2018 IL App (1st) 16-2059-U

No. 1-16-2059

Order filed October 12, 2018

SIXTH DIVISION

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 14126
	)	
MUDHILL MADDOX,	)	Honorable
	)	Timothy Joseph Joyce,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Cunningham and Connors concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's conviction for home invasion affirmed over his contention that the State failed to prove beyond a reasonable doubt that he entered the victim's residence without authority.

¶ 2 Following a bench trial, defendant Mudhill Maddox was convicted of home invasion (720 ILCS 5/19-6(a)(2) (West 2014)), aggravated domestic battery (720 ILCS 5/12-3.3(a) (West 2014)), and two counts of aggravated battery of a peace officer (720 ILCS 5/12-3.05(d)(4) (West

2014)). The court sentenced him to concurrent terms of 12 years' imprisonment for home invasion, 7 years' imprisonment for aggravated domestic battery, and 3 years' imprisonment for each count of aggravated battery of a peace officer. On appeal, defendant contends that the State failed to prove he committed home invasion because the evidence was insufficient to show that he entered the victim's residence without authority. For the following reasons, we affirm.

¶ 3 Defendant was charged with 24 offenses and found guilty of 22 of the counts: two counts of home invasion, residential burglary, three counts of aggravated domestic battery of the victim Anithra Colley, unlawful use or possession of a weapon by a felon, four counts of aggravated battery of various peace officers, five counts of aggravated battery of Colley, aggravated unlawful restraint, two counts of domestic battery, unlawful restraint, and two counts of resisting and obstructing a peace officer. He challenges only the sufficiency of the evidence supporting his home invasion conviction. Accordingly, we recite in detail only those facts pertaining to our disposition of the home invasion count.

¶ 4 At trial, Colley testified that she dated defendant in 2014 for approximately four months after meeting him on Facebook in January of that year. Although defendant sometimes spent the night at her apartment, he never lived or paid the bills there, nor did he have keys to the apartment. Colley lived at her apartment with her two minor children, E.W. and N.W.

¶ 5 Colley detailed two prior incidents that occurred at her apartment with defendant, in which he grabbed her throat and hit her. The first incident occurred on April 15, 2014, and the second on May 31, 2014, after which defendant was arrested. He remained in custody until he was released on July 3, 2014. She did not see defendant between May 31, 2014, and July 3, 2014.

¶ 6 On July 4, 2014, Colley returned home around 10 p.m. She did not speak to defendant that day. She locked her doors, and she and her children went to bed. Colley awoke to find defendant straddling her. He had a knife that she did not recognize pressed to her throat and told her that if she screamed, he would kill her. She did not scream and grabbed the knife by the blade. She explained that she grabbed the knife because she "would rather have a cut hand than a cut throat."

¶ 7 Defendant attempted to pull the knife away from her, which cut her fingers. They wrestled back and forth and she eventually gained control of the knife. Colley told defendant she needed to check on her children. While defendant stayed in her bedroom, Colley went into her daughter N.W.'s room. She grabbed N.W. by the shirt and told her to call the police because defendant was in the house trying to kill her.

¶ 8 Colley returned to her room, told defendant that everything would be okay, and asked him to clean up some of the blood on the floor. She wanted to keep him out of the living room because she did not want him to see the police come to the residence. At some point, three officers entered the residence and Colley yelled, "He's trying to kill me." When she yelled, defendant lunged at her. The officers then lunged at defendant. He began "fighting, kicking, hitting" the officers. They eventually arrested defendant, and Colley went to the hospital to get treatment for her hand. She received 10 stitches in her "pinky finger and ring finger" on her right hand.

¶ 9 When Colley returned home from the hospital on July 5, 2014, she noticed the screen on her back kitchen window was cut. The screen had not been cut when she went to bed the night before. She also noticed that the plastic latches on the window "were gone. They were out of the

window." Colley explained that the locks on her windows were "little plastic things that stick out that allow[] the windows to only let up" approximately four inches. She acknowledged that four inches was not high enough to permit defendant to enter through the window, but clarified that if enough pressure is applied when pulling the window up, the latches "just pop out."

