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2018 IL App (3d) 160193-U

Order filed November 30, 2018

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2018

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 14th Judicial Circuit, Henry County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-16-0193
STEVEN D. PARKS,)	Circuit No. 14-CM-147
Defendant-Appellant.)	Honorable Terence M. Patton, Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court.
Presiding Justice Carter and Justice Schmidt concurred in the judgment.

ORDER

¶ 1 *Held:* (1) Any error in granting the motion *in limine* was harmless. (2) The evidence was sufficient to convict defendant of violating an order of protection.

¶ 2 Defendant, Steven D. Parks, appeals his conviction for violation of an order of protection, arguing (1) the circuit court erred in precluding him from introducing evidence of a prior order of protection that allowed him to be within 500 feet of Lallie Bridges at Christ Church, and (2) the State failed to prove beyond a reasonable doubt that defendant had the requisite *mens rea* to violate the order of protection.

defendant argued that, though defendant came within 500 feet of Bridges, he did not attempt to make contact with Bridges. The court granted the State's motion *in limine*, stating:

“This case is based on [the December OP]. Assuming the State can prove that that order was entered and he received notice of it by being served with a copy of it, he had notice that that order, regardless of what any prior order said, barred him from coming within 500 feet of Ms. Bridges. If he didn't read the order carefully enough to see that there was no exception to the church, being at the church, that's—that's his fault.

I understand *** that this, from his position, seems to be unfair, but in terms of what is relevant to the charge that was filed, I don't believe that's relevant. I don't believe it provides any defense to this case, and so I am going to grant the motion *in limine*.”

¶ 6 At trial, Alyssa Bryant testified that on April 6, 2014, she was getting married at Christ Church. Bridges was Bryant's mother, but defendant was not her father. The wedding ceremony started at 1:15 p.m. The morning church service normally was finished around 12:30 p.m. Bryant did not attend the morning service. Bryant stated that it was a large wedding, about 200 people, including Bridges. She had invited friends and family. Defendant was not personally invited, but she had placed invitations in the church bulletin two Sundays before the ceremony and invited the whole congregation. The invitation in the bulletin included Bridges's name, as she was Bryant's mother. Bryant said, “During our marriage counseling sessions, I did express to my pastor my concern for, you know, my mom having to be there as—as an important part of the—the wedding, and [defendant] maybe being there, because I knew that there was a conflict there and that there was an [order of protection].” Neither she nor her fiancé told defendant that he was

not welcome to attend the wedding. However, Bryant said the pastor told her that he would speak to defendant. She said that she was familiar with defendant because he was a member of her church, they sang in the choir together, and his daughter was in Sunday school with her children. Bryant stated that defendant was in attendance at the wedding. The State introduced photographs taken outside the church after the wedding in which defendant and Bridges are both in the frame, 5 to 10 feet away from each other, throwing birdseed at Bryant. Bryant stated that Bridges and defendant were “less than a car length” away from each other. Bryant stated she remembered Bridges saying that defendant sat close to her during the ceremony. There were no problems at the wedding.

¶ 7 Kellie Sue Whiles testified that she was Bryant’s cousin and acted as maid of honor in her wedding. She saw defendant within 500 feet of Bridges at the wedding. She did not attend the morning service. Whiles stated that when Bridges first arrived at the church, defendant was in the parking lot and Bridges did not want to exit her vehicle because he was there. Someone asked defendant to move, he did so, and Bridges entered the church.

¶ 8 The State admitted a copy of the December OP, which included an addendum that defendant stay away from certain places, including Bridges’s church, Calvary of the Quad Cities in Moline. The December OP stated that it had been served on defendant and that he was in default. Moreover, it stated that defendant and Bridges had previously been in a dating relationship.

¶ 9 Russell Frye testified that he had been the pastor of Christ Church for 14 years. He knew defendant had been a member of the church for at least five years and Bryant had been a member for at least two years. Frye stated that Bryant and her husband had attended premarital counseling sessions, but that Bryant had never indicated that she had concerns about defendant

attending the wedding. Defendant attended the worship service on April 6, 2014. After the worship service that day, Frye invited the congregation to stay for the wedding. Frye stated that he knew Bridges because she had visited the church about three times, but Bridges had never been a member of the church. Frye was not aware of anyone indicating that defendant was not welcome to attend the wedding. Frye stated that he was not paying close attention to where defendant and Bridges were sitting, but defendant usually sat in the last row on the right side of the sanctuary and the mother of the bride always sits in the second row in the middle. There were no problems at the ceremony or reception.

¶ 10 The jury found defendant guilty. He was placed on 12 months' conditional discharge. As part of the conditional discharge order, defendant was to have no contact with Bridges, with the exception that "[h]e [could] attend Christ Church in Colona."

¶ 11 ANALYSIS

¶ 12 On appeal, defendant argues (1) the court violated defendant's constitutional right to present a defense when it precluded him from introducing evidence of the August OP, and (2) the State failed to prove him guilty beyond a reasonable doubt where it failed to prove that defendant had the requisite *mens rea* to violate the December OP. We find that, even accepting defendant's argument that the court erred in granting the State's motion *in limine*, such error was harmless as defendant's actions would have violated the church exception in the August OP. Moreover, the evidence was sufficient to convict defendant of violating the December OP.

