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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 De Kalb County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 17-CM-1170
)	
JOHN MARK CARPENTER,)	Honorable
)	Philip G. Montgomery,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE BRIDGES delivered the judgment of the court.
Justices McLaren and Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held:* Viewing the evidence in the light most favorable to the State, the trial court could have rationally found beyond a reasonable doubt that defendant did not act in self-defense. Therefore, we affirm defendant's conviction of battery.

¶ 2 Following a bench trial, defendant, John Mark Carpenter, was convicted of battery (720 ILCS 5/12-13(a)(1) (West 2016)). On appeal, he argues that the State did not disprove his affirmative defense of self-defense beyond a reasonable doubt. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged by complaint with battery (720 ILCS 5/12-13(a)(1) (West 2016))

on November 22, 2017. The complaint alleged that, on that day, he knowingly caused bodily harm to Steven Beasley by grabbing Beasley with his arms and throwing him to the ground. On February 8, 2018, defendant filed notice that he would claim the affirmative defense of self-defense. Defendant waived his right to a jury trial, and a bench trial took place on February 8, 2019.

¶ 5 Beasley provided the following testimony. In 2017, he was disabled but did odd jobs for Ben Franklin Plumbing, where defendant was his boss. On the morning of November 22, 2017, defendant gave him a \$25 Thanksgiving bonus. Later that morning, Beasley was sweeping out the back of a truck with a shop broom. Defendant was six or seven feet away and was upset about something, even though there was “[n]othing unusual” about the day. Beasley finished sweeping, dropped the broom to the ground right outside the truck, and stepped out of the truck. At that point, defendant charged at Beasley and slammed him to the ground. He then started kicking Beasley in the head. Another employee, Miguel Herrera, pulled defendant off, and Beasley walked away. During the entire encounter, Beasley never threw the broom, never struck defendant, never threatened to make physical contact with him, and never raised his fist at him. Beasley later went to the secretary’s office, and she took him to the hospital. There, Beasley spoke to Officer Tyler Scott. Beasley was not sure if he told Scott that defendant was kicking him in the head. Beasley “couldn’t remember that [he] was actually spitting [his] teeth out until [he] got out.”

¶ 6 At the time of the incident, Beasley was living in a trailer located on the property of Ben Franklin Plumbing. Defendant owned the property, and Beasley was renting the trailer with defendant’s permission. He had been living there for three to four months when the battery occurred. Beasley’s son Ryan was staying at the trailer while visiting, but Ryan was not living there. Beasley admitted that he filed a petition for an order of protection against defendant on November 27, 2017, but may not have stated in the petition that defendant had kicked him in the

head.¹

¶ 7 Officer Scott testified that at about 11:05 a.m. on November 22, 2017, he received a dispatch that Beasley was at Kishwaukee Hospital. Scott saw that Beasley had a bump on the back of his head and had some red marks on his back. He did not see any cuts, lacerations, or bruises on Beasley's head or face. Beasley never said that defendant kicked him in the head, but Beasley "believed that he was struck after being thrown down but could not know for sure."

¶ 8 Defendant testified as follows. He knew Beasley from attending high school with him in the 1970s; Beasley was also a friend of defendant's brother. On November 22, 2017, Beasley was not a regular employee but would help out with jobs as needed. Beasley was homeless in May 2017, and defendant said that he could live in a job trailer that was on the property until "he got on his feet." However, Beasley could not seem to do so despite the company giving him work and paying him a good wage. Around June, Beasley's son Ryan, Ryan's girlfriend, and their dog also moved into the trailer. Ryan was threatening employees at the company, and defendant told Beasley on several occasions that only Beasley could live in the trailer.