¶ 10 On cross-examination, Colley testified she and defendant often fought in their relationship. She denied letting him into her apartment on the night in question and emphasized that he broke into her residence. She also denied having a conversation with defendant about their relationship that night on her porch. She was not home while the police photographed her apartment, and was not aware that the screen was cut until she returned home from the hospital. The cut in the screen was approximately four feet. Photographs of the cut screen were admitted into evidence.

¶ 11 Colley's daughter, N.W., testified that she lived with Colley and her brother, E.W., in a second-floor apartment on West Van Buren Street. She knew defendant because he dated her mother for a "small amount of time," but denied that he lived in their apartment. After returning home around 10 p.m. on July 4, 2014, she went straight to bed. Only N.W., Colley, and her brother were in the apartment that night. She woke up at some point when her mother grabbed her by the shirt and said, "[Defendant] is in the house. He's trying to kill me. Call 911." Colley's other hand was wrapped up in a yellow robe, which was covered in blood. Colley "seemed like she was panicking" and was whispering to N.W. so that defendant could not overhear what she said. N.W. called 911.

¶ 12 N.W. let the officers into the apartment. When defendant saw the police, he lunged at Colley so the police attempted to tackle him. Defendant was kicking, flailing his arms, and

spitting. Eventually the police handcuffed defendant. Colley went to the hospital and instructed N.W. not to clean anything up because the police would come to take pictures of the apartment. N.W. observed a bag on the back porch, which contained a knife and a bottle of alcohol.

¶ 13 The State introduced the 911 tape and published it to the court. On the tape, N.W. tells the operator to send police to her address on West Van Buren because her "mom's old boyfriend" was hurting people. She tells the operator she was unsure whether defendant had a weapon because her mother woke her up to call the police. Defendant had hit her mom and was still hitting her.

¶ 14 On cross-examination, N.W. testified that she was home when the police photographed her apartment. She showed them blood in the hallway and kitchen, as well as knives that were sitting in the living room. She also pointed out the bag on the back porch.

¶ 15 The testimonies of Chicago police officers Adam Bednarczyk and Pablo Aguirre were substantially the same. On July 5, 2014, at approximately 3:45 a.m., they were on patrol with a third partner, Officer Rialmo, and were dispatched to the scene of a domestic battery on West Van Buren. The officers were in a marked patrol car and in uniform. At the location, they spoke with N.W. and saw Colley and defendant, whom they identified in court. Colley, who was bleeding, told them that defendant was trying to kill her. Defendant lunged at Colley so the officers intervened. They attempted to place defendant under arrest but he was "actively" fighting them. Eventually they arrested defendant.

¶ 16 Chicago police officer Glenn Manguerra testified that he was an evidence technician dispatched to the apartment on West Van Buren to process an aggravated domestic battery crime scene on July 5, 2014, at approximately 7:47 a.m. Manguerra photographed, recovered, and

inventoried three knives from the location. Two knives were in the living room and one was on the back porch in a plastic bag with a bottle of alcohol. Manguerra did not observe evidence of a broken window on the scene and did not know about any break-ins. His "ticket" only instructed him to process the scene of a domestic incident.

¶ 17 The State introduced into evidence a certified copy of one of defendant's prior conviction for aggravated discharge of a firearm from September 13, 2007.

¶ 18 Following the State's case in chief, the court directed findings on two counts of aggravated battery of Officer Rialmo.

¶ 19 Defendant testified that he met Colley on Facebook in January 2014, and that he moved into her apartment after about a week. He "stayed" at Colley's apartment until the incident that occurred on May 31, 2014. Defendant acknowledged that he and Colley fought a lot and that it sometimes turned physical. His case resulting from the May 31, 2014, incident was dismissed on July 3, 2014, after Colley failed to appear in court.

¶ 20 Upon defendant's release from jail, he went to a friend's house and contacted Colley to thank her for not coming to court. He wanted to get back together with her, but Colley wanted to think about it. Defendant spoke to Colley again on the phone that night, and two more times on July 4, 2014.

¶ 21 On July 4, 2014, defendant bought liquor and went to his friend's house. At around 10:30 p.m., defendant's friend drove him to his sister's house where he was staying. Back at his sister's house, defendant recalled his earlier conversation with Colley. Colley had informed him that she wanted to cook food for her children but her knives were dull, so defendant had volunteered to bring Colley knives from his sister's house.

