



¶ 3 Mummadi argues that the trial court violated her due process rights by shifting the burden of proof and holding her failure to testify against her. But the record does not support her claims. The evidence sufficiently shows that Mummadi willfully violated the orders. And she forfeited her argument regarding the appointment of her husband's counsel as the special prosecutor in the contempt trial.

¶ 4 **BACKGROUND**

¶ 5 A few years after Divya Mummadi married Pradeep Reddy Ginugu, they had a child. In July 2015, Ginugu filed a petition for divorce. Ginugu was enjoined from contacting Mummadi for any reason except to discuss their child, and Mummadi's attorney filed an emergency petition for sole custody. At a September 1, 2015 hearing, Judge Levinson set a visitation schedule allowing Ginugu parenting time on Tuesday and Thursday evenings, and Saturday mornings.

¶ 6 After this hearing, Mummadi, without her attorney's knowledge, called the Roselle Police Department and reported that several months earlier (before Ginugu filed the divorce petition), he had struck her in the face. On the advice of police, Mummadi filed a *pro se* petition for an emergency protective order to prevent Ginugu from conducting visitations. The next day, September 2, she appeared in front of Judge Greenblatt (who was presiding in a different division of the same courthouse), who asked her why she had not raised her concerns for the child's safety to Judge Levinson the day before. Mummadi explained that the attorneys had spoken to the judge without her. Judge Greenblatt denied the protective order, stating that Mummadi needed to discuss this with her lawyer and take up the issue with Judge Levinson at the next hearing. Judge Greenblatt had the protective order consolidated with the divorce proceeding and instructed that she "comply with his order and allow the visitation as set forth in

that order[.]” Mummadi responded, “okay,” but complained that her attorney was not cooperating with her.

¶ 7 On September 8, Mummadi and an officer of the Roselle Police Department appeared before a judge unfamiliar with her divorce proceedings. Based on two counts of misdemeanor domestic battery, this judge issued an arrest warrant for Ginugu, specifying “no bond.” The next day, September 9, Mummadi appeared at a hearing on the divorce case without her attorney present. Judge Levinson instructed Mummadi to comply with the September 1 order and continued the hearing to September 18.

¶ 8 Before the next hearing, Mummadi changed divorce attorneys. At the September 18 hearing, Mummadi’s petition for an emergency protective order was withdrawn or dismissed without prejudice. (The written order indicates both.) Ginugu also was granted leave to request Rule 137 sanctions and fees against Mummadi. Judge Levinson indicated that the September 1 visitation order was still in effect.

¶ 9 Mummadi did not inform either Judge Levinson or, apparently, anyone else involved in the divorce case (including her attorney), of the arrest warrant issued for Ginugu. After the hearing, she called the Roselle Police and told them that she expected Ginugu to arrive at her home the next morning to pick up their child for the scheduled visitation. The next day, September 19, Roselle police arrested Ginugu as he arrived and took him to jail. He spent three nights in jail before being released on bond.

¶ 10 Judge Levinson granted Ginugu leave to file a petition for indirect criminal contempt against Mummadi and appointed Ginugu’s counsel, Michael Minton, as the special prosecutor for the criminal contempt case. The record does not reflect that Mummadi’s counsel objected to this appointment. Minton filed a petition for adjudication of indirect criminal contempt,

charging that Mummadi had failed to comply with the September 1 and September 9 orders. The petition was transferred to another judge for trial.

¶ 11 At the contempt trial, before Judge Haracz, Officer Kyle Stanish of the Roselle Police Department testified that Mummadi originally called him on September 1, after her court hearing, and stated that she wanted to sign a complaint for domestic battery against Ginugu. Mummadi had pictures of injuries to her face from Ginugu striking her, and a letter from a doctor stating that Mummadi had complained of the injuries just after the incident. Mummadi told Stanish that she was in the process of divorcing Ginugu but did not give him a copy of the September 1 visitation order. Stanish called Ginugu and tried to arrange a meeting, but Ginugu said he was not available, so Stanish and Mummadi went to court on September 8 and obtained the arrest warrant for Ginugu. (Stanish's police report did not reflect that he tried to contact Ginugu.) Mummadi contacted Stanish again on September 18, after her court hearing, and told him that Ginugu would be arriving at her home the next morning to pick up their child. Stanish assured her that Ginugu would be arrested when he arrived. The next morning, Stanish arrested Ginugu at Mummadi's house.

