2019 IL App (1st) 163039-U

No. 1-16-3039

Order filed March 8, 2019

Fifth 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. 15 CR 8739
	)	
MARIO JONES,	)	Honorable
	)	Nicholas R. Ford,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Justices Hall and Lampkin concurred in the judgment.

ORDER

¶ 1 *Held*: Trial evidence was sufficient to convict defendant of residential burglary.

¶ 2 Following a 2016 bench trial, defendant Mario Jones was convicted of residential burglary and sentenced to 14 years' imprisonment. On appeal, he contends that the evidence was insufficient to convict him beyond a reasonable doubt. We affirm.

¶ 3 Defendant was charged with residential burglary (720 ILCS 5/19-3(a) (West 2014)) for allegedly, on or about February 26, 2014, knowingly and without authority entering the home of Edwin Hernandez with the intent to commit theft therein.

¶ 4 At trial, Edwin Hernandez testified that, on Feburary 26, 2014, he was living alone in a second-floor apartment. The doors and windows of his apartment were locked and intact and his home was in an orderly condition when he left for work. As he was coming home from work, his first-floor neighbor called him. He arrived home and saw that the back door of the apartment building was broken open, as were the rear doors to his apartment and the first-floor apartment. His bedroom was in disarray. When he checked his belongings, his wedding ring, two watches, and "some videos" were missing. Hernandez did not recognize defendant, had not seen him before, and did not give him permission to be in his home.

¶ 5 The police investigated the incident that day. On March 12, the police returned to Hernandez's home because he reported finding "some blood on my bedside on the mattress" that was not "there before the break-in." The police then collected the blood. Hernandez identified three photographs as depicting his blanket, box-spring, and mattress from the bed in question, each with blood on it. While he picked up the blanket that day, he did not recall if the blood on the blanket had soaked through to the mattress. Hernandez bought the mattress at a store on Cicero Avenue in 2002, and bought the blanket at "Carson's" or another department store.

¶ 6 Chicago police officer Adolfo Lopez responded to the burglary and spoke to Hernandez. Lopez saw the damaged back doors, which had been "forced open" rather than incurring normal wear, and Hernandez's bedroom. Hernandez gave him a list of items missing from his home.

¶ 7 Police evidence technician Judeh went to Hernandez's apartment on March 12, 2014, to "recover blood."[1] After meeting with Hernandez, Judeh went to the bedroom. There, Judeh saw stains which he suspected were blood, on the bedsheet, box-spring, and mattress. He photographed the stains and took a sample of the stain on the mattress with a cotton swab, moistened with distilled water as the stains were dry. The swab was later inventoried. The parties stipulated to "a proper chain of custody." On cross-examination, Judeh could not recall if he had to remove the bedsheet to find the other stains or they were uncovered when he arrived. He swabbed only the stain on the mattress.

¶ 8 The record includes the photographs that Judeh took and Hernandez testified about. The three photographs depict a reddish stain of about two centimeters on the blanket or bedsheet, the mattress, and the box-spring. The stain on the blanket or bedsheet is much darker than the stains on the mattress or box-spring.

¶ 9 The parties stipulated to the testimony of two witnesses. A forensic biologist would testify that his testing of the recovered swab found that it contained blood with usable DNA. An investigator would testify to taking a buccal swab from defendant.

¶ 10 After the parties stipulated to her qualifications as an expert in forensic biology and DNA testing, Wendy Gruhl testified that she compared the DNA from the mattress swab to the DNA from defendant's swab and found that they matched. Such a match would occur in 1 in 31 quintillion black unrelated persons, 1 in 200 quintillion white unrelated persons, or 1 in 330 quintillion Hispanic unrelated persons. Gruhl explained that a quintillion has 18 zeros, while there are only about seven billion living persons. She testified that she ran "the proper controls to

[1] The record does not include Judeh's first name.

ensure that the instrumentation [she] used was functioning properly while used in this case," maintained a proper chain of custody, and formed her opinions within a reasonable degree of scientific certainty.