¶ 9 On the morning in question, while in the office, defendant again told Beasley that others should not be living with him in the trailer. Beasley was upset because of this, because he and Ryan were not speaking, and because defendant had taken Beasley off a job that he was used to doing and told him to clean out the truck. Beasley thought that should be Herrera's job, but Herrera was doing the paperwork, which Beasley would never do. Cleaning out the truck involved taking

¹ This case was consolidated with Beasley's order of protection case against defendant. In Beasley's petition for an order of protection, he did not allege that defendant kicked him, but he did allege that defendant knocked out his back teeth.

out the equipment and materials that were left over from the day before, picking up any garbage, and sweeping out the gravel that would wind up on the truck floor from excavations.

¶ 10 While cleaning out the truck, Beasley became more and more angry. He was complaining that defendant was picking on him by making him do the cleaning, and he was very upset that defendant had said that Ryan had to leave. Defendant had never seen Beasley that angry. Beasley was throwing tools and equipment around inside the truck, and defendant thought Beasley was going to throw something at him. Beasley began sweeping gravel out the back of the truck at defendant, hitting him in the legs with the gravel, and yelling at him. Defendant said to calm down, but Beasley replied, “ ‘Why don’t you make me[?]’ ” and said that “he would whoop [defendant’s] ass.” Defendant interpreted this to mean that Beasley was going to hit him because defendant “just [knew] how he and some of [the] other people in his family [could] be.” Defendant said that he could not have walked away at this point because he would have had to turn his back on Beasley, and defendant did not want to get hit in the back of the head with a hammer.

¶ 11 Beasley then threw the broom towards defendant and jumped out of the truck. Defendant thought Beasley was going to punch him, so defendant “grabbed him by the coat and pushed him down to the ground and held him down there and told him to calm down.” Beasley’s face was red, and he was “spitting mad.” He wanted defendant to let him up, but defendant wanted him to calm down first because he did not want Beasley to try to hurt him. Defendant held him there about one minute. Defendant did not strike Beasley or kick him anywhere. Herrera then “took over” and “got on and held” Beasley, allowing defendant to get away from Beasley. Herrera was trying to calm Beasley down.

¶ 12 Defendant admitted that Beasley had never previously hit him while working for him, though he had in high school. Beasley had thrown things towards defendant in the past but never

hit him with a tool. They had gotten into arguments before, and defendant had never pushed him before this date. When Beasley came down from the truck, his fists were clenched but not raised.

¶ 13 Herrera provided the following testimony. He was currently employed by defendant and had worked for him for about two years, including at the time of the incident. Before that day, he had heard Beasley say to other people that he was “going to kick their ass.” Herrera did not know if Beasley had said it jokingly, but there were a couple of times that he thought Beasley was serious. However, he had never seen Beasley hit anyone.

¶ 14 The morning in question, Herrera thought that Beasley was getting a little aggravated, but Herrera did not know why. Beasley was sweeping debris out the truck while Herrera was doing paperwork inside of the shop. Herrera heard defendant and Beasley talking normally at first. Then Beasley started yelling at defendant that he was upset that he was sweeping while Herrera was doing paperwork. Herrera heard Beasley handling tools aggressively in the truck. Herrera exited the shop and saw Beasley get out of the truck and throw the broom in an aggravated manner. Beasley said something like, “ ‘We can go at it now’ ” “where he was upset at [defendant] and threatening to get into a fight with [defendant].” Herrera did not “know really how it all happened,” but Beasley and defendant ended up on the ground, and Herrera broke them up and stood between them. Herrera did not see defendant punching, striking, or kicking Beasley. He believed that defendant was just trying to restrain Beasley and avoid fighting him. Herrera did not see Beasley raise his fist at defendant or strike him.

¶ 15 The trial court issued its ruling on March 15, 2019, finding defendant guilty. We summarize its findings. The video had no audio but showed defendant come to the back of the truck while Beasley was still sweeping. Defendant moved away from the truck, and Beasley then threw the broom off to the side of the truck, not towards defendant, and got down. Defendant was

out of the picture at this point. Defendant then entered the picture and grabbed Beasley, at a time when Beasley's hands were down by his sides, and threw Beasley to the ground. Defendant next walked over to where he threw Beasley, but that portion was off camera. After a few seconds, Beasley started to leave and defendant followed him, during which time it was clear that they were arguing. The video then ended.

