell backed away, and since she could not see due to the spray, blindly swung her purse in defendant's direction. Defendant got hold of the purse, and they jerked it back and forth while Marchell called out, “[H]elp, help. He trying to rob us. He trying to take my purse.” Marchell let go of her purse because her face and eyes were burning. Around this time, defendant swung an object that hit Marchell's neck under the chin. Marchell acknowledged that she did not know what the object was, but described it as “a silver piece” that she thought at the time was a knife, and that felt like an ice pick. The object “abraded” her neck and caused pain. At this point, people Marchell did not know arrived to help. They chased defendant, who still had Marchell's purse,

and eventually caught him and held him down. After the police arrived and defendant was being held by a fence, Marchell saw her purse on the ground in the middle of the parking lot.

¶ 12 Charles Gregory, the Walgreens security guard, testified that he was inside the store when he heard a commotion. He went outside and saw defendant and a woman who was yelling. Defendant ran. Gregory grabbed him and held him until the police arrived.

¶ 13 Chicago police Officer Seamus Scanell testified that when he and his partner arrived on the scene, defendant was being detained by a man. The officers cuffed defendant and, after they spoke with witnesses, placed him in custody. In the parking lot, about 20 feet from where defendant was detained, Scanell observed a can of mace on the ground. Though Scanell and his partner “did look around for the sharp object,” which he said was described to him as “a thin, metal object that was sharp,” they did not recover a meat thermometer or a turkey baster. Scanell did not recall whether there was a purse on the ground.

¶ 14 Defendant moved for a directed finding on all counts. The trial court granted the motion as to three counts of armed robbery (counts 1, 3, and 4), one count of attempted aggravated vehicular hijacking (count 7), and all three counts of aggravated unlawful restraint (counts 10, 11, and 12). After defendant rested, the trial court acquitted him of the remaining charge of armed robbery (count 2). The court found defendant guilty of attempted armed robbery (count 5), attempted aggravated vehicular hijacking (count 6), vehicular invasion (count 8), and aggravated battery on a public way (count 9).

¶ 15 Defendant filed a posttrial motion, which the trial court granted as to count 6 (attempted aggravated vehicular hijacking), but denied as to counts 5, 8, and 9. The court thereafter sentenced defendant to concurrent terms of imprisonment of six years for attempted armed

robbery on count 5, which charged defendant with grabbing Lisa's purse and swinging a metal object at her; six years for vehicular invasion on count 8, which charged defendant with entering or reaching into the occupied SUV with intent to commit a theft therein; and three years for aggravated battery on a public way on count 9, which charged defendant with causing bodily harm to Marchell by spraying her with a chemical substance. Defendant's postsentencing motion was denied.

¶ 16 On appeal, defendant contends that the evidence was insufficient to prove him guilty of attempted armed robbery where there was no evidence he had the intent to rob Lisa of her purse. Rather, he asserts that he "grabbed the purse in order to remove the single obstacle that frustrated his attempt to stab Lisa." In support of his position that he did not intend to take Lisa's purse, defendant argues that the only evidence that substantiated the attempted armed robbery charge was supplied by the prosecutor's leading question, "Was the defendant able to take your purse?" He maintains that if he had wanted to take a purse, he would not have "discarded" or "abandoned" Marchell's purse in the parking lot, and states that it is "worth noting" that the police did not recover the alleged turkey baster / meat thermometer even though the entire episode transpired in a parking lot on a summer afternoon and the police arrived minutes after the Walgreens security guard detained him. He concludes, "[Defendant] intended to stab Lisa, and there was no change in his criminal objective when he grabbed her purse, which shielded her from his blows. Therefore, this court should reverse [his] attempt[ed] armed robbery conviction."

¶ 17 To prove attempted armed robbery as charged in the instant case, the State was required to establish that defendant, with the intent to commit armed robbery, performed any act constituting a substantial step toward knowingly taking property from the person or presence of

another by the use of force or by threatening the imminent use of force, and that during the commission of the offense, he carried on or about his person or was otherwise armed with a dangerous weapon. 720 ILCS 5/8-4(a), 18-1(a), 18-2(a)(1) (West 2014). When reviewing the sufficiency of the evidence, the relevant inquiry 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. *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979). Under this standard, a reviewing court must allow all reasonable inferences from the record in favor of the prosecution. *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). Reversal is justified where the evidence is so unsatisfactory as to justify a reasonable doubt of the defendant's guilt or where proof of an element of the crime is wholly lacking. *People v. Robinson*, 2013 IL App (2d) 120087, ¶ 11.

