2019 IL App (3d) 180468-U

Order filed June 18, 2019

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
	)	Rock Island County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal No. 3-18-0468
v.	)	Circuit No. 17-CM-1172
	)	
STEVEN CARLSON,	)	Honorable
	)	Carol M. Pentuic,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE McDADE delivered the judgment of the court.
Justices O'Brien and Wright concurred in the judgment.

ORDER

¶ 1 *Held*: Evidence presented at trial was sufficient to allow a rational trier of fact to conclude beyond a reasonable doubt that defendant was guilty of domestic battery.

¶ 2 Defendant, Steven Carlson, appeals following his conviction for misdemeanor domestic battery. He argues that the evidence presented at trial was insufficient to prove him guilty beyond a reasonable doubt. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant with one count of domestic battery (720 ILCS 5/12-3.2(a)(1) (West 2016)). The charging instrument alleged that defendant knowingly caused bodily harm to H.C. by striking her in the face with a pan of brownies. The matter proceeded to a bench trial on May 8, 2018.

¶ 5 At trial, H.C. testified that she was born on November 18, 2002. Defendant was her father, and he was divorced from H.C.'s mother. H.C. stayed at defendant's house every other weekend, including the weekend of October 8, 2017. That morning, H.C. and defendant went to the grocery store with H.C.'s younger sibling, A.C. They bought three pumpkins and a pumpkin spice roll. H.C. sometimes referred to the pumpkin spice roll as a brownie during her testimony.

¶ 6 Later that day, at defendant's house, H.C. went into the kitchen to retrieve a brownie. She testified that the snack was in "a plastic-ish, metal-ish brownie pan." H.C. described the pan as "kind of heavy" and "very sturdy." H.C. cut a piece from the middle of the pan. She took it into the living room and ate it while watching television with A.C.

¶ 7 Some time later, defendant entered the kitchen. H.C. testified that defendant said, in an angry tone, " 'Who in the hell took the middle piece out of the pan?' " H.C. went to the doorway between the living room and kitchen. She testified that defendant said to her: " 'What made you think you could do that?' " H.C. replied by telling defendant she "felt like having the middle piece." H.C. continued: "There was a pause, and I remember he looked at me and then he looked at the pan and then, before I could do anything, it, like, hit my face."

¶ 8 H.C. testified that defendant had thrown the pan "like a [F]risbee" at her face. The pan hit her in the mouth. She testified that the impact "hurt really bad." She caught the pan in her hands after it hit her. H.C. testified that defendant then said: "Selfish, selfish. Now you can take this

home." H.C. went to her bedroom. After tasting blood, she realized that the upper-left portion of her lip was bleeding. She retrieved a paper towel and held it to the wound. H.C. was in her bedroom with A.C. for 15 minutes; A.C. was crying. Eventually defendant came to the room and apologized, telling H.C., " 'Daddies shouldn't do that.' " H.C. and A.C. returned to their mother's house later that day. H.C. was taken to the police station the same night.

¶ 9 A.C. was 11 years old at the time of trial. She referred to the treat purchased at the grocery store as a "cinnamon brownie pan." A.C. recalled H.C. getting a brownie for herself and eating it in the living room with her. A.C. later heard defendant "yelling [and] screaming" from the kitchen, lamenting that someone had removed the middle portion of brownie. When H.C. went to the kitchen doorway, A.C. went to H.C.'s bedroom and hid in the closet.

¶ 10 H.C. eventually came to her bedroom as well. A.C. testified that H.C. was crying and holding her mouth, which was "all bloody and red." H.C. told A.C. that defendant had hit her with the brownie pan. Defendant eventually entered the room and apologized.

¶ 11 Eugenio Barrera of the Rock Island Police Department interviewed defendant as part of his investigation. Barrera testified that defendant admitted he was angry that H.C. had cut out a middle piece from the dessert. Defendant told Barrera that he did not want the dessert anymore, so he tossed the tray "[a]t her lap." Defendant told Barrera that he did not see the tray strike H.C. in the face and he did not realize initially that H.C. was injured.

