2019 IL App (3d) 160453-U

Order filed May 24, 2019

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-16-0453 Circuit No. 14-CF-1748
KADIEDRA S. SPEED,	)	Honorable Daniel J. Rozak,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Justices Lytton and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant was proven guilty of first degree murder beyond a reasonable doubt. Defendant is not entitled to reduction of her first degree murder conviction to second degree murder.

¶ 2 Defendant, Kadiedra S. Speed, appeals her conviction for first degree murder. Defendant argues there was insufficient evidence to convict her of first degree murder because the State failed to prove beyond a reasonable doubt that she did not act in self-defense at the time she killed the victim. Alternatively, defendant argues her conviction for first degree murder should

be reduced to second degree murder because she presented sufficient evidence to show she was either acting under a sudden or intense passion resulting from serious provocation or she had an actual but unreasonable belief that she was justifiably acting in self-defense. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged with first degree murder (720 ILCS 5/9-1(a)(2) (West 2014)). The charging instrument alleged defendant, without lawful justification, stabbed Sharleatha Green about the body, knowing such an act created a strong probability of death or great bodily harm to Green, thereby causing Green's death.

¶ 5 The matter proceeded to a bench trial. Deondre Brefford testified that Green was his girlfriend. In August 2014, he lived in an apartment with Green, defendant, and Markus Molden, defendant's boyfriend. Defendant and Molden paid rent to Green. There were two bedrooms in the apartment. The smaller bedroom was accessible only from the larger bedroom. Defendant and Molden slept in the small bedroom. Brefford and Green slept on a mattress in the living room.

¶ 6 On the evening of August 30, 2014, defendant and Green got into an argument in the apartment. The argument did not get physical. After the argument, Brefford drove Green to work. When Brefford returned to the apartment, defendant had calmed down. Defendant went to work in the early morning hours of August 31, 2014. At that time, Brefford, Enriqueta Smith, Ashley Miller, and Marquita Miller, were in Green's apartment. Smith and Ashley were sleeping in the larger bedroom, and Marquita was sleeping on the couch in the living room. Brefford left the apartment to pick Green up from work around 6 or 6:30 a.m. They stopped on the way home to purchase new entryway locks. When they returned to the apartment, Green and Brefford smoked cannabis. Smith, Ashley, and Marquita were still sleeping. Green changed the locks and

packed defendant's and Molden's belongings. Green told Brefford defendant would be moving out of the apartment that day because Green was irritated with her. Molden entered the apartment, and Green had a conversation with him about defendant moving out. Molden left the apartment.

¶ 7 Approximately one hour later, Brefford and Green heard a window crash in one of the bedrooms. Brefford woke everyone up, and they all entered the living room and kitchen area. Brefford did not know what had broken the window at that point. A few seconds later, defendant entered the living room area from a bedroom and charged at Green, who was sitting on the mattress in the living room. Defendant was yelling, but Brefford did not know what she was saying. Green stood up and yelled back at defendant. Green got into a defensive position, and defendant continued to move toward her. Brefford could not see what defendant was doing, but saw Green looking scared. Defendant moved her hand toward Green in a stabbing motion. Brefford initially thought defendant was going to punch Green, but he saw a knife in defendant's hand when he got closer. Brefford observed the knife exit Green's chest, but he did not see the knife enter her chest. Brefford grabbed defendant from behind. The knife was no longer in defendant's hand at that time. Brefford said there was nothing in Green's hands when defendant stabbed her, and he did not recall Green holding a baseball bat during the incident. From the time Brefford heard the glass break to the time he grabbed defendant, approximately 12 seconds elapsed.

¶ 8 Brefford released defendant, and Green fell back onto the mattress. Brefford noticed Molden had entered the apartment. Molden and defendant then left the apartment through the front door. Marquita called 911, and the police arrived 10 to 15 minutes later.

¶ 9 Detective Mark Lauer testified that he interviewed Brefford about the incident at the police department. After the interview had concluded, Lauer learned other officers had found a baseball bat at the scene. Lauer asked Brefford about the baseball bat. Brefford said he remembered Green standing up and holding the bat, but he did not recall her using the bat.