¶ 18 Here, defendant challenges the element of intent. Intent is a question for the trier of fact and may be inferred from the character of the defendant's actions and the circumstances surrounding the commission of the offense. *People v. Foster*, 168 Ill. 2d 465, 484 (1995). Criminal intent is usually proven through circumstantial evidence, and a conviction may be sustained on circumstantial evidence alone. *People v. Murphy*, 2017 IL App (1st) 142092, ¶ 10.

¶ 19 Viewing the evidence in the light most favorable to the State, as we must, we conclude that a reasonable trier of fact could conclude defendant intended to take Lisa's purse. We base this conclusion not only on the circumstances surrounding defendant's interactions with Lisa, but also with Tina and Marchell. There is no question that defendant first approached the SUV with the intent to obtain money: he asked Tina for a quarter, and then tried to sell a blazer to Tina and Lisa. After Lisa told him they had no money, defendant held his fingers like a gun and threatened

her. He then opened the back door and, by his own admission on appeal, grabbed her purse and stabbed at her with a pointy metal object. Shortly thereafter, defendant stated his intent to take the SUV, tried to take the keys from the ignition, and successfully took a phone from the console area. Then, when Marchell arrived on the scene and swung her purse at defendant, he jerked it away from her and tried to flee while carrying the phone and Marchell's purse. Given all these circumstances, we agree with the State that it would be reasonable for a trier of fact to infer that defendant's intent throughout the entire incident was "financially motivated."

¶ 20 While defendant does not dispute that he initially approached the SUV with the intent to obtain a quarter or sell a blazer, he maintains that once Lisa rebuffed him, his "intention was to punish the women for whatever slight Lisa's statement caused, and he sought to exact that punishment by both fighting them and trying to take the car keys and actually taking Marchell's cell phone." While this scenario is not beyond the realm of possibility, it is not an inference the trial court was obliged to make. *People v. Smith*, 2014 IL App (1st) 123094, ¶ 13. "[T]he trier of fact is not required to disregard inferences which flow normally from the evidence and to search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt." *People v. Hall*, 194 Ill. 2d 305, 332 (2000). Defendant's argument fails.

¶ 21 Defendant asserts that his act of discarding or abandoning Marchell's purse in the parking lot rebuts the inference that he had the intent to take Lisa's purse, since, if he had wanted to take a purse, he would not have "given up" Marchell's. We reject defendant's interpretation of the evidence on this point. Marchell testified that she and defendant jerked her purse back and forth while she yelled out for help. She then let go of the purse because her face and eyes were burning from the mace defendant had sprayed. About this time, people Marchell did not know arrived to

help and chased defendant, who still had her purse. She specifically testified, “They ran after him to stop him to get my purse from him.” The trial court questioned Marchell about her purse as follows:

“Q. *** At the end when the police were there and everyone was calm, where was your purse?”

A. On the ground.

Q. How far from you?

A. I am not -- he was up -- he was being held over by the fence. In the middle of the lot.

Q. So closer to you than him?

A. Yes.”

¶ 22 It is defendant’s position that Marchell’s testimony shows he “took the purse from Marchell and discarded it on the ground.” In our view, this is a leap of logic. What the evidence shows is that defendant took Marchell’s purse, ran with it, and no longer had possession of it when he was later being held by a fence, and that the purse’s final resting spot was closer to Marchell than defendant. There is nothing that shows whether defendant voluntarily dropped the purse shortly after Marchell let go, whether he accidentally lost his grip on it as he ran, or whether it was forcefully removed from his hands by one of his pursuers. We decline to make the inference that defendant purposely relinquished Marchell’s purse. In turn, we cannot agree with defendant that his “abandonment” of Marchell’s purse constitutes substantial circumstantial evidence that he did not intend to take Lisa’s purse.

¶ 23 Finally, we are mindful of defendant's observation that the police did not recover the pointy metal object described by all three women. However, defendant fails to explain how the absence of this object relates to the issue of his intent at the time he grabbed Lisa's purse.

¶ 24 We find that the evidence, when viewed in the light most favorable to the prosecution, was sufficient to establish that defendant intended to rob Lisa of her purse. Accordingly, defendant's challenge to the sufficiency of the evidence fails.

¶ 25 For the reasons explained above, we affirm the judgment of the circuit court.

¶ 26 Affirmed.