¶ 11 The defense made a motion for a directed finding, noting that the blood was not found by Hernandez or recovered by police until two weeks after the burglary, and that the blood on the blanket was not tested. The defense argued that "there is no way of saying when the blood got on the mattress" and that "I don't know who was in Mr. Hernandez's bed between when his home was invaded and someone stole his wedding ring and two watches, and when the [evidence technician] got out there." The State responded that Hernandez testified to not knowing defendant and to buying the mattress new, rather than second-hand, thus there was no reason for defendant's blood to be on the mattress except for defendant being in Hernandez's home on the day of the burglary. The court denied the motion for a directed finding.

¶ 12 Defendant testified that he had various prior convictions: for residential burglary in 2008, aggravated battery and possession of a stolen motor vehicle in 2007, and home invasion in 2003. He denied entering Hernandez's apartment on February 26, 2014, and maintained that he was at work that day. He worked for "almost three years" before the May 2016 trial making mattresses at M's Furniture at 58th Street and Western Avenue.

¶ 13 On cross-examination, defendant testified that he did not know Hernandez and had "[n]ever" been in his home. At work, he took apart old mattresses and installed new fabric on them. As he used hammers and saws to disassemble mattresses, and did not wear gloves while doing so, "[t]hat's how blood get splattered." He did not know whether he made Hernandez's mattress. Defendant denied working at Carson's department store.

¶ 14 In rebuttal, the parties stipulated that two investigators for the State's Attorney would testify that they went to the area of 58th and Western and found two vacant storefronts and one open furniture store named Value Home Furniture.

¶ 15 Ameen Abuawwad testified that, in 2012, he owned a furniture store named Sam's Furniture at 58th and Western. He never employed anyone named Mario Jones there, nor did he recognize defendant as ever having been his employee. When Abuawwad received mattresses from his supplier, he inspected them and immediately returned any with defects. To the best of his knowledge, his store never sold mattresses with blood on them.

¶ 16 The parties also stipulated in rebuttal that a police detective would testify that, when he interviewed defendant after his May 2015 arrest, defendant denied that he committed the Hernandez burglary and denied that the blood found at the scene was his.

¶ 17 Following closing arguments, the court found defendant guilty of residential burglary. The court found that this case was "a question of credibility" and found Hernandez credible in his testimony about when he purchased the mattress at issue. The court noted that the State's case was circumstantial but that "doesn't mean it's not solid." It found "no explanation" for defendant's blood being in Hernandez's home "immediately following the break-in *** that would have resulted in injury that caused the blood to be left on the scene." The court found defendant's explanation of how his blood came to be on the mattress was "utterly preposterous."

¶ 18 Defendant's posttrial motion challenged the sufficiency of the trial evidence, focusing on alleged inadequacies in the State's evidence regarding the blood on the mattress. He argued that, no matter how "implausible it may seem that [he] shed his blood on the victim's mattress while he was working to refurbish old mattresses," the "burden lies on the State to rebut the assertion

beyond a reasonable doubt." Following arguments, the court denied the posttrial motion. It then sentenced defendant as a mandatory Class X offender (730 ILCS 5/5-4.5-95(b) (West 2014)) to 14 years' imprisonment.

¶ 19 On appeal, defendant contends that the evidence was insufficient to convict him beyond a reasonable doubt. He does not dispute that someone burglarized Hernandez's home but contends that the State failed to prove beyond a reasonable doubt that he was the burglar. In particular, he contends that there was insufficient evidence to support the State's theory that his blood was deposited on Hernandez's mattress during the burglary. We shall therefore focus on the issue of identity rather than analyzing whether a residential burglary occurred.

¶ 20 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. Harris*, 2018 IL 121932, ¶ 26. 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. Thus, we do not retry a defendant. *People v. Newton*, 2018 IL 122958, ¶ 24, *petition for cert. pending*, No. 18-7515. 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*. Stated another way, the State need not disprove or rule out all possible factual scenarios at trial. *Id*. ¶ 27. The trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances if the evidence as a whole satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt. *Id*.; *Jonathon C.B.*, 2011 IL 107750, ¶ 60. 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. *Harris*, 2018 IL 121932, ¶ 26.