¶ 13 "Harmless-error analysis is 'based on the notion that a defendant's interest in an error-free trial must be balanced against societal interests in finality and judicial economy.' " *People v. Mullins*, 242 Ill. 2d 1, 23 (2011) (quoting *People v. Simms*, 121 Ill. 2d 259, 275-76 (1988)). The pertinent question in harmless error analysis is " "whether the defendant would have been

convicted regardless of the error.’ ” *Id.* (quoting *People v. Dean*, 175 Ill. 2d 244, 259 (1997)).

The determination of harmless error must be analyzed on the particular facts of each case, considering the record as a whole. *People v. Howard*, 147 Ill. 2d 103, 148 (1991).

¶ 14 Here, defendant sought to introduce evidence of the August OP, which allowed defendant to come within 500 feet of Bridges when they were at Christ Church. Defendant sought to raise a defense that he did not have the sufficient *mens rea* to violate the December OP because he thought the Christ Church exception still applied. However, the exception in the August OP specifically stated, “Both parties attend [Christ Church in Colona.] Respondent’s 500’ restriction waived when both parties at church at same time provided parties stay at opposite sides of church, Respondent attempts no contact with Petitioner or Petitioner’s family members, [and] does not harass Petitioner.” Stated another way, the exception allowed defendant to come within 500 feet of Bridges at the church *only as long as* (1) the parties remained on opposite sides of the church, (2) defendant did not attempt to contact Bridges or her family, and (3) defendant did not harass Bridges. If defendant violated any of those three provisions, then he still violated the August OP, even while at the church. The pictures the State entered into evidence clearly showed defendant approximately five feet away from Bridges. Thus, they did not “stay at opposite sides of [the] church” as required under the exception to the August OP. Therefore, even if the court allowed defendant to introduce the August OP, it would not have been a viable defense and the outcome would not have been different as defendant’s actions violated both the August OP and the December OP.

¶ 15 Next, defendant argues that he was not proven guilty beyond a reasonable doubt of violating the December OP. Specifically, defendant argues that the State failed to prove that he had the requisite *mens rea*. When considering a challenge to the sufficiency of the evidence, it is

not the function of this court to retry defendant. *People v. Ramos*, 316 Ill. App. 3d 18, 22 (2000).

The relevant question is whether, after viewing 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. Collins*, 106 Ill. 2d 237, 261 (1985).

¶ 16 “One commits the offense of violating an order of protection when he (1) commits an act that was prohibited by a court in a valid order of protection or fails to commit an act ordered by an order of protection, and (2) has been served notice of or otherwise acquired actual knowledge of the contents of the order of protection.” *People v. Brzowski*, 2015 IL App (3d) 120376, ¶ 25; 720 ILCS 5/12-3.4(a)(1) (West 2014).

¶ 17 Here, defendant was charged with violating the provision of the December OP that required him to maintain a distance of 500 feet from Bridges. The record shows that he received a copy of the December OP. The evidence at trial established that defendant went to the worship service at the church. At the end of the service, the pastor told the congregation that Bryant’s wedding would be following the service. The wedding invitation bearing Bryant and Bridges’s names had also been included in the church bulletin in previous weeks. Defendant had approximately 45 minutes from the end of the service before the wedding began during which he could have left the church. Whiles testified that Bridges saw defendant in the parking lot and had someone ask him to move so that she could enter the church. The State’s photographs show defendant and Bridges standing approximately five feet away from each other after the wedding. Moreover, witnesses testified that defendant and Bridges sat closer than 500 feet during the wedding ceremony in the sanctuary. It is the function of the trier of fact to determine the credibility of the witnesses, the weight to be given their testimony, and the inferences to be drawn from the evidence. *People v. Bull*, 185 Ill. 2d 179, 204 (1998). “When weighing the

evidence, the trier of fact is not required to disregard the natural inferences that flow normally from the evidence, nor is it required to search out all possible explanations consistent with innocence and raise them to the level of reasonable doubt.” *People v. Herring*, 324 Ill. App. 3d 458, 464 (2001). “The trier of fact is entitled to draw all reasonable inferences from both circumstantial and direct evidence.” *Id.* at 465. Based on the evidence presented, the jury could infer that defendant knew Bridges would be in attendance at her daughter’s wedding. Taking the evidence in the light most favorable to the State, a rational trier of fact could have found the elements of the offense beyond a reasonable doubt.

¶ 18 In coming to this conclusion, we reject defendant’s argument that the State had to prove that he intentionally violated the order of protection, not only that he knowingly violated it. The language of the statute specifically says “knowingly.” 720 ILCS 5/12-3.4(a)(1) (West 2014). Moreover, we note that, “ ‘The defendant is presumed to intend the natural and probable consequences of his acts ***.’ ” *People v. Dorsey*, 2016 IL App (4th) 140734, ¶ 34 (quoting *People v. Terrell*, 132 Ill. 2d 178, 204 (1989)). By attending the wedding of Bridges’s daughter where Bridges was attending, it can be presumed that he intended to violate the December OP. Therefore, under either standard the State met their burden.

¶ 19 Further, we reject defendant’s reliance on *People v. Mandic*, 325 Ill. App. 3d 544, 549 (2001), for the proposition that we must apply a five-factor test to determine whether defendant violated the December OP. In *Mandic* a general stay away provision was included in the order of protection, therefore, the court had to interpret what “stay away” meant and used certain factors to determine whether defendant had violated it. *Id.* at 548-49. Here, the December OP did not contain a general stay away provision, but instead specifically required defendant to remain 500 feet from Bridges.

¶ 20

CONCLUSION

¶ 21

The judgment of the circuit court of Henry County is affirmed.

¶ 22

Affirmed.