¶ 22 At around 11:45 p.m., defendant walked to Colley's apartment. He had been drinking that day, but denied that he was drunk. He brought knives and a bottle of alcohol with him so they could discuss their "situation." He hoped that they would resume their relationship. Defendant rang Colley's doorbell. She was surprised he was there, but let him in the front door. She asked why he was at her apartment so late, and had an "attitude." Defendant and Colley went to the back porch and talked for an hour. Colley asked defendant what he had in his bag, and he told her that he brought her knives. Colley wanted to see the knives so defendant pulled them out. Colley grabbed one of the knives and said she was going to keep it next to her.

¶ 23 As the two talked about their violent relationship, Colley got upset and "loud" so they went inside the apartment. Defendant left his bag and the knives on the back porch, but Colley brought one knife inside. They sat on Colley's bed and she placed the knife on the nightstand. Colley said that "she'll never let a man put his hands on her again," and lunged at defendant with the knife. Defendant grabbed Colley's arm and they wrestled for control of the knife. He grabbed the blade and then let the knife go. By grabbing the blade, defendant cut the tendons in his index and middle fingers and required 40 to 50 stitches and a subsequent surgery.

¶ 24 When Colley noticed defendant was bleeding, she apologized and said she would get back together with him. Colley asked him to clean up the blood, and he started to fill a bucket with water. Colley apologized again and then suddenly yelled that he tried to kill her. Defendant stared at her in shock, and police officers entered the apartment.

¶ 25 The officers told defendant to freeze and drop what was in his hand. Defendant had wrapped his hand in a rag and dropped it, but the police jumped him and started wrestling him. Defendant acknowledged resisting arrest by falling "flat on his stomach" and putting his arms

under his body. He did not want the officers to handcuff him because he did not do anything. Defendant denied hitting or kicking the officers. The officers eventually handcuffed defendant.

¶ 26 Defendant testified he weighed 186 pounds and was 5'11". He denied that he could enter the residence through the window because the latches prevented the window from opening wide enough to let him through.

¶ 27 On cross-examination, defendant reiterated that he lived at Colley's apartment, but acknowledged that his mail went to his sister's address. He further acknowledged that he gave his sister's address when he was arrested. Defendant wrote to Colley while he was incarcerated on the May 2014 charges, but did not speak to her until he was released. Defendant acknowledged that, on the night of July 4, 2014, and the morning of July 5, 2014, he went to Colley's apartment unannounced around midnight with two to three knives and a bottle of vodka. He knew her children were home. He did not know how Colley got cut during the incident and did not see her get cut. He acknowledged that, without the plastic latches, Colley's windows would open all the way up.

¶ 28 Following arguments, the court found defendant guilty of the remaining 22 counts. The court found Colley, N.W., and the officers credible, but did not believe defendant. It stated, "His testimony was simply not truthful. It was not credible. It bordered into *** the realms of the ridiculous." The court noted defendant's version of events "simply defie[d] common sense."

¶ 29 The court denied defendant's motion for a new trial. It merged the counts, and ultimately sentenced defendant to concurrent terms of 12 years' imprisonment for one count of home invasion, 7 years' imprisonment for one count of aggravated domestic battery, and two terms of 3 years' imprisonment for the aggravated batteries of Officers Bednarczyk and Aguirre.

¶ 30 On appeal, defendant does not contest his convictions for aggravated domestic battery and aggravated battery of a peace officer. Rather, he contends only that the State failed to prove he committed home invasion beyond a reasonable doubt.

¶ 31 On a challenge to the sufficiency of the evidence, we inquire " '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 omitted.) *People v. Davison,* 233 Ill. 2d 30, 43 (2009) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). In so doing, we draw all reasonable inferences in favor of the State (*Davison*, 233 Ill. 2d at 43), and we do not retry the defendant (*People v. Collins*, 106 Ill. 2d 237, 261 (1985)). The State must prove each element of an offense beyond a reasonable doubt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009). We will not overturn a criminal conviction "unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *People v. Givens,* 237 Ill. 2d 311, 334 (2010).