¶ 10 Smith testified that she went to Green's apartment with Ashley on the evening of August 30, 2014. Smith and Ashley slept in the larger bedrooms. While Smith was sleeping, she heard glass breaking and woke up. Smith remembered seeing someone, who she later realized was defendant, run through the room she had been sleeping in. Smith looked out of the doorway of the bedroom, and she saw defendant charge at Green. Green was holding a baseball bat. Smith did not know whether Green swung the bat. Smith then saw Green on the floor. Smith saw blood, and she assumed Green had been stabbed. Defendant said she was sorry and ran out of the apartment. Smith did not recall telling a detective defendant stabbed Green 10 times. She also did not recall telling a detective that defendant said "I told you I was going to get you."

¶ 11 A video recording of Smith's interview with a detective was introduced for impeachment purposes. In the video recording, Smith told the detective that defendant stabbed Green at least 10 times. Smith told the detective that defendant said "I told you I was going to get you" after she stabbed Green.

¶ 12 Ashley testified that she spent the night at Green's apartment with her girlfriend, Smith, on August 30, 2014. They went to sleep at approximately 11 p.m. or 12 a.m. in one of the bedrooms. Ashley's sister, Marquita, arrived at the apartment after Ashley had fallen asleep. Ashley woke up when she heard someone tell her to get up. Ashley walked to the doorway of the bedroom. She looked out into the living room and saw Green fall onto a mattress. Smith was standing in front of Ashley, but Ashley "could still kind of see" what was happening in the living

room. Ashley saw Green had a cut. Ashley assumed Green had been stabbed, but she did not see it happen. Ashley heard defendant say she was sorry. Defendant and Molden then ran out of the apartment. Ashley said "maybe less than a minute" passed between the time she got up and the time defendant ran out the door. Ashley did not recall Green holding a bat, but she assumed Green had been holding one because she saw a bat near Green. Ashley did not recall telling a detective that defendant had said "that's what you get" shortly after the stabbing.

¶ 13 Officer Jeffrey Tropp, an evidence technician, testified that he was dispatched to the scene on the day of the incident. Tropp took photographs of the scene. Tropp observed that one of the windows to the apartment was broken and there was a significant amount of blood on the window. Tropp also observed blood smears on the walls inside the apartment. Police officers collected a knife from the scene. Tropp observed a baseball bat in the living room area. There appeared to be blood on the handle of the bat near the base. Tropp collected the baseball bat.

¶ 14 Officer Dan Wooton testified that he located defendant several blocks away from Green's apartment shortly after the incident. Defendant was fighting with another woman in a parking lot. Defendant's hands were bleeding. Several other individuals were also present, and Wooton recognized some of them as witnesses from the scene. Someone told Wooton defendant had stabbed Green. Wooton placed defendant in handcuffs and called for an ambulance. Wooton identified several photographs of defendant that were taken at the hospital. The photographs showed injuries to defendant's hands. Wooton did not notice any other injuries on defendant.

¶ 15 A forensic pathologist testified that she performed Green's autopsy. The forensic pathologist opined that the cause of Green's death was one stab wound to the chest. The stab wound caused bleeding in the left chest cavity, which caused Green to lose oxygen to her brain

and die. The forensic pathologist opined that the individual who stabbed Green would have had to use a significant amount of force.

¶ 16 A forensic biologist from the Joliet Forensic Science Laboratory testified that she tested the blade of a knife recovered from the scene for DNA. She found that the DNA on the blade matched Green's DNA profile. She found that DNA on the handle of the knife, two walls, a doorknob, the bedroom window at the point of entry, and the barrel and handle of the baseball bat matched defendant's DNA profile.

¶ 17 The State rested.

¶ 18 Defendant testified that at the time of the incident, she lived in an apartment with Green, Brefford, and Molden. She kept all of her possessions there. Marquita lived there sometimes, and Ashley was around occasionally. Defendant paid rent to Green. Defendant worked at a bakery and walked to work in the early morning hours. She carried a pocket knife for protection while she walked to work. Defendant also had a business in which she styled hair. Defendant had expensive hair styling tools for this business.

¶ 19 Defendant testified that on August 30, 2014, Brefford entered her bedroom and asked her to come outdoors. Brefford and Green were having an argument outside, and Brefford wanted defendant's input. Defendant was not arguing with anyone. After the argument, defendant returned to her room and went to sleep. She awoke at 4:45 a.m. on August 31, 2014, to go to work. When defendant was at work, Molden came to the bakery and told her they needed to go home and pack their things because they had to leave Green's apartment. Defendant returned to the apartment.