¶ 16 Beasley credibly testified that defendant grabbed him, threw him to the ground, and kicked him. The video clearly showed defendant grab Beasley and throw him down, which corroborated Beasley's testimony. Officer Scott corroborated the injuries that Beasley suffered in that Scott testified credibly that he observed bumps on the back of Beasley's head and scrapes on his back. The State also introduced photographs, though not of the highest quality, that showed the injuries.

¶ 17 Defendant claimed self-defense, so the question was whether defendant was justified in his use of force. Herrera's testimony somewhat corroborated defendant, but Herrera clearly had an interest and/or bias because he was working for defendant both at the time of the incident and the time of his testimony. Defendant testified that Beasley threw the broom at him and that he thought Beasley was going to strike him, so he took Beasley to the ground. However, the video showed Beasley throwing the broom to the side and thus away from defendant. The video also did not show Beasley getting ready to hit defendant. Rather, Beasley's arms were by his sides, and defendant just grabbed him and threw him down. Defendant's testimony was incredible, and he was not justified in his use of force. The trial court concluded that the State had proved every element of battery, and it found defendant guilty.

¶ 18 On May 3, 2019, defendant filed a posttrial motion arguing that he presented evidence of self-defense and that the State failed to rebut his evidence. Defendant argued that the trial court should acquit him or order a new trial. The trial court denied the motion on June 7, 2019, saying

that the video corroborated Beasley's testimony. Defendant and the State agreed to a sentence of 12 months' court supervision and \$500 of fines and costs.

¶ 19 Defendant timely appealed.

¶ 20 II. ANALYSIS

¶ 21 On appeal, defendant argues that the State did not disprove beyond a reasonable doubt that he was acting in self-defense; defendant does not contest that the State proved the elements of battery. Once a defendant raises the affirmative defense of self-defense, the State has the burden of proving beyond a reasonable doubt that the defendant did not act in self-defense, in addition to proving the elements of the offense. *People v. Gray*, 2017 IL 120958, ¶ 50. The elements of self-defense are: (1) unlawful force threatened against a person; (2) the threatened person was not the aggressor; (3) the danger of harm was imminent; (4) the use of force was necessary; (5) the threatened person actually and subjectively believed that a danger existed required the use of force applied; and (6) the threatened person's beliefs were objectively reasonable. *Id.*; see also 720 ILCS 5/7-1(a) (West 2016). The defendant's claim of self-defense fails if the State negates any one of these elements. *Gray*, 2017 IL 120958, ¶ 50. Where a defendant asserts that the State failed to negate his claim of self-defense beyond a reasonable doubt, our standard of review is the same as in any other challenge to the sufficiency of the evidence. *People v. Wilkinson*, 2018 IL App (3d) 160173, ¶ 36. We examine 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 the defendant did not act in self-defense. *Id.*

¶ 22 Defendant argues that the elements of self-defense apply as follows. For the first element, unlawful force was threatened against him when Beasley swept gravel at defendant; threw tools around the truck; threw the broom off the truck in an aggravated manner; told defendant, “ ‘We

can go at it now’ ”; jumped off the truck; and threatened to “whoop [defendant’s] ass.” Defendant points out that self-defense may be appropriate even if the attacker is unarmed, if it appears that the aggressor is capable of inflicting serious bodily harm (*People v. Hawkins*, 296 Ill. App. 3d 830, 837 (1998)), which can include a physical beating (*People v Baker*, 31 Ill. App. 3d 51, 55 (1975)). Defendant argues that the video shows Beasley jumping off the truck within a couple of feet of where defendant was standing. Defendant points to his testimony that Beasley was more angry than he had ever seen him before, that Beasley had hit defendant before, and that defendant knew “how he and some of [the] other people in his family [could] be.” Defendant argues that at that point, defendant’s subjective belief that he was going to be seriously harmed was reasonable in light of his perceptions and knowledge at the time.

