

2019 IL App (1st) 173128-U  
No. 1-17-3128  
Order filed September 27, 2019

Fifth Division

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 16 CR 15259
	)	
CHRISTOPHER HUNT,	)	Honorable
	)	William H. Hooks,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE DELORT delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant's conviction for aggravated battery causing permanent disfigurement is affirmed. The State proved beyond a reasonable doubt that defendant did not act in self-defense.

¶ 2 Following a bench trial, defendant Christopher Hunt was convicted of aggravated battery causing permanent disfigurement (720 ILCS 5/12-3.05(a)(1) (West 2016)) and sentenced to 24 months' probation. On appeal, defendant contends that the State failed to prove him guilty beyond a reasonable doubt because it failed to prove that he did not act in self-defense where the

victim's testimony was not credible, uncorroborated, and contradicted by defendant and his witness. We affirm.

¶ 3 Defendant was charged with one count each of attempted first degree murder, aggravated unlawful restraint, aggravated battery causing permanent disfigurement, and aggravated battery with a deadly weapon other than by discharging a firearm. Before trial, the State moved for the court to consider defendant's 1991 conviction for first degree murder to impeach his credibility if he chose to testify. See *People v. Montgomery*, 47 Ill. 2d 510 (1971). Defense counsel acknowledged that defendant's prior conviction was admissible under the *Montgomery* rule, but argued that it should be excluded because the danger of prejudice to defendant outweighed its probative value. See Ill. R. Evid. 403 (eff. Jan. 1, 2011). The circuit court ruled that, within its discretion, it would not consider defendant's prior conviction if he testified, because it was too similar to the charge in this case, and it was attenuated due to the length of time since the previous conviction.

¶ 4 At trial, Marlon Hayes testified that he and defendant grew up together and had been friends for at least 30 years. However, they had not spoken to each other since February 2016. On August 21, 2016, Hayes sent defendant a text message asking him what he was doing for his upcoming birthday. In that text, Hayes commented that he had not heard from defendant, and jokingly asked if defendant was avoiding him. Within 25 seconds, defendant called Hayes. Defendant accused Hayes of talking poorly about him behind his back, and of "snitching" on him in a case nearly 30 years earlier. Hayes asked defendant "what's going on?" Hayes told defendant that they needed to talk and that he would meet him at defendant's house about 6 p.m. Defendant replied "okay."

¶ 5 Hayes arrived at defendant's two-flat, exited his car, and removed a cooler containing beer from his backseat. Hayes testified "I had my little beer cooler because I am going to see my friend and we are going to talk this out." Hayes rang defendant's doorbell and leaned against the porch. Within seconds, defendant exited his door swinging his hands at Hayes. Defendant's first punch struck Hayes in the face. Hayes was surprised, threw up his hands, and said "whoa." As defendant continued swinging, Hayes held up his arms to block the blows and backed up until he reached the end of the porch and had nowhere else to go. Hayes testified that if he fell, he would be a victim, so he hit defendant with his fist. Hayes' punch "glanced off" defendant's face. Hayes did not have anything in his hand when he hit defendant.

¶ 6 Hayes testified that he began to defend himself, picked up defendant and slammed him to the ground in his doorway. Hayes saw blood, but did not know where it came from. While he was on top of defendant, Hayes asked him "what are you doing? What is going on?" Defendant told Hayes to get off of him, and he complied.

¶ 7 Defendant knocked on the apartment door of his landlord, Michael Scott, and said "come see what I did to this bitch's face." Hayes did not know what defendant was talking about. Scott came outside, got between defendant and Hayes, and asked "what's going on?" Hayes replied "I don't know." Defendant replied "I'm tired of him." Hayes then observed that defendant was holding in his hand a long, thin blade similar to that of a steak knife. Hayes told defendant "we [are] supposed to be friends, if you want to fight me like a man, fight me like a man. Put the knife down." Defendant replied "tell you what, I will go in the house and I will get you a knife."

