

No. 1-16-1744

**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

---

|                                      |   |                    |
|--------------------------------------|---|--------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS, | ) | Appeal from the    |
|                                      | ) | Circuit Court of   |
| Plaintiff-Appellee,                  | ) | Cook County.       |
|                                      | ) |                    |
| v.                                   | ) | No. 14 CR 16968    |
|                                      | ) |                    |
| KENNETH WILLIAMS,                    | ) | Honorable          |
|                                      | ) | Lawrence E. Flood, |
| Defendant-Appellant.                 | ) | Judge, presiding.  |

---

JUSTICE CONNORS delivered the judgment of the court.  
Presiding Justice Delort and Justice Harris concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Evidence was sufficient to convict defendant of aggravated battery of a peace officer.
- ¶ 2 Following a 2016 bench trial, defendant Kenneth Williams was convicted of aggravated battery of a peace officer and sentenced to four years' imprisonment. On appeal, defendant contends that the evidence was insufficient to convict him beyond a reasonable doubt because the testimony implicating him was not reliable and was impeached. We affirm.
- ¶ 3 Defendant was charged with two counts of aggravated battery of a peace officer (720 ILCS 5/12-3.05(d)(4) (West 2014)) for allegedly striking John Dahlberg about the body on or

about July 28, 2014, knowing him to be a Chicago police officer and while he was performing his official duties. The two counts alleged that defendant's striking knowingly caused Dahlberg bodily harm, and knowingly made physical contact of an insulting or provoking nature with him.

¶ 4 During discovery, trial counsel sought a video that defendant claimed would exonerate him. Counsel was seeking a store security video, which he believed existed because a police detective mentioned a video in a report and the State produced still pictures from a video. Counsel told the court that he was unsuccessful in obtaining the video from the store owner, and that the detective had told counsel that he received no video from the store but took still pictures of the store video. Counsel did not disagree when the State told the court that discovery was complete in April 2015, and counsel made no further reference to store video until the March 2016 trial.

¶ 5 At trial, Officer John Dahlberg testified that he was a police officer for over 17 years and was patrolling in uniform at about 2 p.m. on July 28, 2014. He knew that a cellphone store in his district had been robbed about an hour earlier by two black men, one of whom was bald, about 5 feet, 10 inches tall, and about 150 pounds. As Dahlberg sat in a police car in front of another cellphone store a few blocks from the earlier robbery, in a busy commercial area with many passers-by, he noticed two black men walk into the store. One of them fit the description from the earlier robbery. At trial, he identified defendant as the man he saw entering the store. He had not seen defendant before that day.

¶ 6 Dahlberg exited his car and entered the store, alone. He approached defendant. He told defendant and the other man that he was investigating a robbery nearby and asked for their names. He did not have his gun drawn, did not touch either man, and did not yell or use

profanity. Defendant gave Dahlberg his identification upon request, but the other man said that he had none. As Dahlberg was about to write down the other man's particulars, a woman entered the store. Because defendant and Dahlberg were standing just inside the doorway, Dahlberg stepped back. However, defendant said that he would step outside, and he held the door open.

¶ 7 Though Dahlberg requested that "we" stay inside, defendant stepped outside. Dahlberg followed him outside, and "[i]t appeared" to him that defendant "was attempting to flee." Dahlberg reached out and grabbed defendant's jacket with his left hand, telling him "don't go anywhere. I don't want you to run." Defendant grabbed Dahlberg's arm or wrist with his right hand, and Dahlberg told him to let go. Instead, defendant struck Dahlberg's arm with his hand repeatedly and pushed Dahlberg's shoulders in an attempt to get him to release his grasp of defendant's jacket. Dahlberg drew his pepper spray and told defendant that he would use it if defendant continued. Defendant attempted to strike Dahlberg's head, and Dahlberg sprayed him once with pepper spray. Dahlberg was himself affected by some of the spray. Defendant then struck the left side of Dahlberg's face with his right hand. Dahlberg fell, and defendant attempted to kick him before fleeing. Dahlberg pursued him but lost sight of him.

