

2019 IL App (2d) 170376-U
No. 2-17-0376
Order filed June 20, 2019

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Kane County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 16-CM-2479
)	
DONNAL RILEY,)	Honorable
)	Kathryn D. Karayannis,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Presiding Justice Birkett and Justice Spence concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court did not err in barring defendant from introducing evidence to support his necessity defense, as defendant did not admit the offense and thus could not invoke necessity.
- ¶ 2 Defendant, Donnal Riley, appeals his conviction of domestic battery (720 ILCS 5/12-3.2(a) (West 2016)), contending that the trial court abused its discretion in barring him from introducing evidence that the victim previously had hurt herself and that he had tried to stop her. Because defendant was not denied a meaningful opportunity to present a complete defense, we affirm.

¶ 3

I. BACKGROUND

¶ 4 Defendant was charged by criminal complaint with one count of domestic battery based on bodily harm (grabbing, pushing, or striking Ashley Dillings' body or throat) (720 ILCS 5/12-3.2(a)(1) (West 2016)), and one count of domestic battery based on insulting or provoking contact (grabbing, pushing, or striking Dillings' body or throat) (720 ILCS 5/12-3.2(a)(2) (West 2016)). Defendant opted for a jury trial.

¶ 5 Before trial, defendant notified the State that he was going to raise an affirmative defense of necessity (720 ILCS 5/7-13 (West 2016)) based on his claim that Dillings was hurting herself during the charged incident and that he was only trying to stop her. In turn, the State filed a motion *in limine*, seeking to prohibit defendant from introducing evidence that Dillings had hurt herself in the past and that defendant had tried to stop her.

¶ 6 The trial court granted the State's motion and barred any evidence related to the fact that Dillings had hurt herself in the past. The court found that the probative value of such evidence was substantially outweighed by the risk of unfair prejudice. The court added that, because there was going to be evidence that Dillings was hurting herself during the charged incident, it would not be "relevant to put in anything else."

¶ 7 Defendant filed a motion to reconsider, arguing that evidence of past incidents in which Dillings had scratched herself and hit herself in the head was admissible as either character or habit evidence. In denying the motion to reconsider, the trial court, without deciding whether the proposed evidence constituted character or habit, explained that, if Dillings and defendant testified that she was hurting herself during the charged incident, then any probative value of the past acts would be reduced and substantially outweighed by the prejudicial effect.

¶ 8 The following facts were established at trial. According to Dillings, she had been dating defendant since September 2015. On July 7, 2016, between 8 and 9 p.m., a friend of Dillings dropped her off at a warehouse where defendant worked and lived. Dillings intended to spend the night with defendant.

¶ 9 Defendant met Dillings outside of the warehouse. Because he was not happy with what she was wearing, an argument ensued. When defendant tried to go inside to take a break from the argument, Dillings became frustrated and began scratching her arms and neck. According to Dillings, defendant returned and tried to make her stop by talking to her, hugging her, and grabbing both of her wrists.

¶ 10 Dillings and defendant heard a man on a nearby train yelling at defendant to stop. According to Dillings, defendant and the man exchanged words. Dillings then told the man that she was fine.

¶ 11 Defendant then walked away for about 5 to 10 minutes. During that time, Dillings calmed down. When defendant returned, he and Dillings sat on a curb and apologized to each other. Shortly thereafter, the police arrived.

¶ 12 Dillings denied that defendant threw her against a wall, choked her, or harmed her in any way. According to her, defendant put his hands on her only to stop her from hurting herself. Dillings testified that she caused her injuries. She refused any information from the police regarding domestic-violence victims, because she did not consider herself a victim.

¶ 13 According to defendant, after he met Dillings outside of the warehouse, they began arguing. The argument escalated, with the pair yelling and screaming at each other. After several minutes, Dillings began scratching her arms and neck. Defendant tried unsuccessfully to calm her. He then lightly grabbed her wrists to prevent her from scratching herself. Dillings

also punched herself in the head. At one point, defendant hugged Dillings to try to calm her. In trying to help her, he never squeezed her hard. Defendant denied scratching, choking, pushing, or punching Dillings.

¶ 14 At one point, defendant heard a man on the train telling him to take his hands off of Dillings. Defendant told the man to mind his own business, because the man did not know what was going on. Defendant admitted that the exchange between him and the man was heated.

¶ 15 Defendant then walked away to calm down. When he returned, Dillings had calmed down. He and Dillings then sat on the curb and smoked a cigarette. Shortly thereafter, the police arrived.

¶ 16 Randolph Whitt was working on a train that had temporarily stopped near the warehouse. At around 8 p.m., as he sat in the cab of the lead locomotive, he heard loud screaming. He went to the second locomotive and observed defendant and a young woman near the warehouse, about 300 feet away. Although it was getting dark, there were lights near the warehouse, and Whitt could clearly see.

¶ 17 According to Whitt, defendant held onto either a pillow or blanket that the woman was carrying or grabbed her shirt, and she was screaming and trying to pull away. Whitt saw defendant swinging down and striking the woman with his hand. It appeared that defendant was punching the woman.

¶ 18 At one point, the woman broke free and ran to within about 100 feet of Whitt's location. Defendant chased her. Whitt then stepped off of the train and yelled at defendant. Defendant, in turn, yelled to Whitt to mind his own business. Whitt and defendant then exchanged profanities.

