2019 IL App (1st) 171724-U

No. 1-17-1724

Order filed October 11, 2019

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 14340
	)	
MAURICE HOOKER,	)	Honorable
	)	James Michael Obbish,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE CONNORS delivered the judgment of the court.
Justices Cunningham and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's convictions for aggravated battery of a peace officer affirmed where the evidence established that he knowingly made physical contact of an insulting or provoking nature with police officers by spitting on them.

¶ 2 Following a bench trial, defendant Maurice Hooker was convicted of aggravated battery of a peace officer (720 ILCS 5/12-3.05(d)(4)(i) (West 2014)) and sentenced to one year conditional discharge. On appeal, defendant argues that his convictions should be reversed because the State failed to prove beyond a reasonable doubt that he knowingly made physical

contact of an insulting or provoking nature with police officers when he inadvertently spit on them. We affirm.

¶ 3 Defendant was charged with nine counts of aggravated battery of a police officer, arising from allegations that on August 3, 2014, he knowingly spat on three police officers who were performing their official duties.

¶ 4 At trial, Melvin Taylor testified that on August 3, 2014, he lived on West 62nd Street, in the same building as defendant, and had gotten into arguments with defendant before that day. That afternoon, Taylor got into a physical fight with defendant inside the building. When defendant began "coming after" and "challenging" Taylor, Taylor gave defendant "a little knock" on the front of his head with a "small hammer" and told him to "back up off" him. The fight moved outside the building, where defendant pushed Taylor off a ledge and they both fell into a gangway. Taylor was on the ground, with defendant on top of him punching him, when uniformed police officers arrived. The officers had been sitting in a nearby police car. The female officer helped Taylor. The male officer was speaking to defendant "and then they got into it." Defendant was "all in the police [man's] face" before being put in the police car. Taylor's landlord's son was filming the exchange with his video camera from across the street. Taylor did not have a chance to speak with the police at the time of the incident, and was not taken to the hospital.

¶ 5 Chicago police officer Mark Campbell testified that on August 3, 2014, he was wearing his uniform with a black protective vest with his star visible, driving in a marked Chicago police car with his partner Officer Krista Hinton. Campbell saw defendant, whom he identified in court, and another man arguing and fighting on a porch at a residence on West 62nd Street. Campbell

observed defendant tackle the other man, causing both men to fall into a gangway with defendant on top of the man, punching and kicking him. Campbell stopped the police car, announced his office, and removed defendant from the other man. Hinton had one handcuff on defendant when defendant spun around so he was face-to-face with Campbell and spat in Campbell's face and mouth.

¶ 6 The officers handcuffed defendant and placed him in the back seat of the police car. Defendant complained of a head injury, so the officers took him to St. Bernard Hospital for treatment. There, defendant refused to get out of the car. When the officers tried to take him out, defendant spat on Hinton. Campbell called for backup. He, Hinton, and the other officers then escorted defendant into the hospital, where defendant spat on Hinton and another officer again.

¶ 7 Campbell reviewed a video recording taken by a bystander of the incident outside of the residence, and commented that it did not record the entire incident. The recording showed Campbell standing near defendant, and Campbell wiping his face. Campbell testified that he wiped his face because defendant's saliva was "on his left cheek." The recording was admitted into evidence and published.

¶ 8 On cross-examination, Campbell stated that when he placed defendant under arrest at the residence, he was in close proximity to him, less than a foot away, in order to put on the handcuffs. Defendant was upset when he was being placed under arrest, and told Campbell he was hit in the face with a hammer. Defendant was agitated, and yelled at Campbell in close proximity to him. Campbell was not injured in the incident. On redirect examination, Campbell testified that the spitting occurred before the video began. The court noted that, in the video, as defendant was being led to the police car, he yelled out he did not spit on Campbell.

