

No. 1-10-2370

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 10 CR 35
)	
JOHN BUTLER,)	Honorable
)	Arthur F. Hill, Jr.,
Defendant-Appellant.)	Judge Presiding.

JUSTICE JOSEPH GORDON delivered the judgment of the court.
Justices McBride and Howse concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant was properly found guilty of attempted residential burglary where he was apprehended at victim's front window, where the window was broken and partially raised, and defendant had blood and cuts on his hand and glass on his sleeve.
- ¶ 2 Following a bench trial, defendant John Butler was convicted of attempted residential burglary and sentenced to nine years in prison. On appeal, defendant contends that his guilt was not proven beyond a reasonable doubt.

¶ 3 At trial, the State's evidence established the following. On December 3, 2009, at about 8:54 p.m. Charlotte Jeffries was reading in the bedroom of her North Laramie home in Chicago when she heard someone pounding on her front door. She had lived there for about 33 years and currently lived alone. The pounding continued and got louder, so she put on her clothes and coat, took her phone, went out her back door and called the police. Police officers arrived within 10 minutes. They eventually took her to the front door of her house where they were holding someone, but she did not look because she did not want to see who it was. At trial she stated that she had never given defendant permission to enter her home. After the police left, she noticed that her front window was broken. She had seen it earlier that evening and it was not broken then. The windows were security windows and were always closed but she observed that the broken window had been raised. Nothing was disturbed or taken inside her house.

¶ 4 Chicago police officer Bernardo Manjarrez and his partner received a call of a burglary in progress and went to the North Laramie address. When they arrived, Manjarrez saw a man, whom he identified in court as defendant, standing at the top of the stairs by the window. Defendant was standing in profile in relation to the window, with his left hand tucked inside the sleeve of his sweater and his left arm in a "L" shape, as if he was about to hit something with it. Manjarrez approached defendant at the top of the stairs and detained him. He noticed that the storm window pane had been broken and there was glass on the window ledge and on the floor. He also observed glass shards along defendant's sleeve and sweater and minor cuts and blood on defendant's left hand. According to Manjarrez he walked through the residence with Jeffries and she said nothing had been taken. Nor did anything in the house appear to be disturbed or broken except for the window.

¶ 5 The trial court found defendant guilty of attempted residential burglary and sentenced him to a nine-year prison term. This appeal ensued.

¶ 6 Defendant first contends that we are presented with a solely legal question based upon uncontroverted facts and therefore our review is *de novo*. See *In re Ryan B.*, 212 Ill. 2d 226, 232 (2004) (issue was whether 14-year-old male committed sexual exploitation of a child where undisputed facts showed that he asked an 8-year-old female to lift up her shirt and expose her breasts). But there are facts, or the inferences drawn from those facts, which are at issue in this case. In his opening brief defendant states that the presence of blood on his hand and glass on his sleeve "suggests, at most" that he may have broken Jeffries' window. Thus the parties are at issue on even this most basic of facts, whether defendant was the one who broke the window. Our standard of review is that stated in *People v. Collins*, 106 Ill. 2d 237, 261 (1985): whether, viewing the facts in the light most favorable to the State, any rational trier of fact could have found that the elements of the crime were proven beyond a reasonable doubt.

¶ 7 Defendant was convicted of attempted residential burglary. According to the Illinois residential burglary statute, "a person commits residential burglary who knowingly and without authority enters or knowingly and without authority remains within the dwelling place of another, or any part thereof, with the intent to commit therein a felony or theft." 720 ILCS 5/19-3(a) (West 2008). An attempt is committed "when, with intent to commit a specific offense, [a person] does any act which constitutes a substantial step toward the commission of that offense." 720 ILCS 5/8-4(a) (West 2008). Here, within minutes of being summoned by Jeffries, who heard loud pounding at her front door and fled out the back, the police arrived to find defendant at the front of Jeffries' house, standing in front of a broken and partially raised window, with blood and minor cuts on his hand along with glass on his sleeve. The defendant's arm and hand were at an angle suggesting that he was about to strike the window again, with his hand protected by his sleeve. Jeffries testified that she had seen the window earlier that evening and it was not broken then. Furthermore, the windows were security windows and were always closed

but she observed that the broken window had been raised. The circuit court, as the trier of fact, found that the structure at issue was clearly someone's residence and implicitly concluded that defendant was attempting to break in to commit a theft. Viewing all the evidence in the light most favorable to the State, we find that defendant's guilt of attempted burglary was proven beyond a reasonable doubt. In so finding we note that defendant's reliance upon *People v. Toolate*, 45 Ill. App. 3rd 567 (1976) is misplaced. There defendant's conviction of attempted burglary was reversed when there was insufficient evidence that pry marks on a shop's door were fresh ones, tools which could have been used to make the marks were found in the vicinity but not on the defendant's person, and tracks in the snow did not lead directly from the store's door to the defendant where he was found in his vehicle. *Toolate*, 45 Ill. App. 3d at 568-570. Defendant in this case was found at the broken window, with cuts and blood on his hand and glass on his sleeve and his arm in a position to strike another blow at the window, which had been partially raised. It was a clearly permissible inference that the pounding on her door heard by Jeffries was the defendant trying to determine if anybody was home before he then attempted to break in to the residence to steal her property.

¶ 8 For the reasons set forth in this order, we affirm the judgment of the circuit court.

¶ 9 Affirmed.