¶ 20 Defendant attempted to enter the apartment through the door, but her key did not work. She knocked on the door and identified herself. She heard people laughing. She knocked on the

door again, but no one opened it. Defendant then went to her bedroom window. She tried to open the window, but it would not open all the way. Defendant punched the window with her fist, and her knuckles started bleeding. Defendant then kicked the window with her foot until enough glass had broken that she could fit through the window.

¶ 21 Defendant entered her bedroom. Her box spring was gone and her mattress was on its side. Her clothes were packed in garbage bags. Defendant walked through the other bedroom and into the living room area. Defendant saw Ashley and Brefford sitting in the kitchen area. Smith was standing behind Ashley, and Marquita was sitting on the couch. Green was standing by her mattress holding a baseball bat. When defendant saw the bat, she felt threatened. She "was hoping that nobody did anything" because she was not posing a threat. Defendant asked where her belongings were. Green said defendant was not getting her things, and she needed to leave the apartment. Defendant said she would get her belongings and leave. Green said she would beat defendant with the baseball bat if defendant took another step. Defendant said she would defend herself if Green touched her with the bat. Defendant pulled out her pocket knife and flipped the blade up. Defendant began walking toward a closet to retrieve her hair styling tools.

¶ 22 Green charged at defendant with the bat in her hand. When defendant saw Green coming, she charged at Green. Green swung the bat toward defendant's head, but defendant ducked. Defendant tried to punch Green in the face but she missed. Green then began hitting defendant on her head and arm with the bat. Defendant was blocking the bat with both hands. Defendant attempted to knock the bat out of Green's hands. Brefford grabbed defendant and tried to pull her back. Green moved closer to defendant and continued swinging the bat. Green hit defendant on the head with the bat. Defendant broke loose from Brefford's grip and stabbed Green with the knife. Green stopped swinging the bat. Defendant saw blood on Green's shirt. Brefford dragged

Green to the mattress and laid her there. Defendant was shocked and scared. Defendant said she was sorry and she did not mean to do it. Molden entered the apartment and asked defendant what happened. Defendant said she did not know. Defendant and Molden left the apartment.

¶ 23 Defendant testified that she was not trying to kill Green. Rather, defendant was trying to defend herself. Defendant acknowledged she had previously told a detective the knife opened accidentally, which was not true. Defendant also told the detective that Green fell toward her, and defendant accidentally stabbed Green when trying to catch her. Defendant testified that this statement was untrue. Defendant told the detective that she knocked on the door and announced who she was before she broke the window. Defendant also told the detective that Green swung the bat at her and hit her in the head.

¶ 24 The State called Detective Carlos Matlock as a rebuttal witness. Matlock testified he interviewed defendant on the day of the incident. During the interview, defendant never said she knocked on the door of the apartment or announced her presence before breaking the window. Defendant never said she was struck in the head with a baseball bat. Defendant said she and Green got into a fight, and she blacked out during the fight.

¶ 25 During closing argument, defense counsel argued that defendant acted in self-defense. Alternatively, defense counsel argued that defendant was guilty of only second degree murder because "[s]he used a force that she thought was necessary to protect herself." Defense counsel said defendant only took her knife out after Green began swinging a baseball bat at her. Defense counsel argued:

> "The State wants you to believe that this is now not self defense. First of all, let's be clear, it is not certainly mutual combat. If this was mutual combat, [defendant] is not going to come into that home with an injured hand and try to

> fight someone. If this is mutual combat, she is going to knock on that door and say, I am outside and waiting for you and wait until you get out. That didn't happen. They want you to believe it is mutual combat with a bleeding hand and her only purpose was to get her stuff."

Defense counsel also stated: "Here again it is not a mutual combat situation. This is not where she came in looking for a fight."

¶ 26 During rebuttal closing argument, the State said it agreed that the case did not involve mutual combat; rather, the State argued that it was a brutal murder.

¶ 27 The court found defendant guilty of first degree murder.

¶ 28 Defendant filed a motion for a new trial arguing, *inter alia*, the State failed to prove her guilty beyond a reasonable doubt of first degree murder. The motion alleged defendant's use of force against Green was justified pursuant to section 7-1 of the Criminal Code of 2012 (Code) (720 ILCS 5/7-1 (West 2014)). The motion alternatively requested the court vacate its finding of guilty as to first degree murder and enter a finding of guilty as to second degree murder because defendant actually but unreasonably believed she was entitled to act in self-defense.