¶ 9 Chicago police officer Krista Hinton testified that on August 3, 2014, she saw defendant go toward a man sitting on the ledge of the porch and push him off. Both men fell off the porch into a gangway. She and her partner, Campbell, went over to break up the altercation and placed defendant under arrest. Defendant did not listen to their commands and, as they struggled to handcuff him, Hinton heard Campbell say defendant spat on him. She did not see the incident. Because defendant had been hit in the head by a hammer, the officers transported him to St. Bernard hospital. There, he gave the officers "another hard time," refusing to listen to them or get out of the car immediately. Defendant spat on Hinton as the officers were telling him to get out of the car. Because she was facing him, she saw the saliva "coming" and turned her head, so it landed on the left side of her face and on her arm.

¶ 10 Other police officers arrived and assisted in escorting defendant into the hospital. Defendant needed x-rays, so Hinton was with him in the x-ray room where defendant continued "giving everybody a hard time," including the hospital staff. Hinton testified defendant was still arguing with the police, and "every time he talked, he spit. So we kept telling him to stop because every time he talked spit was flying out of his mouth and we already got spat on before."

¶ 11 Defendant was screaming, yelling, and being erratic, and spat on Hinton and another officer, Officer Mann, "again." Hinton asked the hospital staff to put a mask over his face "so he would stop spitting." The spitting was of an insulting or provoking nature, because defendant "was told numerous times to stop," and "told numerous times that every time he was talking and stuff he was spitting. *** [I]t was just coming out when he talked. He was told to just relax and to stop spitting."

¶ 12 On cross-examination, Hinton acknowledged that when she and Campbell placed handcuffs on defendant, they were in close proximity to him and he was agitated and yelling. Defendant remained agitated when he was placed in the squad car and they traveled to the hospital. Hinton was not injured in the incident.

¶ 13 Chicago police officer Danielle Mann testified that on August 3, 2014, she and her partner responded to St. Bernard Hospital on an assistance call. Mann was dressed in her uniform with her star visible. When she arrived at St. Bernard Hospital, Mann saw defendant lying in a police car outside the emergency room doors. Hinton and Campbell were trying to get him out of the car and he was "screaming and yelling," refusing to get out. The four police officers got defendant into the hospital where he was placed into a room, still "being aggravated, yelling and screaming at [the officers] the whole time."

¶ 14 Defendant got out of the emergency room bed and walked toward the sink. Mann told him several times that he needed to sit back down, and he yelled and screamed at her. When Mann attempted to escort defendant back to the bed he spat on her, with the saliva landing on the left side of her face and arm. Earlier, defendant had been spitting while speaking, but this saliva "was actually directed" toward Mann, "[l]ike" defendant was "very upset that [Mann] was actually directing him back to the bed. He wanted nothing to do with any of [the officers]." After that, because he kept trying to get up, the officers cuffed him to the bed until they escorted him to the x-ray room.

¶ 15 Mann and Hinton went with defendant to the x-ray room, where defendant "verbally assaulted" them, "screaming" at them "to go F [themselves], and he didn't want to get x-rayed." Defendant then "flopped" on the ground and refused to get up. Mann and Hinton attempted to lift

him, and defendant spat on both of them "again." Mann "was spit on both sides of the arms and the right side of the face." When asked if the spitting was the result of defendant speaking to her, Mann testified "[n]o, this was directed at me." After that, the officers put a "spit mask" on defendant and got his x-rays done. Both times defendant spit on Mann were of an insulting and provoking nature. On cross-examination, Mann acknowledged defendant was not only yelling and screaming in the hospital but also crying.

¶ 16 The trial court denied defendant's motion for a directed finding. Defendant then testified that on August 3, 2014, he was involved in an altercation with Taylor in the hallway of his apartment building. Taylor "clobbered" defendant in the head with a "big iron claw hammer" as defendant turned to enter his apartment. Defendant saw the police outside through the glass door, so he pushed Taylor outside and closed the door behind him, hoping the police officers would arrest Taylor and assist defendant. When defendant was subsequently arrested, he felt "horrible," because he was the person who had been attacked from the back by Taylor. When defendant was arrested, he initially asked the officers to help him, but also yelled at them. He denied ever spitting on Campbell and Hinton.

