2019 IL App (1st) 162117-U
Order filed: February 8, 2019

FIRST DISTRICT
Fifth Division

No. 1-16-2117

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 14 CR 6270
	)	
ANTWAN MANNING,	)	Honorable
	)	James M. Obbish,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hoffman and Lampkin concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's convictions for aggravated criminal sexual assault, aggravated kidnapping, armed robbery with a dangerous weapon, and aggravated criminal sexual abuse are affirmed over his contention that the State failed to prove beyond a reasonable doubt that he was the offender.

¶ 2 Following a jury trial, defendant-appellant, Antwan Manning, was convicted of aggravated criminal sexual assault in violation of 720 ILCS 5/11-1.30(a)(1) (West 2012), aggravated kidnapping in violation of 720 ILCS 5/10-2(a)(3) (West 2012), armed robbery with a dangerous weapon other than a firearm in violation of 720 ILCS 5/18-2(a)(1) (West 2012), and aggravated criminal sexual abuse in violation of 720 ILCS 5/11-1.60(a)(1) (West 2012). The trial court sentenced defendant to consecutive terms of 20 years for aggravated criminal sexual

assault and 10 years for aggravated kidnapping, to be served concurrently with terms of 10 years for armed robbery and 7 years for aggravated criminal sexual abuse, for a total of 30 years' imprisonment. On appeal, defendant contends the State failed to prove beyond a reasonable doubt that he was the offender. We affirm.

¶ 3 At trial, Y.W. testified that, on January 7, 2014, she was a senior at Maria High School. Classes were cancelled that day due to extreme cold, and Y.W. decided to take a bus to the house of her boyfriend, Michael Green, who lived near 61st Street and University Avenue in Chicago. After Y.W. got off the bus, she began to walk two blocks to Mr. Green's house. Y.W. walked in the middle of University Avenue because the sidewalks were snow-covered and she wanted to reach her destination as quickly as possible. As she did so, she noticed a man walking behind her who "seemed a little shady" and she continued to look back at him. The man caught up to Y.W., who was walking on the sidewalk at that point. When she was about two houses away from Mr. Green's residence, the man got "really close on me" and she stopped walking, hoping he would proceed away from her.

¶ 4 Y.W. noticed the man was holding a "long, sharp, serrated" knife. He pushed her against a gate and held the knife toward the left side of her face and neck. The man's mouth was covered with a scarf and she was "pretty sure" he had a hat and a hood on; Y.W. could see his eyes and that he was black. The man told her to shut up or that he "would make an example" of her. The man grabbed her arm and led her through an empty lot to a gangway between University and Woodlawn Avenues. Y.W. thought he was robbing her, and she told him she had $35, which she gave him while he held the knife.

¶ 5 The man told Y.W. to stand against the wall while he touched her torso, arms and rear. When Y.W. told him to stop, he pushed her back to the wall. Y.W. asked him why he was doing that and if he had a girlfriend. He responded he did but he saw her and "wanted" her.

¶ 6 He told Y.W. to take his penis out, and she responded that her hands were numb. He told her to put her hands in his pants to warm them. When Y.W. hesitated, he "was a little bit more forceful" and repeated his demand, so she complied, and her hands touched his penis. He told her to move his penis and put her mouth on it. When Y.W. said she had not done that before and did not know how, he responded, "Stop lying, shorty." She placed her hands and mouth on his penis because she knew he had a knife. After she put her mouth on his penis, he grunted, and she stopped. He ejaculated into the snow.

¶ 7 Y.W. ran to her boyfriend's house, which was about 200 feet away, and told him what had happened. Mr. Green ran outside to find the offender but did not see him. Mr. Green's sister flagged down a University of Chicago police officer, and a Chicago police officer also arrived at the scene. Y.W. told them where the attack occurred and was taken to the hospital. During Y.W.'s testimony, she identified photographs of the gangway at 6148 South Woodlawn and marked the location where she was assaulted.

¶ 8 Y.W. viewed a police photo array on January 10. That photo array did not include a photo of defendant because he was not yet a suspect. Y.W. did not identify anyone in the photo array.

¶ 9 On March 18, 2014, Y.W. viewed a lineup that included defendant. Y.W. initially did not identify anyone. The lineup participants were instructed to each say, "Stop lying, shorty." Y.W. then selected someone from the lineup other than defendant. Y.W. identified defendant in court

as a participant in the lineup. During direct examination, the prosecutor asked Y.W. if she knew "a person by the name of Antwan Manning" and pointed to defendant. Y.W. said she did not know defendant.