¶ 8 The police arrived at the scene, entered defendant's apartment, and exited with defendant in handcuffs. They asked Hayes if he wanted to press charges. Hayes declined and said it was

merely a misunderstanding between friends. The police told Hayes that an ambulance was coming. At this point, Hayes was unaware that he had sustained any injuries. Scott handed Hayes an item and told him to put it on his face. The paramedics arrived, placed a gauze pad on Hayes' face, and transported him to the hospital. Hayes still did not realize the extent of his injuries. While in the emergency room, Hayes observed that he had an open cut on his left cheek that was about three to four inches in length. Hayes received stitches for the cut on his cheek, a cut in his chin, and a cut on his right forearm. He also sustained a cut to his chest and defensive wounds on his arms. Hayes has at least six remaining scars on his cheek, chin, chest, and arms. The State presented five photographs depicting the open cut to Hayes' cheek, the same cut after he received stitches, the cut on his chest, and the defensive wounds to his right arm.

¶ 9 On cross-examination, Hayes testified that defendant had never before called him a snitch, and he believed defendant was under the influence of some type of drug when he did so on August 21. When defendant exited his door, Hayes was "trapped" on the porch and could not access the stairs to leave. Hayes was six feet tall and weighed about 260 pounds. Hayes defensively punched defendant twice. The blade defendant held in his hand was about four or five inches in length. Hayes did not recall agreeing with an assistant state's attorney (ASA) that the blade was two inches. Defense counsel played a video in court of Hayes' interview with an ASA and a detective. Hayes acknowledged that after the ASA asked him if the blade was "a couple of inches," he responded "yes." Hayes pointed out that he further stated that the blade was "about the length of my finger," which was about four inches. The State and defense counsel agreed to stipulate that was Hayes' estimation. Hayes also testified that when Scott was present,

defendant said something similar to “I will kill you before I go back to jail.” Hayes did not think he mentioned that statement to the detective and ASA.

¶ 10 The State rested and defendant moved for a directed finding as to all counts. The court entered a directed verdict of not guilty for the aggravated unlawful restraint offense, and denied defendant’s motion as to the other counts.

¶ 11 Scott testified for the defense that he had been a friend of defendant and Hayes for more than 30 years. Scott owned the two-flat apartment building in question; defendant lived on the first floor. About 5:30 p.m. on August 21, Scott was in his apartment and heard an unusual noise. He went downstairs and observed defendant and Hayes standing on the front porch, about 8 to 10 feet apart. They were not speaking to each other. Hayes had a cut on his face and defendant had bruises on his face. Scott did not observe the men fighting. Defendant did not say that he would kill Hayes before returning to jail, or that he would get a knife for Hayes so they could continue fighting. The police arrived about 20 minutes later.

¶ 12 On cross-examination, Scott testified that the incident between defendant and Hayes started before Scott arrived on the porch, and it was loud enough that it drew his attention on the second floor. Scott heard a lot of yelling and screaming before he went downstairs. He could not recall if he told police that the men were yelling at each other when he arrived on the porch. It was obvious that a “scuffle” was occurring. Hayes was holding a bottle of beer in his hand and was bleeding from his face, and defendant’s face was bruised.

¶ 13 Defendant testified that he was arrested in 1990 when he was 17 years old, and that in 1991 he pled guilty to first degree murder and was sentenced to 40 years’ imprisonment. He was paroled in 2010. In 2016, defendant was employed as a truck driver.

¶ 14 On August 21, defendant received a text message from Hayes asking if defendant was avoiding him. He was. In February 2016, they had an argument during which defendant expressed that he was displeased with Hayes' behavior of cheating on his wife and trying to pick up other women. Hayes' girlfriend was attracted to defendant and told Hayes that defendant had flirted with her, which was not true, but caused Hayes to become upset with defendant. Hayes had threatened defendant behind his back about what he would do to defendant if he did not stay away from his girlfriend. Defendant did not want to be involved in that type of lifestyle and ended their friendship at that point. Between February and August 21, defendant had no communication with Hayes.

¶ 15 After receiving the text message, defendant immediately called Hayes and asked why he had contacted him. Hayes suggested that he come to defendant's house and that they have a few beers and talk. Defendant told Hayes not to come to his house and that they had nothing to talk about. Hayes replied that they should not let a woman come between them and hung up the phone. Defendant was working on the air conditioner at his house and propping open a window when he heard a "boom, boom, boom" noise. Hayes was standing on the porch outside defendant's window. He said "[h]ey, mother\*\*\*" and told defendant to open the door. Hayes was holding a portable cooler in one arm and a beer that was three-fourths empty in his other hand. Defendant was holding a drill bit with a one-inch tip in his hand that he was going to use to prop open the window.