¶ 12 Barrera took photographs of H.C.'s bloodied lip, which the State introduced into evidence. Barrera agreed with defense counsel's characterization of the pan of brownies as "flimsy." He testified that the pan was aluminum and disposable, with a plastic lid on top.

¶ 13 After the State rested, defendant testified on his own behalf. He testified that he noticed that "someone cut out the center of the brownie." He found this selfish and unacceptable. He

asked, "Who the hell cut out the center of the brownie?" H.C. entered the kitchen with an empty plate and admitted it was her. Defendant testified: "I said, you know, 'you might as well take the damn brownies home.' And I tossed them at her."

¶ 14 Defendant testified that the toss was not "hard." H.C. was approximately three feet from him, and he tossed the brownies in order to "make a point." He was not trying to hit H.C. with the brownies. He threw the brownie pan at her hands, which were at the height of the countertop. He saw the pan hit her in the hands. Defendant did not know how the pan could have injured H.C.'s lip. Defendant eventually went to H.C.'s room to apologize. It was there that he first noticed H.C.'s lip was bleeding.

¶ 15 On cross-examination, defendant agreed that he threw the pan of brownies in a Frisbee-like fashion. He opined that the pan must have bounced off of H.C.'s hands or the countertop and into her face. Defendant insisted that he was not trying to strike H.C. with the brownies. On redirect, when defense counsel asked defendant if he had "any intention whatsoever of striking [H.C.] with the brownies at all," defendant responded, "No."

¶ 16 In rebuttal, H.C. testified that the pan did not ricochet off any other surfaces before striking her face. She testified that she was standing a "[c]ouple feet" from defendant at the time.

¶ 17 The court found defendant guilty and sentenced him to 24 months of conditional discharge and 60 days in jail, which was stayed pending compliance.

¶ 18 II. ANALYSIS

¶ 19 On appeal, defendant argues that the State failed to prove him guilty beyond a reasonable doubt. Specifically, he contends that the State did not provide evidence sufficient to show that defendant acted knowingly.

¶ 20 When a challenge is made to the sufficiency of the evidence at trial, we review to determine whether any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v. Baskerville*, 2012 IL 111056, ¶ 31; *People v. Collins*, 106 Ill. 2d 237, 261 (1985). In making this determination, we review the evidence in the light most favorable to the prosecution. *Baskerville*, 2012 IL 111056, ¶ 31. All reasonable inferences from the record in favor of the prosecution will be allowed. *People v. Bush*, 214 Ill. 2d 318, 327 (2005). The relevant question is whether any rational trier of fact could have found the elements of the crime proven beyond a reasonable doubt. See *People v. Pintos*, 133 Ill. 2d 286, 292 (1989).

¶ 21 It is not the purpose of a reviewing court to retry a defendant. *People v. Milka*, 211 Ill. 2d 150, 178 (2004). Instead, great deference is given to the trier of fact. See, *e.g.*, *People v. Saxon*, 374 Ill. App. 3d 409, 416-17 (2007). Resolution of any conflicts or inconsistencies in the evidence is the responsibility of the trier of fact. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006).

¶ 22 As charged in the instant case, a person commits domestic battery if he "knowingly without legal justification by any means *** [c]auses bodily harm to any family or household member." 720 ILCS 5/12-3.2(a)(1) (West 2016). Defendant concedes that the State proved beyond a reasonable that H.C. was a member of defendant's family or household, and that H.C. suffered bodily harm. He contends only that the State failed to prove beyond a reasonable doubt that he acted knowingly.

¶ 23 A person acts knowingly with respect to the result of his conduct when he "is consciously aware that the result is practically certain to be caused by his conduct." *Id.* § 4-5(b). Where a statute requires that one acted knowingly, "that element also is established if a person acts

intentionally." *Id*. § 4-5. "A person *** acts intentionally or with intent, to accomplish a result or engage in conduct described by the statute defining the offense, when his conscious objective or purpose is to accomplish that result or engage in that conduct." *Id*. § 4-4.