¶ 10 On cross-examination, Y.W. said the entire encounter lasted about 30 minutes and her offender spoke to her throughout, telling her several times to "shut up or I'll make an example of you." Y.W. acknowledged speaking to several officers after the incident and saying her attacker wore a hood or a hat.

¶ 11 Before viewing the photo array and the lineup, Y.W. was told she did not have to pick anyone. She thought she would not be able to identify anyone from the photo array because she "couldn't really see the man's face."

¶ 12 Before the lineup, Y.W. told a police sergeant she would be able to identify her offender by hearing his voice. When Y.W. chose a man from the lineup, she stated she was "almost positive" he committed the offenses. On redirect, Y.W. said she could not see any hair coming out from under her attacker's hat or hood, so she thought he did not have any braids or dreadlocks. Photographs of the photo array and lineup were entered into evidence.

¶ 13 Mr. Green, Y.W.'s boyfriend, testified that Y.W. arrived at his house at about 12:30 p.m. on January 7 and that she was "distraught." He stayed with her until police arrived and took her with them to investigate the offense.

¶ 14 Chicago police officer Gerald Creed testified that, on January 7, 2014, he was patrolling in a squad car and was dispatched to 62nd Street and University. A University of Chicago police officer was speaking to Y.W., who then got into Officer Creed's vehicle. Officer Creed said she appeared "shaken" and recounted the assault. Y.W. pointed Officer Creed in the direction of

where the assault occurred, and he drove to an alley near 61st Street between University and Woodlawn avenues. Y.W. pointed to a walkway of a building and Officer Creed got out and walked to the area while Y.W. remained in the car. A community alert was issued regarding the incident.

¶ 15 On January 12, 2014, Officer Creed was on patrol when he was flagged down by a citizen. Officer Creed drove to 60th Street and University, where he saw defendant walking down the street. Officer Creed made contact with defendant at 6031 South University and identified that location on a map that also displayed 6148 South Woodlawn, where the assault took place. On cross-examination, Officer Creed said Y.W. described her offender as having "something on his head." However, Officer Creed's written report did not state that the offender wore a hat or a hood. Officer Creed's report stated that defendant had dreadlocks and was 5 feet 11 inches tall.

¶ 16 Chicago police evidence technician Joseph Scumaci arrived near 6148 South Woodlawn at about 4 p.m. on January 7, 2014. He was shown the area where Y.W. had indicated the assault took place. Mr. Scumaci was told there might be semen in the snow, and he noticed a "frozen section that was a different color of snow." He described that area of snow as "off white or almost opaque." Mr. Scumaci collected the snow and material by scooping it into a tube; the substance was later transferred to a specimen cup.

¶ 17 On January 7, 2014, a University of Chicago Hospital nurse, Charina Diokno, compiled a sexual assault evidence kit by taking swabs from Y.W.'s right and left hands and her mouth, along with a blood sample from Y.W. Those specimens were examined on January 14 by Illinois State Police forensic biologist, Rebecca Coleman. Ms. Coleman also received the specimen cup

that contained the snow collected by Mr. Scumaci. In addition, Ms. Coleman received a DNA sample from defendant collected by Chicago police on January 12.

¶ 18 Ms. Coleman tested Y.W.'s hand and mouth swabs for the presence of semen. The mouth swab was inconclusive for the presence of semen. Ms. Coleman testified that it was not unusual, based on the lapse of time before the swab was collected. The swab of Y.W.'s left hand was inconclusive for the presence of semen. No semen was identified on the swab of Y.W.'s right hand.

¶ 19 The hand swabs and the specimen cup were submitted for DNA analysis. Illinois State Police forensic scientist, Karen Abbinati, testified regarding the DNA testing of the hand swabs. Y.W.'s left-hand swab contained evidence of a Y chromosome that matched the Y chromosome profile of defendant. Ms. Abbinati testified that the profile matching defendant's profile was expected to occur in "approximately 1 in 2000 unrelated African-American males, 1 in 2400 unrelated Caucasian males, and 1 in 1500 unrelated Hispanic males based on a 95 percent confidence limit."

¶ 20 Illinois State Police forensic scientist, Lynette Wilson, testified that, based on her testing, the material in the specimen cup contained male DNA that matched defendant's DNA profile from the sample obtained by police. Ms. Wilson testified that "the DNA found in the specimen cup would be expected to occur in approximately 1 in 10 quintillion Blacks, 1 in 6.2 sextillion Whites, or 1 in 4.9 sextillion Hispanic unrelated individuals" and was a "rare profile" match.

¶ 21 At the close of the State's case, the defense moved for a directed verdict, arguing that Y.W. did not identify defendant in the lineup. The court denied the motion, stating that Y.W. had

directed officers to a location where material was collected and that material was determined to match defendant's DNA profile.