¶ 16 Defendant went to the door and told Hayes that he had told him not to come to his house. Hayes suggested that they have a couple of beers and tried to push past defendant to enter the vestibule. Defendant pushed his body in front of Hayes, told him that he was not coming in his

house, and said they did not have anything to talk about. Hayes put his hand in defendant's face and defendant "smacked" it down. Defendant went to close his door and turned his back on Hayes. Hayes grabbed defendant's shoulder and swung at him. The men began physically fighting. Defendant hit Hayes with the drill bit, which he did not mean to do, but at that moment did not realize that it was in his hand. Hayes became very upset and swung the beer bottle at defendant. The men continued punching each other. Defendant tried to retreat. When Hayes saw blood, he charged at defendant, picked him up, and body-slammed him through the doorway. Defendant hit Hayes and told him to get off of him. Defendant screamed for Scott to call the police and help him. Defendant pushed Hayes off of him, and Hayes returned to the porch. Scott came downstairs, grabbed some towels, and tried to treat both men's wounds. The police arrived about seven minutes later.

¶ 17 On cross-examination, defendant testified that he was five feet seven inches tall, and weighed about 190 pounds on the day of the incident. Defendant was angry with Hayes for coming to his house uninvited. Defendant acknowledged that Hayes wanted to know why they were going to let something come between their friendship. The drill bit was about four inches long and had a sharp one-inch head with a diagonal cut. Defendant held the drill bit in his right hand.

¶ 18 In rebuttal, for impeachment purposes only, the State presented a stipulation that defendant had convictions from 1991 for first degree murder and attempted armed robbery, for which he was sentenced to 40 years' imprisonment.

¶ 19 The court expressly found that Hayes' testimony regarding the altercation in this case was credible and "very, very convincing." It also found Scott's testimony credible. The court

reiterated that it would not consider defendant's prior conviction "in any way whatsoever" to impeach the credibility of his testimony. The court found that defendant's testimony was largely consistent with the other evidence in the case. However, his testimony that he did not know the drill bit was in his hand was not credible. The court stated that the photographs of Hayes' injuries showed that the "significant deep cut" on his face was "substantial" and inflicted with a sharp object. The court noted that the stitching for the facial cut required large strokes rather than fine stitches in order to pull together the "extensive wound." The court concluded that Hayes' sustained permanent disfigurement to his face.

¶ 20 The court stated that it compared the size, weight, and body disposition of Hayes and defendant. The court found that although Hayes was larger and taller than defendant, defendant was "not a man of minimum means whatsoever with respect to his physical appearance." The court further stated:

"The suggestion of mutual combat fails because of the disparity between the fact that there is no allegation that Mr. Hayes had a sharp object or other object in his hands. The overreaction by Mr. Hunt is clear to this Court. It is proof beyond a reasonable doubt."

The court found defendant not guilty of attempted first degree murder and aggravated battery with a deadly weapon, but guilty beyond a reasonable doubt of aggravated battery causing permanent disfigurement.

¶ 21 In his motion for a new trial, defendant argued that the State did not prove beyond a reasonable doubt that he did not act in self-defense. The trial court found that defendant chose to answer the door and step out onto the porch with a drill bit in his hand, at which time Hayes was not a threat to him. It further stated that although defendant weighed less than Hayes, defendant



appeared to be very physically fit, and it was “not a lopsided battle.” The court found no credibility in the assertion that defendant had the drill bit in his hand because Hayes interrupted him while he was involved in a home project. The court explained:

“When you come to the door with a weapon, you have agreed that this weapon would be used, that’s the escalation, that’s the imbalance and I took that into account with respect to my initial findings. The cut to the face was a very significant cut to the face. It wasn’t just a little cut. It was a – I cannot square that use of force to a person’s face is a permanent scar to the other situation that took place on the porch. \*\*\*

Mr. Hayes did not use good judgment going there but I don’t think that Mr. Hunt was in fear of imminent – I don’t think that Mr. Hunt was in reasonable fear, it was necessary to defend himself with what I consider a weapon. A tool becomes a weapon when it’s used in a situation where we have here. It appears Mr. Hunt came to the battle ready for battle and I don’t have any indication that Mr. Hayes came to the door with any weapon whatsoever and we end up with this nasty cut to the face. I cannot have people who have been cut on the face on a disagreement. That’s not going to happen. If the victim came with something other than himself the Court would have another opinion. I don’t have those facts, so the Defense motion for a new trial is respectfully denied.”