¶ 32 In this case, the State was required to prove that defendant, not being a police officer in the line of duty, and without authority, knowingly entered the dwelling place of another, knew or had reason to know that one or more persons were present, and intentionally caused an injury to a person in the dwelling. 720 ILCS 5/19-6(a)(2) (West 2014).

¶ 33 Defendant challenges only the element of unauthorized entry so we confine our analysis to that element. He insists that his entry was authorized, Colley's testimony was "improbable and contrary to human experience," and his version of events is "at least as reasonable as that of Colley and was not given proper weight by the trier of fact."

¶ 34 We find the evidence was sufficient to prove defendant entered Colley's apartment without authorization. Colley testified that defendant broke in on the night in question and denied letting him in the residence. This testimony alone is sufficient to show that defendant entered Colley's dwelling without authorization. It is well-established that "[t]he testimony of a single witness, if it is positive and the witness credible, is sufficient to convict." *People v. Smith*, 185 Ill. 2d 532, 541 (1999). However, the surrounding circumstances also prove defendant did not have authority to enter Colley's residence. He entered in the middle of the night after the three occupants of the apartment had gone to sleep. Both Colley and N.W. testified that Colley and her two children were the only people inside the apartment when they went to bed at approximately 10 p.m. Colley testified that, although she had at one point been in a dating relationship with defendant, he had never lived with her or paid bills, nor did he have keys to her apartment. Colley denied seeing defendant after May 31, 2014, when he was arrested for a prior altercation.

¶ 35 Further, Colley described the plastic latches on her windows, and how she noticed after returning from the emergency room that the latches "were gone." She explained that, with enough force, the plastic latches would "pop off" and the window could be raised higher than four inches. The photographic evidence also corroborated Colley's claim, and depicted the screen cut on a window to her kitchen. In light of the aforementioned evidence, we cannot say that "the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *Givens*, 237 Ill. 2d at 334.

¶ 36 In reaching this conclusion, we reject defendant's contention that the trial court's comment that the manner of entry was "of no moment" to the court indicated that the State failed

to satisfactorily prove unauthorized entry. Defendant misstates the trial court's finding. In discussing the element of unauthorized entry, the court stated that both attorneys made "excellent arguments" regarding whether defendant had authority to enter Colley's residence. The court went on to state that, although it was likely that defendant entered through the window where the screen was cut, whether he entered through the window or another means was "of no moment to [the court]" because the evidence established that he did not have authority to enter the residence at all. The court, as trier of fact, was entitled to draw that reasonable inference from the evidence. See *Siguenza-Brito*, 235 Ill. 2d at 228 (the trier of fact is responsible for drawing reasonable inferences from the evidence).

¶ 37 We also point out that, despite defendant's claim that Colley's testimony was improbable, the trial court found her credible. This court will not substitute its judgment for that of the trier of fact on questions turning on the credibility of witnesses. *People v. Rudell*, 2017 IL App (1st) 152772, ¶ 24. It is within the province of the trier of fact "to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence." *Siguenza-Brito*, 235 Ill. 2d at 228. Defendant's claim that a witness was not credible, standing alone, is insufficient to reverse a conviction. *Id.*

¶ 38 Nor are we persuaded by defendant's contention that his version of events is "at least as probable" as Colley's. That is not the proper standard for evaluating a reasonable doubt claim on appeal. Moreover, the trial court flatly rejected defendant's version of events. "A trier of fact is not required to *** seek out all possible explanations consistent with a defendant's innocence and elevate them to reasonable doubt." *People v. Murphy*, 2017 IL App (1st) 142092, ¶ 11 (citing *In re Jonathon C.B.*, 2011 IL 107750, ¶ 60). Although defendant claims that his testimony was

not given the proper weight, the court found defendant's testimony "simply not truthful," "not credible," and bordering into "the realms of the ridiculous." The court expressly found that defendant's explanation that he went to Colley's apartment after 3 a.m. because Colley wanted to "cut some food" "simply defie[d] common sense." Accordingly, we find that the evidence was sufficient to prove beyond a reasonable doubt that defendant entered Colley's residence without authority and committed the offense of home invasion.

¶ 39 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 40 Affirmed.