¶ 12 One of Ginugu's divorce attorneys, Magdalena Urban-Raimondi, testified that at the September 1 hearing the attorneys conferenced with the trial judge in chambers while the parties were in the courtroom, and Judge Levinson addressed the parties afterwards. Ginugu used his visitation time on September 2. At the September 9 hearing, Mummadi, while present, failed to inform the court that she had obtained an arrest warrant for Ginugu the day before. The trial court addressed the parties and stated that the visitation order remained in place. At the September 18 hearing, Mummadi appeared with her new attorney. The parties argued Mummadi's emergency petition for an order of protection, which was dismissed with prejudice

or withdrawn. The trial court addressed Mummadi and she replied that she would comply with the visitation order. She did not mention the arrest warrant.

¶ 13            Ginugu testified that after entry of the September 1 visitation order, he used his scheduled visitation time on September 2. Mummadi brought the child out to Ginugu's car when Ginugu arrived at her home. After being served with Mummadi's petition for an emergency order of protection, Ginugu did not try to use his scheduled visitation time on September 3 and September 5. At the September 9 hearing, the trial judge stated that the September 1 order was still in force, and Mummadi did not say anything to the judge when addressed. Ginugu used his visitation time on September 10, 12, 15, and 17. At the September 18 hearing, the trial judge again reiterated the visitation order and addressed the parties, and Mummadi did not make any statements. On September 19, Ginugu arrived for his scheduled visitation and Stanish immediately arrested him and took him first to the Roselle Police Department, and then to the Cook County Courthouse. There, he was initially denied bond based on the arrest warrant. Ginugu spent three nights in jail.

¶ 14            Mummadi did not testify or present any witnesses. The trial court found her guilty beyond a reasonable doubt of indirect criminal contempt, stating that Mummadi had been informed of the September 1 and September 9 orders multiple times and instructed to follow the visitation schedule, but had not informed the divorce court that she had obtained an arrest warrant for Ginugu. The trial court initially sentenced Mummadi to 30 days of electronic monitoring, and to pay Ginugu's attorney's fees. Mummadi's attorney stated that Mummadi was living in Indiana, so she could not be electronically monitored. The trial court modified the sentence to three days in the Cook County Jail, and instructed Minton to prepare a petition of attorneys' fees and costs.

¶ 15 Mummadi's counsel moved to reconsider and vacate the conviction and sentence, arguing, among other things, that she should have received a sentencing hearing and been allowed to present mitigation evidence. At the hearing on this motion, Mummadi argued for the first time that Minton should not have been appointed as the special prosecutor for the contempt trial. The trial court agreed to allow Mummadi to present mitigation evidence.

¶ 16 Mummadi stated that after Ginugu struck her, she attempted to call 911 but he threatened to hurt their child if she called. Ginugu then left the country for three months before filing divorce papers. At the September 1 hearing, she did not know what type of visitation schedule her attorney had discussed. She feared for the child's safety, so she called the police, who advised her to get an order of protection. She had not known she could raise her concerns to the trial judge without her attorney, and the police had told her that she did not have to tell the divorce court about the arrest warrant.

¶ 17 The child's representative told the trial court that putting Mummadi in jail for any length of time would harm the child, and Mummadi would lose her job. Mummadi's counsel argued in mitigation that Mummadi had no criminal record and had been acting under strong provocation. The trial court took the motion, and these arguments, under advisement.

¶ 18 About a month later, on October 20, 2016, Judge Haracz denied the motion to reconsider. He held that, although Mummadi's allocution was credible, her testimony did not undermine the guilty verdict, and stated "I wish that testimony had been part of the defense's underlying case." He also modified the sentence to three months of probation and payment of Ginugu's attorneys' fees. The written order stated that Mummadi had "knowingly and contumaciously violated the September 1, 2015 and September 9, 2015 orders without good cause shown." Mummadi was ordered to pay Minton's fees.

¶ 19 ANALYSIS

¶ 20 Due Process

¶ 21 Mumjadi alleges violations of well-established rights at a criminal trial that the burden of proof is wholly on the State, and that a criminal defendant has the right to remain silent and not testify. Mumjadi contends that the trial court improperly shifted the burden of proof in its October 20, 2016 written order denying her motion for reconsideration, by stating she “knowingly and contumaciously” violated the two September orders “without good cause shown.” Mumjadi also contends that at the hearing on the motion to reconsider, trial court used her failure to testify against her by stating that it wished her statement in allocution had been part of the defense case at trial.

