

No. 1-10-3258

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 06 MC6 9973
	)	
JAMES ORRINGTON,	)	Honorable
	)	Thomas J. O'Hara,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE HALL delivered the judgment of the court.  
Presiding Justice HOFFMAN and Justice KARNEZIS concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Where the prosecution provided evidence of physical injuries to victim in one of two altercations between victim and defendant, the State established defendant's guilt beyond a reasonable doubt; defendant's conviction for domestic battery was affirmed.
- ¶ 2 Following a jury trial, defendant James Orrington was convicted of domestic battery and was sentenced to one year of conditional discharge and ordered to complete 80 hours of community service. On appeal, defendant contends the State failed to prove his guilt beyond a reasonable doubt. We affirm.

¶ 3 Defendant was charged with two counts of committing domestic battery against Krystal Johnson stemming from two separate incidents on June 26, 2006. At trial, Johnson testified that at about midnight on June 25, 2006, she and her two-year-old son, Braden, arrived at defendant's home in Matteson, where they spent the night. Johnson said she and defendant had been in a relationship for about six months.

¶ 4 The next morning, Johnson, defendant and Braden went to breakfast and completed an errand. When they returned to defendant's house at about 3 p.m., Johnson and defendant discussed work they were doing to promote a local concert. Defendant became annoyed with Braden, who was interrupting them. Defendant picked the child up, shook him three times and threw him on the couch. Johnson confronted defendant about his actions and struck defendant on the right arm. Johnson attempted to pick the child up from the couch and tripped over a coffee table, falling to the floor. Johnson said that defendant stood over her and punched her on the left side of her face. Defendant also kicked Johnson in the right elbow and on the right side of her stomach. Johnson said defendant struck her about eight times, resulting in scratches, bruising to her ribs and swelling on the side of her face.

¶ 5 When defendant went to the kitchen and retrieved a knife, Johnson left the house with her child and went to the Matteson police department. Two police officers accompanied Johnson back to defendant's residence, where he did not answer the door in response to the officers' knocks. Johnson and the officers left, but after defendant called Johnson to apologize, she returned to his house that night.

¶ 6 Johnson and her cousin went to defendant's house at about 9 p.m. on June 26, when the acts occurred that are described in the second battery count. Johnson arrived at defendant's house at the same time as another woman who identified herself as Keisha. Both women went to the front door, and defendant let them both inside.

¶ 7 Johnson testified that after a conversation, Keisha left and Johnson attempted to leave, but defendant pulled Johnson's left arm "hard" and told her to come back inside the house because they needed to talk about the concert again. When Johnson said her cousin was waiting in the car, defendant "just kept pulling at [her]" and "started dragging [her] up the stairs" by her hair and arms. At the top of the stairs, Johnson freed herself and called police.

¶ 8 Johnson said she was hospitalized for five days with a fractured right elbow, bruised ribs and scratches on the left side of her face. Photographs of Johnson's face and right elbow taken on June 27 were entered into evidence. Johnson's elbow was in a cast. Another photo depicted scratches on her left arm caused by defendant digging into her skin "with his nails." That occurred the second time she was at defendant's house.

¶ 9 On cross-examination, Johnson acknowledged she was discharged from the hospital at 3:50 a.m. on June 27, about seven hours after the second incident took place. On redirect, Johnson said she was re-admitted to the hospital on June 28 and stayed for several more days. Johnson again described the injuries she received in the first incident and said her elbow was numb after that altercation. During the second incident, Johnson sustained more scratches to her left arm and further injury to her elbow when defendant pulled her up the stairs.

¶ 10 Matteson police officer Joshua Becker testified that at about 10 p.m. on June 26, he was dispatched to defendant's address, where defendant asked that Johnson be removed from the residence. Officer Becker said Johnson was holding her right arm.

¶ 11 For the defense, Krystal Williams testified she was a friend of defendant and was with him from about 10:30 a.m. to about 8 p.m. on June 26. Keisha Coleman testified she and defendant were dating in June 2006 and she received a call from defendant on the evening of June 26. She arrived at defendant's house at 9 p.m., where she encountered Johnson.

¶ 12 Defendant testified that in June 2006, he and Johnson were dating, and she and her son stayed at his home on June 25. The next morning, defendant told Johnson to leave after they argued, and defendant spent the day with Williams.

¶ 13 Contrary to Johnson's testimony, defendant said no physical confrontation occurred that morning. However, consistent with the accounts of Johnson and Williams, he said both women came to his door that night. Williams left after Johnson and defendant began arguing. Defendant denied injuring Johnson's arm or grabbing her by the hair and pulling her up the stairs, stating that he "never touched her." On cross-examination, defendant said that when Johnson left his home that morning, she threatened that she was going to "get him."

¶ 14 The written jury instructions stated that the jury could convict defendant of domestic battery based on the "first event" or "second event" that occurred at defendant's address. The jury convicted defendant of domestic battery based on the "second event," or the incident on the night of June 26. The jury found defendant not guilty of domestic battery as to the "first event" and found defendant not guilty of the battery of Johnson's child.

¶ 15 On appeal, defendant contends the evidence was insufficient to prove he committed domestic battery based on the second incident between him and Johnson. He asserts the State failed to prove how Johnson's injuries were sustained and that his acquittal of the charges as to the first incident affected the prosecution's ability to prove the second altercation.

¶ 16 When reviewing the sufficiency of the evidence of a criminal conviction, it is not this court's function to retry the defendant. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). Rather, we must determine whether, 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. *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979); *Beauchamp*, 241 Ill. 2d at 8. Accordingly, this court allows "all reasonable inferences from the record in favor of the

prosecution." *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). This court will not reverse a conviction unless the evidence is so improbable, unsatisfactory or inconclusive that it creates a reasonable doubt of the defendant's guilt. *Beauchamp*, 241 Ill. 2d at 8. Under that standard, this court will not substitute its judgment for that of the trier of fact on issues of the weight of the evidence or the credibility of witnesses. *People v. Cooper*, 194 Ill. 2d 419, 431 (2000).

¶ 17 A person commits domestic battery where he intentionally or knowingly, and without legal justification, causes bodily harm to any family member or household member. 720 ILCS 5/12-3.2(a) (1) (West 2008). The State charged defendant with causing bodily harm to Johnson by grabbing, shaking and pushing her, causing scratching and injury to her arm.

¶ 18 Johnson testified that at about 9 p.m. on June 26 at defendant's house, defendant pulled her arm and dragged her up several stairs by her hair and her arms. Although defendant disputed that account, the positive and credible testimony of a single witness is sufficient to convict the defendant, even if that testimony is contradicted by the defense. See *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). Johnson testified she was hospitalized with a fractured elbow, bruised ribs and scratches on her face. Photos were entered into evidence of Johnson's elbow in a cast and scratches on her arm. In addition to the victim's testimony, Officer Becker testified that when he arrived at defendant's residence, Johnson was holding her right elbow. Again, when considering the sufficiency of the evidence, a reviewing court must allow all reasonable inferences from the record in favor of the prosecution. *Cunningham*, 212 Ill. 2d at 280. That evidence, along with Johnson's testimony, supports the jury's finding that defendant was guilty of domestic battery based on the events of the night of June 26. Any discrepancies that existed in the evidence were presented to the jury as the trier of fact, which is charged with resolving such matters. *People v. Brown*, 388 Ill. App. 3d 104, 108 (2009). This court has no basis to disturb the jury's verdict.

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¶ 19 Accordingly, the judgment of the trial court is affirmed.

¶ 20 Affirmed.