The circuit court sentenced defendant to 24 months’ probation with the conditions that he maintain employment, attend anger management counseling, and have no contact with Hayes.

¶ 22 On appeal, defendant contends that the State failed to prove him guilty beyond a reasonable doubt because it failed to prove that he did not act in self-defense where Hayes’ testimony was not credible, uncorroborated, and contradicted by defendant and Scott. Defendant

argues that contrary to Hayes' testimony, he testified that Hayes punched him first, attacked him, and attempted to forcibly enter his home. He argues that Hayes' testimony was disputed by Scott, who denied that defendant threatened to kill Hayes or said he would get a knife for Hayes. Nor did Scott testify that defendant knocked on his door and said "see what I did to his face." Defendant argues that the court erroneously found that Hayes did not have a sharp object or other object in his hand where Hayes admitted he was holding a beer bottle, Scott saw the bottle, and defendant testified Hayes swung at him with the bottle. Defendant claims that his use of self-defense was supported by the disparity in size between him and Hayes, and the fact that Hayes lifted him and slammed him to the ground. Defendant asserts that the evidence thereby showed that he justifiably used force that he reasonably believed was necessary to defend himself from Hayes' use of force and to prevent Hayes from entering his home.

¶ 23 The State responds that the court correctly found that defendant did not act in self-defense, because he was angry Hayes had come to his house and answered the door with a weapon in his hand. The State argues that Hayes' testimony that defendant swung at him and that he raised his arms in defense was corroborated by the photographs depicting the cuts to Hayes' face and arms. It argues that Hayes' testimony was also corroborated by defendant's testimony that he struck Hayes with the drill bit before Hayes allegedly swung the beer bottle at him and body-slammed him. The State asserts that there was no evidence that Hayes brought the beer bottle to attack defendant, but instead, the evidence showed that he came to defendant's house as a friend to talk to him. The State argues that defendant was the initial aggressor, that his belief that he needed to use a weapon was unreasonable, and that the amount of force he used was not necessary.

¶ 24 A person is justified in using force against another when and to the extent he reasonably believes such conduct is necessary to defend himself against the other person's imminent use of unlawful force. 720 ILCS 5/7-1(a) (West 2016). Self-defense is an affirmative defense, and when raised by defendant, it is the State's burden to prove beyond a reasonable doubt that defendant did not act in self-defense, in addition to proving the elements of the offense. *People v. Gray*, 2017 IL 120958, ¶ 50.

¶ 25 When defendant claims that he acted in self-defense, he must present some evidence of each of the following elements: (1) that unlawful force was threatened against a person; (2) that the person threatened was not the aggressor; (3) that there was an imminent danger of harm; (4) that his use of force was necessary; (5) that he actually and subjectively believed a danger existed that required the force applied; and (6) that his beliefs were objectively reasonable. *Id.*; *People v. Lee*, 213 Ill. 2d 218, 225 (2004). If the State negates any one of these elements, defendant's claim of self-defense must fail. *Id.*

¶ 26 On review, this court must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found, beyond a reasonable doubt, that defendant did not act in self-defense. *Gray*, 2017 IL 120958, ¶ 51. Under this standard, all reasonable inferences from the evidence must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42. In a bench trial, the trial court is responsible for determining the credibility of the witnesses, weighing the evidence, resolving conflicts in the evidence, and drawing reasonable inferences from therein. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009).