¶ 19 Defendant then returned in the direction from which he had come, and the woman sat on a curb. Whitt, who was not allowed to leave the train, returned to the cab of the lead locomotive,

sat down, and watched the woman. A short while later, Whitt saw defendant sit down next to the woman. Defendant and the woman talked for about 10 minutes. Then they began to yell at each other and “broke into a fight again.” Both defendant and the woman stood up, and defendant forcibly pushed her against a wall. Defendant then pinned her against the wall with his right hand and choked her with his left hand. Whitt started yelling at defendant again. Defendant stopped, and both defendant and the woman walked toward the warehouse. Whitt never saw the woman scratch or hit herself. Nor did he ever see defendant hug the woman. Whitt then called the police.

¶ 20 Officer Christopher Johnson and Officer Klingberg of the Montgomery Police Department arrived. When Officer Johnson spoke with Dillings, he observed a bruise over her right eye. She also had scratches on her neck. Dillings did not allow photographs of herself to be taken. Although Officer Johnson considered her uncooperative, he admitted that she spoke to the officers and provided a written statement. However, she refused any information about domestic-violence victims.

¶ 21 Officer Johnson also interviewed Whitt. As he stood with Whitt outside the train, he could clearly see the location where the incident had occurred. He estimated the distance to be 75 to 100 feet. Whitt told Officer Johnson that he saw defendant and Dillings hug.

¶ 22 During closing argument, defendant asserted the necessity defense and argued that he used force only to try to stop Dillings from hurting herself. The trial court also instructed the jury on the necessity defense. The jury found defendant guilty of both counts of domestic battery.

¶ 23 Defendant filed a motion for a new trial, arguing, among other things, that the trial court erred in prohibiting him from introducing evidence that Dillings had hurt herself in the past and

that defendant had tried to stop her. In rejecting that argument, the trial court noted that defendant was allowed to introduce evidence that Dillings had hurt herself during the charged incident and that defendant had tried to stop her. The court added that it did not consider evidence of her past behavior to be character or habit evidence. Accordingly, the court found that any evidence of Dillings' prior conduct was not "particularly relevant in relation to the prejudice that that could have caused." Thus, the court denied the posttrial motion and sentenced defendant to terms of 12 months' probation and 7 days in jail with 7 days' credit for time served. Defendant, in turn, filed this timely appeal.

¶ 24

II. ANALYSIS

¶ 25 On appeal, defendant contends that the trial court abused its discretion in barring evidence of Dillings' prior conduct of hurting herself and defendant's prior efforts to prevent her from doing so and that he was thus denied the right to present a complete defense.¹ The State responds that the evidence was properly barred, because its probative value was substantially outweighed by the danger of unfair prejudice, confusion of the issues, and potential to mislead the jury.

¶ 26 A criminal defendant has a right to a meaningful opportunity to present a complete defense. *People v. Johnson*, 2018 IL App (1st) 140725, ¶ 58 (citing *Holmes v. South Carolina*, 547 U.S. 319, 331 (2006)). However, well-established rules of evidence permit the trial court to

¹ Although defendant suggests that he forfeited the issue and that it should be analyzed as plain error, the State responds that there was no forfeiture. We agree with the State, as defendant objected to the State's motion *in limine*, filed a motion to reconsider the trial court's pretrial ruling, and raised the issue again in his motion for a new trial. Thus, defendant properly preserved the issue. See *People v. Denson*, 2014 IL 116231, ¶¶ 11-13.

exclude evidence if its probative value is outweighed by other factors, such as unfair prejudice, confusion of the issues, or potential to mislead the jury. *Johnson*, 2018 IL App (1st) 140725, ¶ 58 (citing *Holmes*, 547 U.S. at 326). A trial court has the inherent authority to admit or exclude evidence, and we review the decision to grant or deny a motion *in limine* for an abuse of discretion. *Johnson*, 2018 IL App (1st) 140725, ¶ 57. An abuse of discretion occurs only if the trial court's ruling is arbitrary, fanciful, or unreasonable or where no reasonable person would take the trial court's view. *People v. Herring*, 2018 IL App (1st) 152067, ¶ 62. We may affirm an evidentiary ruling on any basis supported by the record. *People v. Davis*, 2018 IL App (1st) 152413, ¶ 37.

¶ 27 In this case, defendant raised the necessity defense, contending that Dillings was hurting herself and that it was necessary for him to cause a lesser harm to prevent her from causing greater harm to herself. See 720 ILCS 5/7-13 (West 2016). However, the necessity defense is not available to a defendant who does not admit that he committed the charged offense. *People v. Sanchez*, 2013 IL App (2d) 120445, ¶ 84 (Birkett, J., dissenting).

¶ 28 Here, defendant did not admit that he battered Dillings. He did not admit that he pushed or struck her, and he did not admit that he caused her bodily harm or made insulting or provoking contact. To the contrary, he asserted that he merely lightly grabbed her wrists and hugged her in an effort to soothe and clam her. Further, he maintained that Dillings scratched her own throat and hit herself in the head. Because defendant did not admit that he committed the charged offense, he could not rely on the necessity defense. Because the necessity defense was not available to defendant, the trial court, in granting the State's motion *in limine*, did not deny him a meaningful opportunity to present a complete defense.

¶ 29

III. CONCLUSION

¶ 30 For the reasons stated, we affirm the judgment of the circuit court of Kane County.

¶ 31 Affirmed.