¶ 29 The court denied defendant's motion for a new trial. The court said it spent a considerable amount of time going over the evidence and testimony of the witnesses. The court noted that defendant had as much of a right to be in the apartment as Green because she lived there and was paying rent. The court did not find it significant that Green was holding a baseball bat during the incident. The court noted that Green would not have been able to see who had broken the window and may have grabbed the bat for protection. Based on the photographic evidence showing the position of the bat and the bloodstains, the court found defendant's

testimony that she walked toward the closet rather than toward Green when she entered the living room was not credible.

¶ 30 The court sentenced defendant to 20 years' imprisonment.

¶ 31 II. ANALYSIS

¶ 32 A. Sufficiency of the Evidence

¶ 33 Defendant argues the evidence at trial was insufficient to prove her guilty beyond a reasonable doubt of first degree murder because she stabbed Green in self-defense.

¶ 34 To prove defendant guilty of first degree murder, the State was required to prove defendant, without lawful justification, performed acts that caused Green's death while knowing these acts created a strong probability of death or great bodily harm to Green. *Id.* § 9-1. Because defendant raised the affirmative defense of self-defense, the State was also required to prove beyond a reasonable doubt that defendant did not act in self-defense. *People v. Lee*, 213 Ill. 2d. 218, 225 (2004).

¶ 35 Defendant does not argue that the State failed to prove she performed acts which caused Green's death while knowing these acts created a strong probability of death or great bodily harm to Green. Rather, defendant argues the State failed to prove she did not act in self-defense.

> "The elements of self-defense are: (1) that unlawful force was threatened against a person; (2) that the person threatened was not the aggressor; (3) that the danger of harm was imminent; (4) that the use of force was necessary; (5) that the person threatened actually and subjectively believed a danger existed that required the use of the force applied; and (6) the beliefs of the person threatened were objectively reasonable." *Id.*

See also 720 ILCS 5/7-1, 7-4 (West 2014). "If the State negates any one of these elements, the defendant's claim of self-defense must fail." *Lee*, 213 Ill. 2d at 225.

¶ 36 When considering a challenge to the sufficiency of the evidence, it is not the function of the appellate court to retry the defendant. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). Rather, " 'the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " (Emphasis in original.) *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). " 'This standard of review does not allow the reviewing court to substitute its judgment for that of the fact finder on questions involving the weight of the evidence or the credibility of the witnesses.' " *People v. Hardman*, 2017 IL 121453, ¶ 37 (quoting *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009)).

¶ 37 Viewing the evidence in the light most favorable to the State, we find that a rational trier of fact could have found the State proved beyond a reasonable doubt that defendant did not act in self-defense when she stabbed Green. Brefford and Smith both testified defendant charged at Green and stabbed her seconds after entering the apartment. This testimony indicated that defendant was the initial aggressor. Moreover, the only evidence that Green used any force against defendant during the incident was defendant's own testimony that Green charged at her when she was trying to retrieve her hair styling tools and struck her in the head with a baseball bat. While Smith's testimony and Brefford's statements to Detective Lauer indicated that Green was holding a baseball bat during the incident, neither Brefford nor Smith recalled seeing Green swing the bat at defendant. Notably, defendant did not tell Detective Matlock she had been struck in the head with a baseball bat when he interviewed her on the date of the incident. Also, defendant's testimony that Brefford held her while Green swung the bat at her was contradicted

by Brefford's testimony that he grabbed defendant only after she had stabbed Green. We also note that the trial court found defendant's testimony that she was walking toward the closet rather than toward Green's mattress at the time of the altercation was not credible.

¶ 38 Given the inconsistencies between defendant's account of the incident and the testimony of the other occurrence witnesses, a rational trier of fact could have found defendant's testimony lacked credibility. We may not substitute our judgment for that of the trier of fact on questions the credibility of the witnesses. *Hardman*, 2017 IL 121453, ¶ 37. Without defendant's testimony that she stabbed Green only after Green struck her with the baseball bat, there was no evidence defendant acted in self-defense when she stabbed Green.

¶ 39 Defendant argues the testimony of the State's occurrence witnesses was conflicting and unreliable. Defendant notes that the witnesses gave inconsistent accounts as to whether defendant said after the incident she had told Green she would "get" her or whether defendant instead said she was sorry. Defendant also notes Brefford's testimony that he smoked cannabis prior to the incident and the fact that Smith incorrectly informed a detective that defendant stabbed Green at least 10 times. While we acknowledge these weaknesses in the testimony of the State's occurrence witnesses, we may not substitute our judgment for that of the trial court on questions involving the weight of the evidence or the credibility of the witnesses. *Id.* Also, the testimony of the State's occurrence witnesses was consistent in significant respects. Brefford and Smith both testified defendant charged at Green and stabbed her seconds after entering the apartment. While Ashley did not personally see as much of the incident as Brefford and Smith, her testimony was generally consistent with the accounts given by Brefford and Smith. Although the testimony of the State's occurrence witnesses indicated that Green was holding a baseball bat during the incident, none of them recalled Green swinging the bat at defendant.