¶ 27 The testimony of a single witness is sufficient to sustain a conviction where it is positive and credible, even when it is contradicted by defendant. *Gray*, 2017 IL 120958, ¶ 36. A conviction will not be reversed simply because the evidence was contradictory or defendant claims a witness was not credible. *Id.*

¶ 28 Here, viewed in the light most favorable to the State, we find that the evidence was sufficient for the trial court to find that defendant was the aggressor, and therefore, did not act in self-defense. Hayes testified that he went to defendant's house with a small cooler of beer to talk with defendant, his friend of 30 years, in the hope of resolving their disagreement. Defendant similarly testified that Hayes had suggested he come to defendant's house and that they have a few beers and talk. Defendant also testified that Hayes was standing on his porch holding a portable cooler in one arm and a partially-drunk beer in his other hand. The testimony from both Hayes and defendant thereby established that Hayes did not approach defendant in an aggressive or threatening manner.

¶ 29 Hayes further testified that defendant exited his door swinging his hands at Hayes, striking him in the face. As defendant continued swinging his hands, Hayes held up his arms to block the blows and backed up until he reached the end of the porch. Unbeknownst to Hayes, throughout this time, defendant was holding in his right hand a four-inch drill bit with a sharp one-inch head with a diagonal cut. As defendant swung at Hayes with the drill bit, he inflicted numerous cuts to Hayes' body including a significant deep cut to his left cheek, cuts to his chin and chest, and cuts and defensive wounds on Hayes' arms. Hayes' testimony was corroborated by photographs depicting the severe cut to his cheek and the defensive cuts and wounds on his arms. Hayes testified that he began to defend himself, at which point he punched defendant in the

face, picked him up, and slammed him to the ground in his doorway. When defendant told Hayes to get off of him, he complied. According to defendant's own testimony, he hit Hayes with the drill bit before Hayes allegedly swung a beer bottle at him and slammed his body to the ground.

¶ 30 The court found Hayes' testimony credible and "very, very convincing." It also found that defendant's testimony was largely consistent with the other evidence in this case, except that his testimony that he did not know the drill bit was in his hand was not credible. The court rejected defendant's claim of self-defense, finding that there was no evidence of mutual combat, and that defendant had clearly overreacted. When denying defendant's motion for a new trial, the court further explained that defendant chose to answer the door with a weapon in his hand when Hayes was not a threat to him. The court stated that defendant had come to the door ready for battle, and that defendant did not have a reasonable fear that it was necessary to defend himself with a tool that he used as a weapon.

¶ 31 The record therefore reveals that the court determined that Hayes did not threaten unlawful force against defendant, that defendant was the aggressor, that defendant was not in imminent danger of harm, that his use of force against Hayes was not necessary, that defendant did not actually and subjectively believe that a danger existed that required the force he applied, and that defendant's alleged belief that he was facing harm from Hayes was not objectively reasonable. *Gray*, 2017 IL 120958, ¶ 50. By negating all of the elements, the State proved beyond a reasonable doubt that defendant did not act in self-defense.

¶ 32 In reaching this conclusion, we find no merit in defendant's argument that Hayes' testimony was not credible, uncorroborated, and contradicted by him and Scott. The determination of the credibility of Hayes' testimony and the resolution of any conflicts in the

evidence was within the province of the trial court, which expressly found Hayes' testimony credible and corroborated. Based on this record, we find no reason to disturb the trial court's credibility determination. *Siguenza-Brito*, 235 Ill. 2d at 228.

¶ 33 Nor do we find any error in the trial court's finding that Hayes did not have a sharp object or other object in his hand where all of the witnesses testified that he had been holding a beer bottle. The testimony showed that Hayes' intention was to drink a few beers with defendant while trying to resolve their disagreement. Hayes had already been drinking from the bottle in his hand, which was partially empty. There is no evidence in the record that Hayes approached defendant with the beer bottle in a threatening manner prior to defendant's attack on Hayes.

¶ 34 In addition, we are not persuaded by defendant's argument that his use of self-defense was necessary due to the disparity in size between him and Hayes. The trial court expressly stated that it considered their difference in size, and although Hayes was a larger man, it found that defendant was "not a man of minimum means whatsoever with respect to his physical appearance." When denying defendant's posttrial motion, the court stated that defendant was very physically fit, and that it was "not a lopsided battle." The trial court was able to personally observe the sizes of the two men. The record shows that the court determined that the disparity in size was not a factor that necessitated defendant's use of self-defense, and we find no basis for disturbing that determination.

¶ 35 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 36 Affirmed.