¶ 22 The defense presented one witness, Cook County probation officer, Mark Dovin, who testified that, when he heard a news report about the assault, he thought a person whose probation he was overseeing (not defendant) had committed the crimes. Officer Dovin testified that the individual lived about one block away from where the assault took place.

¶ 23 The jury convicted defendant of aggravated criminal sexual assault, aggravated kidnapping, armed robbery with a dangerous weapon other than a firearm, and aggravated criminal sexual abuse. The defense filed a motion for a new trial based on the same argument made in the motion for a directed verdict. The trial court denied that motion.

¶ 24 Following a sentencing hearing, the trial court imposed an aggregate term of 30 years' imprisonment which included the consecutive terms of 20 years for aggravated criminal sexual assault and 10 years for aggravated kidnapping, to be served concurrently with terms of 10 years for armed robbery and 7 years for aggravated criminal sexual abuse.

¶ 25 On appeal, defendant challenges the sufficiency of the evidence to prove his guilt and argues that, because Y.W. identified another man in the lineup, the State did not prove beyond a reasonable doubt that he committed these offenses. Furthermore, while defendant acknowledges that the State's scientific testing established that his DNA was recovered from the sample of snow near the site of the attack and that the swab of Y.W.'s left hand matched his Y chromosome, he contends the evidence did not establish his guilt. Defendant argues that the material recovered from the snow only established he had been in the area, and he asserts that the

DNA from Y.W.'s left hand could have been transferred to her hand "while she was on the bus or in some other public area."

¶ 26 When considering a challenge to a criminal conviction based on the sufficiency of the evidence, a reviewing court must determine whether, viewing the evidence in the light most favorable to the State, a rational trier of fact could have found the required elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *People v. Bradford*, 2016 IL 118674, ¶ 12. As a reviewing court, we will not substitute our judgment for that of the trier of fact, which was the jury in this case, on questions involving the weight of the evidence or the credibility of the witnesses. *Id.* On appeal from a criminal conviction, this court will not reverse a conviction unless the evidence is so unreasonable, improbable or unsatisfactory that it justifies a reasonable doubt of the defendant's guilt. *Id*.

¶ 27 It is the responsibility of the trier of fact to draw reasonable inferences from basic facts to ultimate facts. *People v. Smith*, 2014 IL App (1st) 123094, ¶ 13. In determining whether an inference is reasonable, the trier of fact is not required to look for all possible explanations consistent with innocence or " 'be satisfied beyond a reasonable doubt as to each link in the chain of circumstances.' " *Id*. (quoting *People v. Wheeler*, 226 Ill. 2d 92, 117 (2007)). Rather, it is sufficient if all the evidence, taken as a whole, satisfies the trier of fact that the defendant is guilty beyond a reasonable doubt. *Id*.

¶ 28 In this case, defendant does not challenge any of the elements of the offenses of which he was convicted. Rather, he argues that the State failed to prove beyond a reasonable doubt that he was the offender.

¶ 29 Proof of any criminal offense requires proof that: (1) a crime has occurred; and (2) the crime was committed by the person charged. *People v. Escort*, 2017 IL App (1st) 151247, ¶ 18. Where identification of the offender is the main issue, the State must prove beyond a reasonable doubt the identity of the individual who committed the charged offense. *People v. White*, 2017 IL App (1st) 142358, ¶ 18 (citing *People v. Lewis*, 165 Ill. 2d 305, 356 (1995)).

¶ 30 While testimony from a single, credible witness may be sufficient to convict, a conviction may also be based on circumstantial evidence. *People v. Hall*, 194 Ill. 2d 305, 330 (2000). Where there is no direct evidence linking the defendant to the crime charged, circumstantial evidence can be "sufficient to sustain a criminal conviction, provided that such evidence satisfies proof beyond a reasonable doubt of the elements of the crime charged." *Id*. Such evidence must produce a reasonable and moral certainty that the defendant committed the crime. *People v. Morton*, 95 Ill. App. 3d 280, 282 (1981).

¶ 31 Viewed in the light most favorable to the State, the evidence in this case established that defendant was the offender and, thus, is sufficient to support his conviction beyond a reasonable doubt. Y.W. testified that she was followed, robbed, and sexually assaulted, by a man who was armed with a knife and who led her to a gangway between University and Woodlawn Avenues. There, the man forced her to place her hands and mouth on his penis. After she did so, the man ejaculated into the snow. Shortly after the attack, Y.W. told a University of Chicago police officer where the attack occurred and identified photographs of the location where these events took place. The University of Chicago police officer testified that he spoke to Y.W. after his car was dispatched to 62nd Street and University and she told him where the attack took place. A police evidence technician testified that, several hours after the assault, he collected a portion of

snow that had a different color than the rest of the snow from near the area where Y.W. had said the assault occurred. That specimen was found to match defendant's DNA profile and was a "rare profile." Y.W.'s left-hand swab contained evidence of a Y chromosome that matched the Y chromosome profile of defendant. An Illinois State Police forensic scientist testified that the profile matching defendant's profile was expected to occur in "approximately 1 in 2000 unrelated African-American males." Based on this evidence, the trier of fact could have reasonably determined that defendant was the offender.