¶ 40 B. Reduction to Second Degree Murder

¶ 41 Alternatively, defendant argues her conviction for first degree murder should be reduced to second degree because she presented sufficient evidence that (1) she was acting under a sudden or intense passion resulting from serious provocation, or (2) she had an actual but unreasonable belief she was justifiably acting in self-defense when Green confronted her with a baseball bat.

¶ 42 Section 9-2(a) of the Code (720 ILCS 5/9-2(a) (West 2014)) provides:

> "(a) A person commits the offense of second degree murder when he or she commits the offense of first degree murder *** and either of the following mitigating factors are present:
>
> (1) at the time of the killing he or she is acting under a sudden and intense passion resulting from serious provocation by the individual killed or another whom the offender endeavors to kill, but he or she negligently or accidentally causes the death of the individual killed; or
>
> (2) at the time of the killing he or she believes the circumstances to be such that, if they existed, would justify or exonerate the killing under the principles stated in Article 7 of this Code, but his or her belief is unreasonable."

Once the State has proven defendant guilty of first degree murder beyond a reasonable doubt, the burden shifts to the defendant to prove either of the above two factors by a preponderance of the evidence. *Id.* § 9-2(c); *People v. Simon*, 2011 IL App (1st) 091197, ¶ 51.

¶ 43 Where a defendant claims she presented sufficient evidence to prove one of the mitigating factors necessary to establish second degree murder, "we consider whether, after

viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found that the mitigating factors were not present." *People v. Blackwell*, 171 Ill. 2d 338, 357-58 (1996).

¶ 44 1. Serious Provocation

¶ 45 First, defendant argues she showed by a preponderance of the evidence that she was seriously provoked by Green. "Serious provocation is conduct sufficient to excite an intense passion in a reasonable person ***." 720 ILCS 5/9-2(b) (West 2014). "The only categories of provocation recognized by [our supreme] court are substantial physical injury or substantial physical assault, mutual quarrel or combat, illegal arrest, and adultery with the offender's spouse." *People v. Garcia*, 165 Ill. 2d 409, 429 (1995). Defendant contends that the categories of substantial physical injury or assault and mutual combat apply in the instant case.

¶ 46 a. Substantial Physical Injury or Assault

¶ 47 Viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found defendant was not acting under serious provocation resulting from substantial physical injury or assault by Green at the time she stabbed Green. The only evidence Green physically injured or assaulted defendant was defendant's own testimony that Green struck her in the head with a baseball bat while Brefford restrained her. This testimony was contradicted by that of the other occurrence witnesses. *Supra* ¶¶ 37-38. Given the inconsistencies between defendant's account of the incident and that of the State's occurrence witnesses, a rational trier of fact could have found defendant's testimony was not credible and, consequently, she did not prove by a preponderance of the evidence that she was seriously provoked by substantial physical injury or assault.

¶ 48 We reject defendant's argument that the presence of her blood on the handle and barrel of the baseball bat shows she was struck with the bat because none of the State's occurrence witnesses testified that she handled the bat. While none of the State's occurrence witnesses testified that defendant handled the bat, none of these witnesses testified that Green struck defendant with the bat. Also, when defendant was interviewed by an officer on the day of the incident, she did not mention being struck by a baseball bat. We will not substitute our judgment for that of the trier of fact on matters concerning the resolution of inconsistencies in the evidence. See *People v. Evans*, 209 Ill. 2d 194, 211 (2004) ("It is the function of the trier of fact to assess the credibility of the witnesses, to determine the appropriate weight of the testimony, and to resolve conflicts or inconsistencies in the evidence.").

¶ 49 b. Mutual Combat

¶ 50 Defendant also argues she proved by a preponderance of the evidence that she stabbed Green under serious provocation while involved in mutual combat with Green. Defendant notes her testimony that after Green charged at her with a baseball bat, she charged at Green and they began fighting. Defendant argues she and Green entered into combat on equal terms because they fought in hot blood while both armed with a weapon—Green with a bat and defendant with a knife. "Mutual combat is a fight or struggle which both parties enter willingly or where two persons, upon a sudden quarrel and in hot blood, mutually fight upon equal terms and where death results from the combat." *People v. Austin*, 133 Ill. 2d 118, 125 (1989).