¶ 17 Defendant was taken to the hospital because he had "a big knot" on his head and was bleeding from the hammer hit. He denied intentionally spitting on any officer in the police vehicle or in the hospital. Asked whether he intentionally spat on any officer as he was being led from the vehicle to the hospital, he answered "[n]o, but the officers were very provoking." Defendant testified that he suffers from bulimia. As a result, he had lost his front teeth, and stomach acid from the bulimia which caused heavy saliva to build in his mouth when he spoke.

Defendant demonstrated this to the court by opening his mouth and raising his upper lip, showing that his two front teeth were missing.

¶ 18 On cross-examination, defendant acknowledged that he pushed Taylor off of the porch and punched him after he saw the police, but stated he did so "in defense" because he yelled at the police for help, they refused to assist him, and he was not going to let Taylor strike him again. Defendant had already taken the hammer from Taylor to show to the police. At the hospital, defendant did not spit in Hinton's face, but saliva possibly landed on her when defendant was speaking. In the x-ray room, defendant was angry and speaking to Hinton and Mann, who were "taunting [him] saying how pretty their teeth was and their uniform looked and basically [he's] nothing." Defendant never spat on anyone, "not one time."

¶ 19 Mann testified in rebuttal that she never taunted defendant about his teeth in the x-ray room, would never say anything to anyone about not having teeth, and never made fun of defendant "in any way" for not having teeth.

¶ 20 In closing, defendant argued he did not knowingly spit on the officers. The trial court found defendant guilty of six of the nine counts of aggravated battery, ruling the State proved defendant knowingly spit on Mann and Hinton but not on Campbell. The court stated the video recording showed "the excited nature" of when defendant was being taken into custody. The court noted that, although Taylor struck defendant with a hammer before the officers arrived, the officers only witnessed defendant punching Taylor and so reacted to the fighting and detained defendant. The court stated defendant was angry, "and some of it's justified" because he was hit with a hammer; but instead of cooperating with the police officers trying to take him to the hospital, he directed his anger at them. The court found Campbell's testimony that defendant spat

on him credible, but that his testimony did not indicate defendant knowingly spit on him. The court therefore gave defendant "the benefit of the doubt" regarding the counts involving Campbell.

¶ 21 The court found Hinton testified credibly defendant had a tendency to "sort of spit when he talked," which "one could interpret *** as [defendant] having some sort of speech pattern," especially when he was extremely irate. Given that Hinton told defendant "every time he speaks that he is in fact spitting," the court found defendant was put on "complete notice" as to his behavior. The court found Mann credibly testified defendant was yelling and screaming, "directly spit on her on the left side of her face and arm on more than one occasion and that he had directed it right at her," and did not spit on her in an accidental manner "or just as a manner of his speaking."

¶ 22 The court found defendant's testimony not credible, noting he admitted to yelling at the officers but denied spitting even once and asserted the officers were "very provoking." The court found defendant was vague in his answers, tried to avoid answering questions on cross-examination, and attempted to volunteer information that was not requested. It did not believe the officers taunted defendant about his missing teeth, considering it an "absurd sort of *** defense or motivation" about "maybe why he did spit on the officers." Finding defendant was clearly on notice that he was in fact spitting and then directly spat at Mann, the court found the State met its burden of proof with respect to the counts involving Mann and Hinton.

¶ 23 The court subsequently denied defendant's motion for a new trial, stating that defendant was

> "repeatedly warned *** regarding what was emanating from his mouth, and he continued to engage in the behavior to the point where it's easy for the Court to conclude that he was knowingly if not intentionally continuing to continue to insult and provoke the officers in the only way he could, because he was handcuffed, which was to spit in the officer's [*sic*] face."