¶ 32 Defendant questions the sufficiency of the evidence that he was the offender in that Y.W.'s description of her attacker's height and hair did not exactly match his height and hair and she did not identify him in the lineup. These issues, however, were matters to be decided by the jury. The credibility of the witnesses, the weight to be given their testimony, and the resolution of any conflicts in the evidence was within the province of the jury. *People v. Botsis*, 388 Ill. App. 3d 422, 429 (2009) (citing *People v. Williams*, 193 Ill. 2d 306, 338 (2000)). This court will not substitute its judgment for that of the jury on these matters. Additionally, regarding Y.W.'s inability to select defendant from the police lineup, the failure of a witness to make a positive identification at a lineup is one factor to be considered in weighing the testimony of that witness. *People v. Moore*, 50 Ill. App. 3d 952, 957 (1977). In court, Y.W. was asked, and confirmed, that defendant was a participant in that lineup. She was also asked by the prosecution if she knew "a person by the name of Antwan Manning," indicating defendant, and Y.W. responded that she did not know defendant. Y.W. was not asked to identify defendant in court as the person who assaulted her.

¶ 33 Defendant, on appeal, does not challenge the validity of the DNA evidence, but offers alternative explanations for the presence of his genetic material in the area where the attack occurred and on the victim's hand. However, the jury was not required to disregard the inferences that flow normally from the evidence, nor must the jury search out all possible explanations that are consistent with the defendant's innocence and raise them to the level of reasonable doubt. See *People v. Campbell*, 146 Ill. 2d 363, 380 (1992). Here, Y.W. testified that, during the attack, the man's mouth was covered with a scarf and she was "pretty sure" he had a hat and a hood on. Although Y.W. could not positively identify her offender, the sequence of events as related by her was corroborated by circumstantial evidence, *i.e.*, the presence of defendant's DNA at the scene of the assault and the presence of a Y chromosome on Y.W.'s left hand that matched the Y chromosome profile of defendant. See *People v. King*, 151 Ill. App. 3d 644, 648 (1987) (where identity is not proved by direct, in-court identification, it may be properly inferred from all the facts and circumstances in evidence and the course of the trial proceedings). When considered in the light most favorable to the prosecution, Y.W.'s description of the assault, combined with the DNA evidence identifying defendant's genetic material in the snow, was sufficient to establish that defendant committed these offenses.

¶ 34 Defendant compares the facts in *Escort* to those here to argue that the physical evidence in this case fails to establish his guilt. We do not find that case comparable; there, the defendant's DNA was identified on the vagina of the murdered victim. *Escort*, 2017 IL App (1st) 151247, ¶ 19. In reversing the defendant's murder conviction, this court rejected the State's assertions that the DNA evidence proved he killed the victim. *Id.* ¶ 21. In doing so, this court noted that the DNA evidence only showed a sexual encounter and it would be "pure speculation

to conclude that *** he was the last person to see the victim alive." *Id*. Here, in contrast to the absence of evidence showing the defendant in *Escort* committed murder, Y.W. testified to a detailed account of her assault that was consistent with the location of defendant's DNA sample retrieved from the snow.

¶ 35 Defendant also cites *People v. Edwards*, 353 Ill. App. 3d 475 (2004), in arguing the evidence was insufficient to establish his guilt. In *Edwards*, this court held that a statute requiring convicted felons to submit blood samples for inclusion in a DNA database did not violate their right to be protected from unreasonable searches and seizures. *Id*. at 486. In performing that analysis, this court noted the State's interest in maintaining a DNA database to identify felons and both "convict and exonerate individuals." *Id*.

¶ 36 The court in *Edwards* observed that "DNA alone does not confirm the commission of a crime; rather, it confirms an individual's identity." *Id*. Defendant quotes the first half of that statement to assert that the material recovered from the snow did not prove he assaulted Y.W. However, that material, combined with Y.W.'s account of the assault, confirms his identity as the offender. In conclusion, the evidence was sufficient to establish defendant committed these offenses beyond a reasonable doubt.

¶ 37 Accordingly, the judgment of the trial court is affirmed.

¶ 38 Affirmed.