

2019 IL App (4th) 160904-U

NO. 4-16-0904

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

February 8, 2019

Carla Bender

4th District Appellate
Court, IL

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
Plaintiff-Appellee,)	Circuit Court of
v.)	Adams County
TAMARA C. FRENCH,)	No. 16CF242
Defendant-Appellant.)	
)	Honorable
)	Bob Hardwick Jr.,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices Harris and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held:* The State presented sufficient evidence for a rational trier of fact to convict defendant of threatening a public official (law enforcement officer).

¶ 2 In April 2016, the State charged defendant, Tamara C. French, with threatening a public official (law enforcement officer) (720 ILCS 5/12-9(a-5) (West 2016)). The State alleged defendant threatened Officer Erica Scott of the Quincy Police Department. In September 2016, a jury found defendant guilty of the charged offense. Defendant appeals, arguing the State failed to meet its burden of proving defendant guilty beyond a reasonable doubt. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 4, 2016, the State filed an amended information against defendant, charging her with threatening a public official (law enforcement officer) (720 ILCS 5/12-9(a-5) (West 2016)), for knowingly and willfully conveying to Officer Erica Scott of the Quincy Police

Department a communication containing a threat that would place Officer Scott in reasonable apprehension of immediate or future bodily harm. According to the information, after defendant was arrested and placed in a police squad car, defendant told Officer Scott to “take that badge off and I’ll beat the fuck out of you my damn self.” The State alleged defendant’s threat was made because of her hostility toward Officer Scott’s status as a police officer.

¶ 5 On September 12, 2016, defendant filed a motion *in limine*, seeking to keep the State from telling the jury defendant had a prior criminal record. The trial court ruled witnesses were not to testify to defendant’s prior convictions or arrests but could testify regarding prior contacts with defendant.

¶ 6 At defendant’s trial, Officer Scott testified she responded to a report of a disturbance in the 1500 block of North Fifth Street in Quincy at 12:50 p.m. on April 18, 2016. On the way, a woman flagged her down between Fifth and Sixth Streets on Lind Street. The woman told Officer Scott this was the disturbance in question. Officer Scott saw two women arguing and being physically aggressive with one another. She exited her vehicle and attempted to make contact with the women. While attempting to separate the women, defendant approached Scott from behind and began to scream and yell. Scott knew defendant from prior encounters.

¶ 7 Officer Scott advised defendant to back up and placed her hand on defendant’s chest and slightly pushed her backwards. Defendant then said, “Bitch, get your hands off me.” Scott advised defendant to step back or face arrest. Defendant continued to yell. Scott then attempted to take her into custody. No other police officers were on the scene at that point.

¶ 8 While Scott tried to take defendant into custody, defendant walked away from Scott to the side of a van. Scott approached defendant, pushed her against the van, and attempted

to handcuff her. Defendant continued to resist, yell, and pull away from Scott. After handcuffing defendant, Scott placed her in the back of the squad car. Scott's sergeant then arrived on scene. The officers were able to get the situation resolved to a point where they could begin interviewing witnesses. Eventually, Scott attempted to interview defendant.

¶ 9 Officer Scott opened the door to the squad car and asked defendant if she was going to be calm. Scott then uncuffed defendant. Defendant asked Scott if defendant could retrieve her inhaler from her front porch, which was about 30 yards from where Scott was parked. Scott allowed defendant to do so but advised defendant she was not free to leave the scene because Scott was not done interviewing everyone and might need to speak with defendant again. Defendant said okay.

¶ 10 Officer Scott later observed defendant get into a vehicle that proceeded to leave the scene. Officer Scott followed and stopped the car. Scott placed defendant under arrest, handcuffed her, and placed her in the back of Scott's squad car. Defendant displayed aggressive behavior. While able to scream at Scott, defendant complained she was having trouble breathing and was going to die. Scott called for medical personnel to meet her and defendant at the county building. Scott testified: "[Defendant's] screaming in the back seat, telling me that without a badge I'm nothing, that she's going to beat the, quote, fuck out of me. She stated that she was going to break out of her handcuffs and act a fool when we got to the county building." Scott took defendant's statement to mean defendant was going to be combative with Scott at the county building. Scott testified she had prior interactions with defendant. Defendant was verbally aggressive and resistive. Defendant also assumed a physically aggressive posture and disobeyed direct commands from police officers.

¶ 11 When Officer Scott and defendant arrived at the county building, defendant was

still agitated, screaming, and verbally aggressive. Scott took defendant out of the squad car and had her stand near some other correctional officers who were also at the platform. The ambulance personnel told Scott they were going to transport defendant to the hospital. Scott rode with defendant in the ambulance. Defendant was still very upset, speaking with a raised voice, indicating she was having trouble breathing, and accusing Scott of trying to kill her by placing her in the back seat of the hot squad car. At the hospital, defendant was handcuffed to the bed while being treated in the emergency room. Defendant eventually calmed down at the hospital.

¶ 12 The State introduced into evidence a video of defendant's behavior in the squad car. The video was played for the jury.

¶ 13 According to Officer Scott's testimony, while driving defendant to the county building before defendant was taken to the hospital, Officer Scott was thinking of the fact she would have to remove defendant's handcuffs at some point and was afraid defendant would be physically aggressive. Scott testified she believed she could be subject to physical harm from defendant in the near future if not while defendant was in custody. Scott testified, "I do take my badge off at the end of my shift every day. I walk to my personal vehicle. There is definitely the possibility for something to happen." Even after Scott arrived at the county building with defendant, Scott kept defendant in restraints at the county building, in the ambulance, and in the emergency room because Scott worried a physical altercation might occur and because defendant was still in custody.