The court stated, "[n]one of us want to *** be spat upon. None of us want to be insulted or provoked, whether you happen to be a law enforcement officer or not." There was "no doubt" in the court's mind that defendant knew Mann and Hinton were police officers performing their official duties, yet he continued to knowingly insult and provoke them the only way he could, which was verbally and by spitting on them.

¶ 24 The court sentenced defendant to one year of conditional discharge on two of the counts, which charged that defendant knowingly made physical contact of an insulting and provoking nature with Hinton (count 4) and Mann (count 7) by spitting on them, knowing they were Chicago police officers performing their official duties.

¶ 25 On appeal, defendant argues that this court should reverse his convictions because the State failed to prove beyond a reasonable doubt that he knowingly spat on Officers Hinton and Mann. He contends the evidence only showed he inadvertently spat on them as a result of his speaking with missing teeth, and that the State failed to establish he knew any incidental spit contact was of an insulting or provoking nature.

¶ 26 Defendant argues that the sufficiency of the evidence to support a conviction is a question of law that must be reviewed *de novo*, and asks this court to review *de novo* "the trial court's implicit legal determination that *** the evidence permitted a rational trier of fact to find guilt

beyond a reasonable doubt." While defendant contends that he does not ask this court to review the court's factual findings *de novo*, he in fact challenges the inferences the trial court drew from the evidence, a factual determination not subject to *de novo* review. *People v. Lattimore*, 2011 IL App (1st) 093238, ¶¶ 35-36 ("no *de novo* review where defendant challenged 'the inferences that can be drawn from the evidence' by claiming the evidence failed to establish that he acted 'knowingly' ") (quoting *People v. Stewart*, 406 Ill. App. 3d 518, 525 (2010)).

¶ 27 The standard of review in challenging the sufficiency of the evidence is "whether, 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. Belknap*, 2014 IL 117094, ¶ 67 (quoting *People v. Collins*, 106 Ill. 2d 237, 261 (1985)). The trier of fact, here the trial judge, has the responsibility to resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences from basic facts to ultimate facts. *People v. Brown*, 2013 IL 114196, ¶ 48. Accordingly, this court will not retry the evidence or substitute its judgment for that of the trier of fact on issues involving the weight of the evidence or credibility of witnesses. *Id*. Under this standard, all reasonable inferences from the evidence must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42. A reviewing court will not reverse a criminal conviction unless the evidence is "unreasonable, improbable, or so unsatisfactory as to justify a reasonable doubt of the defendant's guilt." *People v. Jackson*, 232 Ill. 2d 246, 281 (2009).

¶ 28 In order to prove defendant guilty of aggravated battery as charged, the State needed to establish that defendant knowingly and without legal justification made physical contact of an insulting or provoking nature with police officers Hinton and Mann, whom he knew to be peace officers performing their official duties. 720 ILCS 5/12-3(a)(2) (West 2014); 720 ILCS 5/12-

3.05(d)(4)(i) (West 2014). Defendant does not contest that he spit on the officers or knew them to be peace officers engaged in their official duties. Rather, he argues the State failed to prove he knowingly spit on them or knew his accidental spit was of an insulting or provoking nature.

¶ 29 Knowingly or intentionally spitting on a police officer is physical contact of an insulting or provoking nature amounting to battery. *People v. Pena*, 2014 IL App (1st) 120586 (finding the evidence sufficient that defendant intentionally spit blood on a correctional officer to support the conviction for aggravated battery of a peace officer). A person acts knowingly where he is "consciously aware" of the nature of his conduct and that his conduct is practically certain to cause a particular result. 720 ILCS 5/4-5(a), (b) (West 2010). A person's knowledge is generally established by circumstantial evidence rather than by direct proof. *People v. Castillo*, 2018 IL App (1st) 153147, ¶ 26.