¶ 23 For the second element, defendant argues that he was not the aggressor, as shown by Beasley’s unreasonable and exaggerated testimony. Defendant points to Beasley’s testimony denying that he argued with defendant that morning; contradictions within Beasley’s testimony about whether Ryan lived with him; Beasley’s testimony that he did not throw the broom; and his testimony that he stepped out of the truck, rather than jumping down from the truck. Defendant argues that this testimony was contradicted by Herrera’s testimony and the video. Defendant further highlights Herrera’s testimony that Beasley was angry that morning and that defendant simply took Beasley to the ground and held him there, without striking or kicking him.

¶ 24 Regarding the third element, defendant argues that the danger of harm was imminent because Beasley threatened to “whoop [defendant’s] ass” and jumped down from the truck as if he were going to begin.

¶ 25 Defendant argues that the use of force was necessary, which is the fourth element, because defendant was afraid that if he turned and ran, Beasley would hit him in the back of the head with

a hammer. Defendant argues that he exerted the minimum amount of force necessary to prevent injury to either of them. Defendant argues that, even otherwise, he was not obligated to attempt to escape. See *People v. McGraw*, 13 Ill. 2d 249, 256-57 (1958). Defendant notes that although Beasley testified that defendant kicked him in the head and that he lost teeth as a result, Herrera, the only non-involved occurrence witness, testified that there was no striking of any kind. Also, Officer Scott testified that Beasley did not tell him that defendant kicked him in the head, and that there were no cuts, lacerations, or bruises on Beasley's face. Beasley also admitted that he did not allege in his petition for an order of protection against defendant that defendant had kicked him in the head. Defendant maintains that unlike Beasley's fabrications and avoidance, defendant's testimony about what happened was reasonable, corroborated by the evidence, and consistent with human nature. Defendant argues that the video shows the discussion back and forth before Beasley threw down the broom and jumped out of the truck, as defendant had described.

¶ 26 For the fifth element, defendant argues that he actually and subjectively believed that a danger existed requiring the use of force applied, for the reasons set forth for the first element. Defendant cited *People v. Fleming*, 2015 IL App (1st) 111925-B, ¶ 58, where the court stated that the defendant's perception of the danger, rather than the actual danger, is dispositive.

¶ 27 Regarding the last element, defendant argues that his beliefs were objectively reasonable. Defendant again restates his argument from the first element. Defendant further argues that Herrera was the only uninterested occurrence witness who testified, and even though he worked for defendant, Herrera's testimony was not impeached in any way. Defendant maintains that Herrera's testimony was consistent with defendant's testimony and corroborated by two critical facts, the first being that Beasley admitted that he was sweeping the truck's contents towards defendant, and the trial court found that the video showed Beasley throwing the broom off the truck. Defendant

argues that although the trial court disregarded the testimony that he and Herrera provided, their explanation was consistent with human nature. Specifically, there were no problems in the morning when defendant gave Beasley his Thanksgiving check; defendant then took Beasley off his regular job and had him sweep out the truck; after Beasley began doing the hard physical work while Herrera did paperwork, Beasley began to get angry and began yelling at defendant; at some point defendant reminded Beasley that Ryan and others living in the trailer had to move out; and Beasley finally exploded, throwing down the broom and jumping off the truck at defendant.

¶ 28 Defendant argues that he is aware that the trier of fact weighs the credibility of witnesses and that the reviewing court reviews the evidence in the light most favorable to the State, but here an analytical review of the record leaves a grave and substantial doubt of his guilt. He argues that Beasley's testimony is unbelievable because he testified that there was nothing unusual about that day but then defendant got upset and slammed him to the ground for no apparent reason. Defendant argues that, in contrast, he admitted that Beasley did not strike him that day or at any time during his employment, that Beasley did not hit him with any object, that Beasley's hands were clenched rather than raised, and that he took Beasley to the ground. Defendant argues that, however, he asserted self-defense and gave an explanation why self-defense applied. Defendant argues that Herrera's testimony and the video corroborate his testimony, including that Beasley was yelling at defendant and that Beasley threw the broom down. Defendant maintains that Beasley's testimony about being kicked in the head and spitting out teeth was contradicted by the evidence, including Officer Scott's testimony. Defendant contends that the State did not disprove beyond a reasonable doubt his assertion that he was acting in self-defense, such that his conviction should be reversed.