¶ 8 Dahlberg called for other officers, who called an ambulance. The paramedics treated him for exposure to pepper spray. When Dahlberg returned to the store, an employee gave him the identification he had received from defendant. The identification bore defendant's name, and Dahlberg identified the identification card as an exhibit at trial.

¶ 9 Dahlberg also identified a still picture from store security video as accurately depicting the interior of the store that day. The exhibit is a photograph of the interior of a small store, apparently taken from a video screen. In the photograph, two people are standing just in front of

the store counter and nobody else is visible in the store. One person is a dark-skinned bald man in dark clothing including dark pants, carrying a red bag. He is standing a foot or two behind and to the right of a medium-completed person wearing a pale red hat, pale red jacket, and dark shirt.

¶ 10 Photographs were taken of Dahlberg's face a day after the incident, and he identified them as accurately depicting the facial injury he suffered when defendant struck him. The record includes two photographs of a man with a faint bruise on his left cheek.

¶ 11 On cross-examination, Dahlberg clarified that he was patrolling alone that day. The police-report descriptions from the earlier robbery were of a medium-completed black man with dreadlocks, about 210 pounds and 5 feet 10 inches tall, and a bald dark-completed black man, about 150 pounds, 5 feet 10 inches tall, and about 20 to 23 years old. However, defendant's identification bore a 1979 birthdate. Dahlberg denied that, when he entered the store, defendant was in line. When shown a still picture from the store video, Dahlberg admitted that the bald man in the picture, holding a bag, was defendant but added "I wouldn't describe it as in line. He's with the other subject, and there are no other patrons in the store at that point." Dahlberg also noted that he was not in the store at that time. The picture shown to Dahlberg was substantially similar to the picture he was shown on direct examination, as described above.

¶ 12 Dahlberg did not learn the full name of the man with defendant. Dahlberg testified that defendant was not under arrest when he left the store, and Dahlberg merely requested that defendant not leave. Dahlberg testified that police video from a nearby intersection did not depict the altercation between defendant and Dahlberg but did show them running. Dahlberg reiterated that he grabbed defendant's jacket though he was not under arrest. He did not use his pepper spray until after defendant had grabbed his wrist and struck his arm multiple times.

¶ 13 On redirect examination, Dahlberg testified that he did not have the police-report descriptions from the earlier robbery when he was patrolling, only a radio message including descriptions. Dahlberg noticed that the bag defendant was carrying was “rather worn” and “had a lining on the inside \*\*\* commonly used to hide items for shoplifting.” On recross examination, he testified that his report did not mention a bag in defendant’s hand. On redirect examination, he testified that a still picture from the store video showed defendant holding a bag.

¶ 14 The court allowed the defense “one follow-up” regarding the still picture. Dahlberg then testified on recross examination that he saw the store video. He was uncertain whether the police recovered it, noting that “there was a problem recovering it” because the store employee did not have access to the video. Dahlberg did not inventory a video or the still pictures from it.<sup>1</sup>

¶ 15 The defense objected that it did not receive a video, and the State denied that it had a video. The court found that neither the State nor defense had a copy of the video so “you’re both in the same position.”

¶ 16 Under further recross examination, Dahlberg admitted that his report did not mention viewing a video. He viewed the video at the scene on the day of the incident, after the employee gave him defendant’s identification. Other officers also viewed the video at the time. Dahlberg testified that the video did not depict the altercation outside the store.

¶ 17 The defense moved for a mistrial on the basis of the undisclosed video, and for a directed finding. The court denied both motions, noting that the State did not have the video and that Dahlberg testified that the video did not depict the altercation at issue.

---

<sup>1</sup> The record includes another photograph or still picture apparently taken from the store video. While this picture bears an inventory number, there is no indication in the record that it was a trial exhibit.

¶ 18 Defendant testified that he entered the cellphone store alone on the day in question to have his cellphone repaired. He was wearing a black leather jacket and black pants, and was carrying a shopping bag. He waited in line behind another customer, who “I think \*\*\* was a young lady.” He identified one of the still-picture exhibits as depicting him waiting in line behind the woman. When defendant was served, an employee told him that repairing the cellphone would cost more than its worth, so he started to leave the store.