¶ 14 On cross-examination, Scott testified defendant calmed down at the hospital. When Scott transferred defendant back from the hospital in her squad car, Scott no longer felt threatened by defendant. Defendant was neither combative nor threatening when they arrived at

the county building.

¶ 15 Defendant called Holly Henze, a judge in Adams County, as a witness to testify. Henze testified she saw defendant and Officer Scott outside the county building. She was not a judge at the time. According to her testimony, she was leaving the courthouse and noticed defendant standing to her left and Officer Scott standing to her right. Defendant was “very upset, gasping for breath, [and] looked like she had been crying.” Henze asked what was going on. Scott answered, “We are waiting for an ambulance.” Henze testified Scott seemed bored and not upset.

¶ 16 The jury found defendant guilty of threatening a public official. On October 31, 2016, the trial court sentenced defendant to 24 months’ probation.

¶ 17 This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 If the State charges a defendant with threatening a public official as it did in this case, the threat must be a “true threat” or else the prosecution would violate the first amendment. *People v. Dye*, 2015 IL App (4th) 130799, ¶ 8, 37 N.E.3d 465. The United States Supreme Court has stated, “ ‘True threats’ encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.” *Virginia v. Black*, 538 U.S. 343, 359 (2003). The speaker does not need to intend to follow through with the threat because statutes prohibiting threats are intended to protect individuals from the fear of violence, the disruption fear causes, and from the possibility that the threatened violence will occur. *Black*, 538 U.S. at 359-60. “For purposes of a threat to a sworn law enforcement officer, the threat must contain specific facts indicative of a unique threat to the person, family or property of the officer and not a generalized threat of

harm.” 720 ILCS 5/12-9(a-5) (West 2016).

¶ 20 In this case, defendant argues the State failed to meet its burden of proving her guilty beyond a reasonable doubt for threatening Officer Scott because the statement she made to Scott, “[T]ake that badge off and I’ll beat the fuck out of you my damn self[,]” was insufficient to constitute a threat to a law enforcement officer because her threat did not contain specific facts indicative of a unique threat to Officer Scott. Further, defendant argues her threat was conditioned on Scott first removing her badge.

¶ 21 When reviewing whether the State provided sufficient evidence to convict a defendant of a crime, we consider whether a rational trier of fact could have found the defendant guilty viewing the evidence in a light most favorable to the State. *People v. Smith*, 185 Ill. 2d 532, 541, 708 N.E.2d 365, 369 (1999). “[A] reviewing court will not reverse a criminal conviction unless the evidence is so unreasonable, improbable[,] or unsatisfactory as to create a reasonable doubt of the defendant’s guilt.” *People v. Rowell*, 229 Ill. 2d 82, 98, 890 N.E.2d 487, 496-97 (2008). Based on the evidence in this case, we will not disturb defendant’s conviction.

¶ 22 To convict defendant of threatening a public official, the State had to prove defendant knowingly and willfully communicated a threat to Scott, the threat placed Scott in reasonable apprehension of immediate or future bodily harm, the threat was related to her status as a police officer, and the threat contained specific facts indicative of a unique threat to the officer, her family, or her property. 720 ILCS 5/12-9(a-5) (West 2016).

¶ 23 Defendant argues her alleged threat to Officer Scott did not contain specific facts indicative of a unique threat to Officer Scott. According to defendant, her statement, “[T]ake that badge off and I’ll beat the fuck out of you my damn self[,]” was nothing more than a generalized threat of harm, not a unique threat to Officer Scott as required by the statute.

Defendant argues in her brief to this court:

“[Her] statement to Officer Scott, shouted from the back of Scott’s squad car, was the sort of generalized hyperbole that police officers often face. As the video recorded from inside Scott’s car illustrates, [defendant] was flustered and believed that she was in the midst of a medical emergency. [Citations.] [Defendant] was loud and used profanity as Scott drove her to the jail building. [Citation.] [Defendant] plead with Scott to allow her to get her inhaler and asked Scott to stop the police car for assistance from EMS [(Emergency Medical Services)] personnel. [Citation.] Scott told [defendant] that medical personnel were going to meet them at the county building [citation] and were following her police car.”

¶ 24 We disagree with defendant’s argument. A rational trier of fact could have concluded defendant’s statement was a unique threat directed specifically at Officer Scott. This is not a situation where defendant’s statement could be construed in a nonviolent or generalized manner. Defendant told Officer Scott defendant was going to “beat the fuck out of” Scott.

¶ 25 Defendant also argues her conviction should be reversed because her alleged threat was conditioned on Officer Scott first removing her badge. According to defendant, the conditional nature of the alleged threat “removed any reasonable possibility that she intended to threaten Scott.” We disagree.

¶ 26 Based on the evidence in this case, a rational trier of fact could have concluded defendant had the intent to threaten Officer Scott. The statute covers threats of “immediate or future bodily harm” (720 ILCS 5/12-9(a)(1)(i) (West 2016)). At the end of her direct examination, Officer Scott and the Assistant State’s Attorney had the following exchange:

“[THE STATE:] Did you feel at that point, that instant, that you could receive a physical harm at some point in the immediate future?

[OFFICER SCOTT]: Yes. I felt that based on the things that she said if an altercation didn’t happen initially while she was still in custody—I do take my badge off at the end of my shift every day. I walk to my personal vehicle. There is definitely the possibility for something to happen.”

The State did not need to establish defendant’s threat made Scott believe defendant would harm her immediately when the threat was made. The State presented sufficient evidence for a rational trier of fact to find defendant’s statement caused Officer Scott to be reasonably apprehensive defendant might cause her bodily harm at some point when Scott was not on duty.

¶ 27

III. CONCLUSION

¶ 28

For the reasons stated, we affirm defendant’s conviction and sentence in this case.

As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 29

Affirmed.