¶ 30 Viewing the evidence in the light most favorable to the State, we find a rational trier of fact could find beyond a reasonable doubt that defendant knowingly made physical contact of an insulting or provoking nature with Hinton and Mann by spitting on them. The evidence shows defendant was agitated, aggressive, and resistant in all of his interactions with the police officers on August 3, 2014, beginning at the residence on 62nd Street and ending at the x-ray room at St. Bernard Hospital. Defendant yelled and screamed at the police officers and, according to Hinton, "every time he talked, he spit." Hinton testified that, on one occasion, she saw the spit coming and was able to turn her head but was still hit by it in the face. Hinton and Mann testified the spit was of an insulting or provoking nature. Hinton and other officers told defendant repeatedly to stop spitting while he was speaking because they "already got spat on before." But he did not stop, continuing to spit on the officers while speaking and twice obviously directing his spit at

Mann, once in reaction to her attempting to keep him in bed. Ultimately the officers had a mask put over defendant's face to stop him from spitting. Given the evidence that defendant continued to spit on the officers despite repeated warnings to stop, Hinton was able to see spit coming at her, and the spit defendant purposely directed at Mann twice was not the result of his speaking, a rational trier of fact could find that defendant spit at the officers in order to knowingly make physical contact of an insulting and provoking nature with them.

¶ 31 Nevertheless, defendant argues the testimony established his spittle which landed on the police officers was merely a byproduct of his speech, caused by his missing teeth and bulimia. Defendant argues he was angry and upset, and spittle was flying from his mouth whenever he spoke, indicating a lack of knowledge that his spittle would strike a police officer. However, an equally possible inference is that he was angry and upset, and intentionally directed his spittle toward the police officers in certain instances, especially given the officers' repeated requests to stop spitting. While the court heard defendant's testimony regarding his inability to control his spittle, it was not required to accept defendant's interpretation of the incidents. "[T]he trier of fact is not required to accept any possible explanation compatible with the defendant's innocence and elevate it to the status of reasonable doubt." *People v. Siguenza-Brito*, 235 Ill. 2d 213, 229 (2009); see *People v. Newton*, 2018 IL 122958, ¶ 27 (" 'The inference to be drawn [from the evidence] need not be the only conclusion logically to be drawn; it suffices that the suggested inference may be reasonably drawn therefrom' ") (quoting Michael H. Graham, Cleary and Graham's Handbook of Illinois Evidence § 401.1, at 147 (9th ed. 2009)).

¶ 32 Here, the court specifically credited Hinton's testimony showing defendant was on notice that he was spitting on the officers and Mann's testimony that, in two separate instances, the

spittle which landed on her was not the result of defendant speaking but rather was "directed" at her. Conversely, the court found defendant's testimony that he never spat upon the police officers not credible. We will not substitute our judgment for that of the trial court regarding these credibility determinations and the reasonable inferences arising there from. See *Brown*, 2013 IL 114196, ¶ 48. Even crediting defendant's assertion that he was not spitting intentionally but rather was merely unable to control the spittle emanating from his mouth, given the evidence that he was consistently screaming and yelling in close proximity to police officers who had told him to stop spitting on them, it is improbable that defendant did not know his spittle would land upon the police officers and did not know his spitting on the officers was insulting or provoking to them. Defendant continued to spit on the officers after being told to stop, which the trial court interpreted as the only way defendant was able to insult the police officers at the time. We find the court's conclusion that defendant knowingly and likely intentionally made physical contact of an insulting or provoking nature with Hinton and Mann by spitting on them is a reasonable inference from the evidence. See *Lattimore*, 2011 IL App (1st) 093238, ¶ 44 ("Intent may be inferred (1) from the defendant's conduct surrounding the act and (2) from the act itself").

¶ 33 Taking the evidence in a light most favorable to the State, we find that a rational trier of fact could have found that defendant knowingly spat upon police officers Hinton and Mann. Under the circumstances here, defendant's convictions for aggravated battery are not so unreasonable or improbable as to create a reasonable doubt of his guilt. Accordingly, we affirm the trial court's judgment.

¶ 34 Affirmed.