¶ 22 Her contention fails because the trial court issued its guilty verdict a full month before it made either of the statements with which Mumjadi takes issue. She has not demonstrated how these after-the-fact comments relate back to the time of the trial on the indirect criminal contempt.

¶ 23 Sufficiency of Evidence

¶ 24 Next, Mumjadi argues that insufficient evidence exists to hold her in indirect criminal contempt because the State failed to prove her intent. When challenging 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. *People v. Wright*, 2017 IL 119561, ¶ 70. As a reviewing court, we will not substitute our judgment for that of the trier of fact on questions concerning the weight of the evidence or witness credibility. *Id.* And, we will not reverse a criminal conviction unless the evidence is so unreasonable, improbable, or unsatisfactory as to create a reasonable doubt of the

defendant's guilt. *Id.*; see also *People ex rel. City of Chicago v. Le Mirage, Inc.*, 2013 IL 113482, ¶¶ 64-66 (applying sufficiency of evidence test to finding of indirect criminal contempt).

¶ 25 In an indirect criminal contempt proceeding, the State must prove the existence of a court order, and a willful violation of that order. *People v. Covington*, 395 Ill. App. 3d 996, 1008 (2009). Because direct evidence of intent is rare, it must usually be proven by circumstantial evidence. *People v. Robinson*, 167 Ill. 2d 397, 408 (1995). The existence of the September 1 visitation order is not in dispute; rather, Mummadi argues that she either did not violate it or did not do so willfully. We disagree.

¶ 26 The evidence shows that Mummadi knew about the visitation orders: she was present in court when the orders were entered, and the two able judges, Levinson and Greenblatt, admonished her to comply. She initially did comply, but then appears to have made a conscious decision not to comply. It was only after she failed to convince two judges that the May 2015 incident warranted preventing Ginugu from having visitation with his son that Mummadi contacted Officer Stanish to arrange for him to take Ginugu into custody as he arrived for his scheduled parenting time. This is compelling evidence that Mummadi's intent in contacting Officer Stanish when she did was to interfere with Ginugu's visitation rights. Her statements in allocution that she feared for the child's safety support the inference that she willfully violated the orders: she wanted the arrest to take place just before Ginugu visited their child specifically so that Ginugu would not visit their child. Her argument seeking to cast blame for the arrest on the judge who issued the warrant, or Officer Stanish, seeks to minimize her own role. Mummadi needed the arrest warrant and Officer Stanish to achieve her goal of preventing visitation, and the evidence supports the trial court's conclusion that she acted to achieve it with full knowledge that this would violate the order.

¶ 27 In further support, Officer Stanish obtained the arrest warrant on September 8, but did not execute the warrant until 10 days later, and only after Mummadi contacted Stanish again and informed him of Ginugu’s likely whereabouts the next day. Apparently, Officer Stanish did not consider arresting Ginugu to be a high priority, so the arrest did not take place until Mummadi encouraged it. The timing of the arrest—at the scheduled visitation—attests to the inculpatory nature.

¶ 28 While we are sympathetic to what she endured and the validity of Mummadi’s motivation may have been to protect her child, this has no bearing on the legal issue before us, namely, whether she willfully violated the orders. Viewed in the light most favorable to the State, the evidence shows that Mummadi deliberately arranged for Ginugu to be arrested to prevent the visitation.

¶ 29 Since we are affirming the verdict, we will not address Mummadi’s bare-bones contention that the attorneys’ fees should also be reversed.

¶ 30 Appointment of Ginugu’s Counsel as Special Prosecutor

¶ 31 Finally, Mummadi argues that the trial court erred in appointing Minton as the special prosecutor in her indirect criminal contempt case because Minton had a financial interest in the case. The record does not indicate that Mummadi objected to Minton’s appointment before the criminal contempt trial. Instead, she did not raise this issue until a post-trial motion. The issue is thus forfeited. See *People v. Thompson*, 238 Ill. 2d 598, 611-12 (2010) (to preserve claim for review, defendant must both object at trial and include alleged error in posttrial motion).

¶ 32 In any event, our supreme court has approved the use of a litigant’s counsel as special prosecutor in a resulting contempt case. See *Marcisz v. Marcisz*, 65 Ill. 2d 206, 210 (1976); *Del Dotto v. Olsen*, 257 Ill. App. 3d 463, 466 (1993). We find no error in the appointment.

1-16-3172

¶ 33          Affirmed.