¶ 51 We find defendant is estopped from arguing on appeal that she and Green were engaged in mutual combat at the time she stabbed Green because it is inconsistent with her position in the trial court. See *People v. Major-Flisk*, 398 Ill. App. 3d 491, 500 (2010) ("A party is estopped from taking a position on appeal that is inconsistent with a position the party took in the trial

court."). *People v. Johnson*, 334 Ill. App. 3d 666, 680 (2002) (quoting *In re E.S.*, 324 Ill. App. 3d 661, 670 (2001) (" A party forfeits [his] right to complain of an error where to do so is inconsistent with the position taken by the party in an earlier court proceeding.")). At trial, defendant's theory was that she stabbed Green in self-defense or, alternatively, she stabbed Green based on an actual but unreasonable belief that she was justified in acting in self-defense. Consistent with defendant's theory of self-defense, defense counsel explicitly argued at trial that the case did not involve mutual combat.

¶ 52 We reject defendant's argument that her position on appeal is not inconsistent with the position she took in the trial court. Specifically, defendant argues that her position in the trial court regarding mutual combat was that she was not "looking for a fight" at the time she entered the apartment. Defendant contends her position on appeal is that a mutual combat situation arose *after* she entered the apartment. However, the record shows defendant's theory of the case at trial was that defendant only used her knife to defend herself after Green swung a bat at her. An argument that defendant and Green were engaged in mutual combat would have been inconsistent with this position. See *People v. Sutton*, 353 Ill. App. 3d 487, 496 (2004) ("One who acts in self-defense is not entering into combat of his own free will and is not entitled to a mutual combat instruction.").

¶ 53 Even if we were to review defendant's mutual combat claim, we would find that a rational trier of fact could have found defendant did not establish by a preponderance of the evidence that she was engaged in mutual combat with Green at the time she stabbed Green. The only evidence that both Green and defendant were engaged in a physical altercation was defendant's own testimony. None of the other occurrence witnesses testified that Green used force against defendant during the incident. Based on the inconsistencies between defendant's

testimony and the testimony of the other occurrence witnesses, the trial court could have reasonably found defendant's testimony was not credible. See *supra* ¶¶ 37-38.

¶ 54 2. Unreasonable Belief of Right to Self-Defense

¶ 55 Defendant argues she established by a preponderance of the evidence that she had an actual but unreasonable belief at the time she stabbed Green that she had the right to act in self-defense. See 720 ILCS 5/9-2(a)(2) (West 2014). Defendant argues that the environment in Green's apartment was hostile prior to the incident, and she knew she would not be warmly received when she broke the window to enter the apartment. Defendant argues her knowledge that the apartment would be a hostile environment combined with her observation of Green holding a baseball bat gave her an actual but unreasonable belief that she was entitled to defend herself.

¶ 56 Viewing the evidence in the light most favorable to the State, a rational trier of fact could have found defendant did not have an actual but unreasonable belief that she was acting in self-defense under these circumstances. When defendant stabbed Green in the chest, she used an amount of force that was likely to cause death or great bodily harm to Green. Accordingly, in order to establish a claim of imperfect self-defense, defendant was required to show she actually but unreasonably believed that this amount of force was necessary to prevent Green from inflicting imminent death or great bodily harm upon her. *Id.* §§ 7-1(a), 9-2(a)(2). A rational trier of fact could have found that merely seeing Green holding the bat did not actually cause defendant to believe she was in danger of imminent death or great bodily harm.

¶ 57 Significantly, defendant's own testimony does not support her argument that merely seeing Green holding the bat caused her to believe she was justified in defending herself. Defendant testified that seeing Green holding the bat made her feel threatened, but she did not

testify that this alone caused her to believe it was necessary to stab Green in order to defend herself. Rather, defendant testified that she stabbed Green in an attempt to defend herself only after Green repeatedly swung the baseball bat at her head. As we have discussed, the trial court could have reasonably found this testimony was not credible in light of the conflicting testimony of the other occurrence witnesses. See *supra* ¶¶ 37-38.

¶ 58 III. CONCLUSION

¶ 59 The judgment of the circuit court of Will County is affirmed.

¶ 60 Affirmed.