¶ 19 The woman who had been in front of defendant was having a conversation with a police officer. When defendant tried to pass them and exit the store, the officer touched him on his chest and told him that nobody could leave the store at that time. The officer asked for identification, which defendant provided. The officer wrote down defendant’s particulars. A woman entered the store, and the officer told defendant that he could “step outside.” Defendant asked for his identification back, but the officer repeated “step outside.”

¶ 20 Defendant made a rude remark, and the officer grabbed him by his jacket and pushed him out of the store. The officer then sprayed him with mace or pepper spray and punched him in the face, popping out one of the lenses in his eyeglasses. Defendant fell from the punch, and ripped his jacket as he fell. When he stood again, he thought the officer was reaching for his firearm and fled the scene. Defendant testified that the store video and testimony by eyewitnesses would support that the officer pushed him out of the store rather than him walking out. He denied pushing or striking the officer. He pointed out a tear in his jacket and a broken pair of eyeglasses, both of which were admitted into evidence. Defendant admitted to a prior conviction in 1994, when he was 15 years old.

¶ 21 On cross-examination, defendant identified Dahlberg as the officer who punched him. While his eyeglasses were missing a lens, the frame was not broken or bent. He did not seek medical treatment for the pepper spray, did not call 911 to report an attack by a “rogue” officer, and did not lodge a complaint against Dahlberg.

¶ 22 In rebuttal, the State presented a certified copy of defendant’s 1995 conviction, in a 1994 case, for aggravated criminal sexual assault.

¶ 23 Following closing arguments, the court found defendant guilty of aggravated battery of a peace officer as charged. It recited the accounts of Dahlberg and defendant and found the case centered upon credibility. The court expressly found Dahlberg credible, and found that his account was reasonable under the circumstances. It stated that Dahlberg, having a general description from the earlier robbery, saw defendant and another black man enter the cellphone store and believed that defendant fit the description. The court noted that “there is some discrepancy over how many people were in the store” and that a “photo shows the defendant with a woman who appears to be in front of him at the counter and no one else in the store.” However, the court found that “I have no identification on those photographs as to at what particular point in time those photographs were taken.” The court examined the exhibits, noting that there was no damage to defendant’s eyeglasses beyond the missing lens, and it could not determine when defendant’s jacket was ripped. The court found that the photographs of Dahlberg’s face with bruising corroborated his account.

¶ 24 Defendant’s posttrial motion as supplemented challenged the sufficiency of the trial evidence, argued that defendant’s motion for a mistrial should have been granted when Dahlberg testified to viewing a video not disclosed before trial, and argued that the court erred in

restricting defendant's cross-examination of Dahlberg regarding the video and still pictures from the video. The court denied the motion. Following a sentencing hearing, it merged the counts into a single count of aggravated battery of a peace officer and sentenced defendant to four years' imprisonment.

¶ 25 On appeal, defendant contends that the evidence was insufficient to convict him beyond a reasonable doubt because Officer Dahlberg's testimony was not reliable.

¶ 26 On a claim of insufficient evidence, we must determine whether, taking 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. Gray*, 2017 IL 120958, ¶ 35. It is the responsibility of the trier of fact to weigh, resolve conflicts in, and draw reasonable inferences from the testimony and other evidence, and it is better equipped than this court to do so as it heard the evidence. *Id.*; *In re Jonathon C.B.*, 2011 IL 107750, ¶ 59. We do not retry a defendant; that is, we do not substitute our judgment for that of the trier of fact on witness credibility or the weight of evidence. *Gray*, 2017 IL 120958, ¶ 35.

¶ 27 The trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances. *Jonathon C.B.*, 2011 IL 107750, ¶ 60. Instead, it suffices if all the evidence taken together satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt. *Id.* The trier of fact is not required to disregard inferences that flow normally from the evidence, nor to seek all possible explanations consistent with innocence and elevate them to reasonable doubt. *Id.*; *Gray*, 2017 IL 120958, ¶ 36. A conviction will be reversed only if the evidence is so unreasonable, improbable, or unsatisfactory that a reasonable doubt of the defendant's guilt remains. *Gray*, 2017 IL 120958, ¶ 35.