¶ 21 A person commits residential burglary when he knowingly and without authority enters the dwelling place of another, or any part thereof, with the intent to commit theft therein. 720 ILCS 5/19-3(a) (West 2014). Residential burglary includes the offense of burglary. *Id*. Burglary may be proved by circumstantial evidence – that is, proof of facts and circumstances from which a trier of fact may infer other connected facts that reasonably and usually follow according to common experience – so long as the elements of the offense are proven beyond a reasonable doubt. *People v. Smith*, 2014 IL App (1st) 123094, ¶ 13. The fact and manner of entry, as well as the requisite intent, may be inferred from the facts in evidence. *Id*.

¶ 22 Defendant argues that, similar to the way fingerprint evidence is often used, he was convicted solely on circumstantial evidence that a unique marker of himself – here, blood with his DNA – was found at the scene of the crime. Defendant is correct that, when a defendant is convicted solely on circumstantial evidence such as fingerprints or shoeprints, the defendant's prints must have been found in the immediate vicinity of the crime under circumstances that establish beyond a reasonable doubt that the defendant left the prints when the crime was committed. *People v. Campbell*, 146 Ill. 2d 363, 386 (1992). However, "the State is not required to seek out and negate every conceivable possibility that the print was impressed at some time other than during the commission of the offense." *Id*.

¶ 23 Here, taking the trial evidence in the light most favorable to the State as we must, we cannot conclude that a rational trier of fact could not have found defendant guilty of residential burglary. Hernandez and defendant both testified that they did not know each other. Defendant

testified that he had never been in Hernandez's home, and Hernandez testified that he had never given defendant permission to be in his home. Hernandez testified that blood was not on his bed before the burglary, and defendant's blood was found on Hernandez's bed after the burglary in a room that the burglar had ransacked after breaking open the building and apartment doors. Thus, defendant's blood was found inside a burgled home where he had no business being and he claimed he had never been. A reasonable trier of fact could infer that he entered Hernandez's home without authority with intent to commit theft therein.

¶ 24 Against such a conclusion, defendant has challenged the blood evidence, at trial and on appeal, by offering an alternative explanation of how his blood came to be on Hernandez's mattress. However, as stated above, we need not elevate all possible explanations consistent with innocence to the level of reasonable doubt. That is particularly so here, when defendant's explanation was contradicted by the testimony of Hernandez that he purchased the mattress in 2002, about a decade before defendant claimed to be disassembling mattresses. As the trial court stated, this case amounted to a credibility contest between Hernandez and defendant. The trial court chose to believe Hernandez, and we see no reason to set aside that decision.

¶ 25 Lastly, defendant places great reliance on the fact that Hernandez did not testify that the broken doors to his apartment building and his apartment were repaired after the burglary. Defendant conjures the specter that Hernandez left his apartment "accessible to the public" during the two weeks between the burglary and his discovery of blood on his bed in his bedroom. We reiterate that the blood was defendant's blood, and defendant testified that he was "[n]ever" in Hernandez's apartment. Moreover, while it is theoretically possible that a man who had just been burgled left his door unrepaired and his apartment unsecured, in the absence of testimony to

the contrary, this is a possibility that we do not feel obliged to raise to the level of reasonable doubt. Stated another way, we find that the State was not required to disprove or rule out that unlikely scenario at trial in order to make its case against defendant. See *Newton*, 2018 IL 122958, ¶ 27; *Campbell*, 146 Ill. 2d at 386.

¶ 26 In sum, we do not find the evidence of defendant's guilt of residential burglary to be so unreasonable, improbable, or unsatisfactory that a reasonable doubt remains. Accordingly, the judgment of the circuit court is affirmed.

¶ 27 Affirmed.