¶ 29 The State responds as follows. Although there was some testimony suggesting that defendant acted in self-defense, there was also testimony suggesting otherwise, and it was the trial

court's role as the trier of fact to assess the credibility of the witnesses, the weight to be given to their testimony, and the inferences to be drawn from the evidence. The State argues that for the first element, there was conflicting evidence as to whether Beasley threatened harm to defendant before defendant touched him. The State argues that defendant was attacking Beasley's credibility on appeal, but the trial court reasonably concluded that Beasley was credible where the video supported his testimony and contradicted defendant's version of events.

¶ 30 For the second element, the State argues that neither Herrera nor the video conclusively established who instigated the altercation, and it was reasonable to conclude from the video depiction of defendant and Beasley arguing that both men were aggressors. The State argues that a person who is an aggressor may not invoke self-defense. *People v. Wilkinson*, 2018 IL App (3d) 160173, ¶ 34. According to the State, the video also showed that defendant persisted in engaging with Beasley even after defendant initially walked away, such that the trial court could find that defendant attacked Beasley without provocation.

¶ 31 Regarding the third and fourth elements, the State asserts that before defendant made physical contact with Beasley, he was six or seven feet away from him, meaning that he was out of Beasley's reach, and Beasley was standing still with his arms at his sides. The State maintains that defendant also did not need to pull Beasley to the floor, as the video shows that defendant was taller and heavier than Beasley.

¶ 32 For the fifth element, the State argues that although defendant argues that the video shows Beasley jump off the truck and invade his space, the video actually shows Beasley first step onto the truck bed step, half turn and grab the side of the truck, and then step down a larger distance to the garage floor. The State argues that Beasley remained next to the back of the truck, and defendant had to take steps to approach him. The State maintains that the video also shows that

defendant's demeanor was not one of fear, as defendant walked directly up to Beasley, and even after Beasley got up from the ground, defendant picked up the broom, walked toward him, and pointed at Beasley's chest.

¶ 33 The State further argues that defendant's fears were not objectively reasonable, as required by the sixth element. The State points out that part of defendant's belief that Beasley would strike him was based on Beasley's family members, as opposed to just Beasley. Further, the State notes that defendant testified that Beasley had struck him before, but this occurred when they were both in high school in the 1970s. The State maintains that the fact that defendant had more recently employed Beasley and that Beasley had never struck anyone during his employment diminished the reasonableness of defendant's beliefs. The State highlights that Herrera testified that he had previously heard Beasley tell others that he would "kick their ass," but he had never seen Beasley hit anyone. The State argues that Beasley's posture and mannerisms in the video also do not support defendant's beliefs as objectively reasonable.

¶ 34 Regarding Beasley's credibility, the State argues that a rational fact finder could credit Beasley's testimony that defendant kicked him. The State maintains that although this detail was omitted from Beasley's statement to police and the petition for an order of protection, Officer Scott thought that Beasley told him that defendant struck him after throwing him down, and the petition for an order of protection stated that defendant slammed him on the ground and knocked out his back teeth. According to the State, a rational factfinder could have credited Beasley for consistently reporting the conduct that was the basis for the complaint—that defendant grabbed Beasley with his arms and threw him to the ground—while forgiving Beasley for omitting other details which did not form the basis of the charge. The State maintains that even if Beasley's credibility was damaged, his testimony that he stepped out of the truck, that defendant grabbed him, and that

defendant slammed him to the ground was corroborated by the video and his injuries. The State argues that, in contrast, Herrera's testimony was vague and evasive, especially considering that the video shows him in close, unobstructed view of the events.