¶ 24 "Because intent is a state of mind, it can rarely be proved by direct evidence." *People v. Williams*, 165 Ill. 2d 51, 64 (1995); see also *People v. Moore*, 2015 IL App (1st) 140051, ¶ 25 ("Knowledge is rarely proven by direct evidence."). Accordingly, these mental states must often be proven through circumstantial evidence, such as a defendant's statements or conduct surrounding the act, as well as the act itself. *Moore*, 2015 IL App (1st) 140051, ¶ 25. Knowledge or intent may thus be inferred by the factfinder. *E.g.*, *People v. Hendricks*, 325 Ill. App. 3d 1097, 1104 (2001).

¶ 25 Defendant argues that the State did not prove that defendant was consciously aware that his actions were practically certain to cause bodily harm to H.C. He maintains that "[t]here was no reason to believe that tossing a flimsy disposable aluminum pan" would be practically certain to cause bodily harm. Further, defendant argues: "[Defendant] was not even trying to hit H.C. with the pan, let alone cause bodily harm." Similarly, he argues that the State did not prove intent, insisting that "[t]here was no evidence in the record that [defendant] tossed the pan at H.C. with the conscious objective of harming her."

¶ 26 Throughout his argument, defendant relies extensively on his own testimony at trial regarding the direction in which he threw the pan and his lack of intent to strike H.C. However, we must review the evidence in the light most favorable to the State. *Baskerville*, 2012 IL 111056, ¶ 31. This includes allowing all reasonable inferences in favor of the prosecution and deferring—absent compelling reasons otherwise—to the factfinder's credibility determinations. *Bush*, 214 Ill. 2d at 327; *Sutherland*, 223 Ill. 2d at 242.

¶ 27 H.C. testified that defendant threw the pan of brownies directly into her face from a close distance with a Frisbee-like motion. Testimony from every witness, including defendant himself, established that defendant was angry at the time. While defendant repeatedly references the flimsiness of the pan itself, he declines to acknowledge that the pan was partially full of brownies when defendant threw it. To that point, H.C. testified that the pan was "kind of heavy" and "very sturdy." A rational trier of fact could infer from these circumstances that when defendant angrily threw a partially full pan of brownies at his daughter's face, his purpose was to cause some amount of bodily harm.

¶ 28 To be sure, such a conclusion would necessarily require the trier of fact to find defendant less than credible on certain points. Defendant testified that he threw the brownie pan at H.C.'s hands. He also testified that he had no intention of striking H.C. with the pan.

¶ 29 It is the role of the factfinder to make determinations regarding the credibility of witnesses. *E.g.*, *People v. Cerda*, 2014 IL App (1st) 120484, ¶ 156. "[W]hile a fact finder's decision to accept testimony is entitled to deference, it is neither conclusive nor binding." *People v. Wheeler*, 226 Ill. 2d 92, 115 (2007). In this appeal, however, defendant has not advanced an argument that the circuit court, sitting as trier of fact, was unreasonable in crediting H.C.'s testimony over defendant's. Indeed, defendant's testimony that he did not intend to strike H.C. with the pan could reasonably be discounted as contradictory to his admission that he did, in fact, intentionally throw the pan at her. Further, the court could reasonably find H.C.'s explanation for her injury—that the pan hit her directly in the face—more credible than defendant's suggestion that the pan hit H.C.'s hands or the counter, then deflected upward into her face.

¶ 30 In sum, the State presented circumstantial evidence that would allow a rational trier of fact to conclude beyond a reasonable doubt that defendant intended to cause bodily harm to H.C.

when he threw the pan of brownies at her. Such a conclusion would satisfy the mental state requirement of the offense of domestic battery. 720 ILCS 5/4-5(b) (West 2016).

¶ 31 III. CONCLUSION

¶ 32 The judgment of the circuit court of Rock Island County is affirmed.

¶ 33 Affirmed.