¶ 28 We will not find a witness not credible merely because a defendant says so. *Jonathon C.B.*, 2011 IL 107750, ¶ 60; *Gray*, 2017 IL 120958, ¶ 36. Similarly, a conviction will not be reversed merely because there was contradictory evidence, as the task of the trier of fact is determining if and when a witness testified truthfully, and minor or collateral discrepancies need not render a witness's entire testimony incredible. *Gray*, 2017 IL 120958, ¶¶ 36, 47. When a finding of guilt depends on eyewitness testimony, we must decide whether a trier of fact could reasonably accept the testimony as true beyond a reasonable doubt. *Id.* ¶ 36. We find eyewitness testimony insufficient only when the evidence compels the conclusion that no reasonable person could accept it beyond a reasonable doubt. *Id.*

¶ 29 As charged here, a person commits aggravated battery by committing battery against a person he knows to be a peace officer performing his official duties. 720 ILCS 5/12-3.05(d)(4) (West 2014). Battery is knowingly causing bodily harm to, or making physical contact of an insulting or provoking nature with, another person. 720 ILCS 5/12-3(a) (West 2014).

¶ 30 Here, taking the evidence in the light most favorable to the State as we must, we cannot conclude that no rational trier of fact could convict defendant of aggravated battery of a peace officer given Officer Dahlberg's testimony. He testified to being a police officer on patrol in uniform on the afternoon in question. He had a report of an earlier cellphone store robbery blocks away and less than an hour earlier. Defendant fit the radio description of one of the robbers, as Dahlberg recalled it, in contrast to the full written description in police reports that defendant did not match exactly. During Dahlberg's investigation, defendant provided identification but then tried to leave the store. After Dahlberg requested that defendant not leave the store and grabbed defendant's jacket, defendant grabbed his arm, struck his arm repeatedly,

and struck the left side of his face. The injury to Dahlberg's face is corroborated by the photographs of a bruise on the left side of his face. The positive and credible testimony of a single witness is sufficient to convict. *Gray*, 2017 IL 120958, ¶ 36. The court expressly found Dahlberg credible. As stated above, we do not substitute our judgment for that of the trier of fact regarding credibility. *Id.* ¶ 35. We therefore find Dahlberg's testimony sufficient to convict defendant of aggravated battery as charged. Stated another way, we cannot find that the trial evidence compels the conclusion that no reasonable person could accept the testimony of Officer Dahlberg beyond a reasonable doubt.

¶ 31 Defendant does not challenge that he was the bald man in the cellphone store who was confronted by Dahlberg on the day in question, or that he knew that Dahlberg was a police officer. Instead, he disputes what occurred between himself and Dahlberg, specifically Dahlberg's claim that defendant struck him. Defendant argues that the still pictures from the store video impeach Dahlberg's testimony because they depict a woman at the store counter and not, as Dahlberg testified, the man who entered with defendant. He points out correctly that the trial court also referred in its findings to the person in the photographs as a woman. However, the trial court, after noting that the person in the photograph appeared to be a woman, expressly found Dahlberg's testimony credible.

¶ 32 Moreover, having viewed the pictures for ourselves, our only certainty is that we are uncertain whether the person at issue was a man or woman. The pictures could be reasonably inferred to support either Dahlberg's account of a man who had entered the store with defendant, or defendant's account of entering alone and ending up behind a woman in line. As stated above,

this court makes all reasonable inferences in the State's favor. We do so here, and find no impeachment of Dahlberg's testimony from the still pictures.

¶ 33 Defendant also argues that we should infer that the rest of the store video would support his account of events that he did not attack Dahlberg but Dahlberg attacked him. However, having found that the pictures could reasonably be inferred to be consistent with Dahlberg's account, we will not make such an inference regarding the absent video. Dahlberg's account that the video was unobtainable because a store employee could not access it, but still pictures were taken of the video screen as the record shows, is not so unreasonable, improbable, or unsatisfactory that a reasonable doubt of defendant's guilt remains.

¶ 34 Accordingly, the judgment of the circuit court is affirmed.

¶ 35 Affirmed.