¶ 35 We conclude that, viewing the evidence in the light most favorable to the State, a rational trier of fact could have found beyond a reasonable doubt that the defendant did not act in self-defense. Defendant discusses Beasley's credibility at great length, especially Beasley's testimony that defendant kicked him in the head and caused him to lose teeth. The video does not shed light on this issue, as Beasley is not visible when he is down on the ground. We recognize that Herrera testified that he did not see defendant punch, strike, or kick Beasley, but Herrera also testified that he did not "know really how it all happened," even though the video shows him in direct view of the entire incident. The trial court found that Herrera had an interest and/or bias because he was working for defendant, and, as the trier of fact, the trial court was responsible for making determinations about witness credibility. See *People v. Wright*, 2017 IL 119561, ¶ 70. It is true that Beasley did not allege in his petition for an order of protection that defendant kicked him in the head, but he did allege that defendant knocked out his back teeth. It is also true that Officer Scott testified that Beasley never said that defendant kicked him in the head and Scott did not notice any injuries on Beasley's face, but Scott also testified that Beasley "believed that he was struck after being thrown down but could not know for sure." Accordingly, there was conflicting evidence on whether defendant kicked Beasley in the head, and it was up to the trial court, as the trier of fact, to resolve conflicts in the evidence. See *People v. McLaurin*, 2020 IL 124563, ¶ 22 (the trier of fact is responsible to resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences from basic facts to ultimate facts, and the reviewing court will not retry the defendant or substitute its judgment for that of the trier of fact).

¶ 36 More importantly, defendant was not charged with kicking Beasley. Rather, as the State highlights, defendant was charged with knowingly causing bodily harm to Beasley by grabbing Beasley with his arms and throwing him to the ground. It is undisputed that defendant grabbed Beasley and threw him to the ground, as clearly visible in the video. Officer Scott observed injuries to Beasley in the form of a bump on the back of his head and some red marks on his back, and the State also introduced photographs. Accordingly, even if defendant never kicked Beasley, he could still be convicted of battery as charged.

¶ 37 As stated, a defendant's claim of self-defense fails if the State negates any single element of self-defense. *Gray*, 2017 IL 120958, ¶ 50. Even taking as true, *arguendo*, that Beasley was angry with defendant for the reasons set forth in defendant's testimony and threatened to "whoop [defendant's] ass," it is clear that the trial court could have rationally found that the State negated at least the third and fourth elements of self-defense, being that the danger of harm was imminent and that the use of force was necessary, beyond a reasonable doubt.

¶ 38 As the trial court stated when making its ruling, defendant testified that he took Beasley to the ground because Beasley threw the broom at him, and he thought Beasley was going to hit him. The trial court stated that the video showed Beasley throwing the broom to the side of the truck, and therefore not towards defendant. Further, the video did not show Beasley getting ready to hit defendant, but rather Beasley's arms were by his sides when defendant grabbed him and threw him down.

¶ 39 Our review of the video shows that it is consistent with the trial court's description and ruling, and with Beasley's testimony regarding the *charged* conduct. Beasley dropped/threw down the broom to the side of the truck rather than in the direction where defendant was standing. Beasley's action of exiting the truck can be characterized as stepping out of the truck rather than

jumping down, as he grabbed a handrail on the side and stepped onto the truck's platform one foot at a time before stepping to the ground, one foot at a time. He then stood on the ground with his arms at his sides. At that moment, Beasley did not appear to be within immediate reach of a tool that he could have thrown at defendant. Defendant was off screen when Beasley got out of the truck, but then defendant took several steps towards Beasley before grabbing him and throwing him down on the ground. Based on these circumstances, a rational trier of fact could have found that the State proved beyond a reasonable doubt that the defendant did not act in self-defense, in that the State negated the elements that the danger of harm was imminent and the use of force was necessary.

¶ 40

III. CONCLUSION

¶ 41 For the reasons stated, we affirm the judgment of the DeKalb County circuit court.

¶ 42 Affirmed.