

No. 1-10-2108

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FIFTH DIVISION
June 30, 2011

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 MC 64674
)	
MARESA D. RONE,)	The Honorable
)	Anna H. Demacopoulos,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE FITZGERALD SMITH delivered the judgment of the court.

Justices Joseph Gordon and Howse concurred in the judgment.

ORDER

HELD: Defendant cannot withdraw guilty plea following conviction based on alleged misapprehension of law regarding use of corporal punishment in disciplining child where her conduct clearly exceeded reasonable limits thereof; direct evidence of physical injury is not required to find defendant guilty beyond a reasonable doubt of domestic battery.

Following a bench trial, defendant Maresa D. Rone (defendant) was convicted of domestic battery to her minor child. Defendant was sentenced to 18 months conditional

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discharge, including completion of parenting and anger management classes, and a \$450 fine. On appeal, defendant asks that we withdraw her plea of guilty and vacate the judgment, contending that her plea was entered into based on a misapprehension of the law under which she was convicted. For the following reasons, we affirm.

BACKGROUND

The incident at issue occurred on August 21, 2010 at defendant's daughter's middle school located at 215 Wilson Street, Park Forest, Illinois. The school contacted defendant and informed her that her daughter had been causing trouble. At approximately 12:43 p.m., defendant arrived at the school with a television cable cord. She pulled her daughter out of class into the hall where defendant struck her daughter with the cable cord in front of numerous witnesses, including classmates and law enforcement personnel at the school. Following the episode, Officer Ballow of the Park Forest Police Department spoke with defendant. Defendant admitted hitting her daughter in the presence of law enforcement officers, her daughter's classmates, and her daughter's teacher. Defendant was then placed under arrest and charged with domestic battery.

On May 20, 2010, defendant pled guilty to domestic battery and was sentenced to 18 months conditional discharge along with the completion of parenting and anger management classes in addition to being assessed a \$450 fine. The trial court determined that defendant understood the charges against her and the penalties she faced under the law. Additionally, the court ascertained that defendant adequately comprehended her waiver of a jury trial and freely and voluntarily entered into a plea of guilty. According

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to the record, the court inquired, “How do you plead to the charge of domestic battery, guilty or not guilty?,” to which defendant answered, “Guilty.” The court further asked defendant, “Do you understand the nature of the charges and possible penalties?,” and defendant responded, “Yes.” Accordingly, the court found, “defendant understands the nature of the charges against her. The possible penalties under the law. That she’s pleading guilty freely and voluntarily and that there’s a factual basis for the plea. Therefore I will accept the plea of guilt.” Before sentencing, defendant informed the court that she had already completed her classes. The court then accepted defendant’s guilty plea and she was sentenced.

Following the trial court’s finding, defendant retained new counsel and filed a motion to withdraw her plea of guilty and vacate the judgment. Before the trial court, defendant alleged ineffective assistance of counsel, asserting her previous attorney failed to inform her of the defense that she could exercise her right to punish her child. Defendant argued that she was unaware of her right to act reasonably in disciplining her child and that this right extended to the use of corporal punishment.

The trial court, ultimately, denied defendant’s motion. It concluded that, although the law provides that parents may exercise corporal punishment in an effort to discipline their children, based on the facts presented at the plea agreement hearing, defendant “crossed the line” in reprimanding her daughter. According to the trial court, defendant’s conduct became “criminal in nature” when she used violence against her daughter before fellow students and attending law enforcement officers. Defendant’s request to withdraw her guilty plea was denied. From this order, defendant now appeals.

ANALYSIS

On appeal, defendant contends that the trial court was wrong in denying her motion to withdraw her guilty plea because she was unaware of her ability to legally discipline her child through the use of reasonable corporal punishment. Defendant also argues that the court erred in rejecting her motion to withdraw her plea of guilty because there was a reasonable doubt as to her culpability of domestic battery against her daughter and that her daughter suffered no sustained injury while defendant utilized an acceptable mode of punishment. We disagree.

It is within the judgment of the trial court to resolve whether a guilty plea may be withdrawn. *People v. Manning*, 227 Ill. 2d 403, 411-12 (2008); *People v. Davis*, 145 Ill. 2d 240, 244 (1991). On appeal, the trial court's decision is reviewed only for abuse of discretion. *People v. Bilelegne*, 381 Ill. App. 3d 292, 295 (2008); see *People v. Pullen*, 192 Ill. 2d 36, 40 (2000). The reviewing court will find an abuse of discretion where the trial court's decision is unreasonable, arbitrary, or fanciful, or where no reasonable person would approve the outlook adopted by the trial court. *People v. Baez*, 241 Ill. 2d 44, 106 (2011).

One does not have the inevitable right to withdraw a plea of guilty. *People v. Jamison*, 197 Ill. 2d 135, 163 (2001); *People v. Hillenbrand*, 121 Ill. 2d 537, 545 (1988). To withdraw a guilty plea, a defendant is required to establish the need to correct a manifest injustice under the facts involved. *Jamison*, 197 Ill. 2d at 163. Therefore, it is the responsibility of the complaining party to show the need to exact a discernable prejudice rendered by the trial court as applied to the facts of the case. *People v.*

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Dougherty, 394 Ill. App. 3d 134, 140 (2009). The decision of the trial court will not be upset unless the guilty plea was apparently entered through a misapprehension of the facts or of the law, or if there is doubt as to the guilt of the accused and the ends of justice would be better served by presenting the case to a jury. *Dougherty*, 394 Ill. App. 3d at 140.

Defendant contends that her guilty plea should be withdrawn since it was entered into on a misapprehension of the law. Because her counsel, allegedly, failed to inform her of her right to employ reasonable corporal punishment in disciplining her child, defendant did not raise it as a defense. According to defendant, therefore, the trial court erred in rejecting her motion to withdraw her guilty plea.

Although the defense is not statutorily identified, it is well established within the common law that a parent may utilize corporal punishment against her child so long as it is necessary and reasonable. *In re F.W. and C.W.*, 261 Ill. App. 3d 894, 898 (1994) (“[d]iscipline’ ha[s] been interpreted by the courts to extend to *reasonable* corporal punishment” (emphasis in original)). However, a parent who exceeds the boundaries of reasonable corporal punishment may be subject to prosecution for domestic battery. *F.W.*, 261 Ill. App. 3d at 898.

Where a parent uses an object, such as a cord, a belt, or a board, to corporally punish a child, an examination of Illinois case law provides a consistent aversion to a finding of reasonableness by the courts. *F.W.*, 261 Ill. App. 3d at 900. For example, in *In re F.W. and C.W.*, the defendant parent proceeded to hit her daughter with her hands and a two-foot board, consisting of protruding metal embellishments, as a means of

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discipline. The appellate court affirmed the finding of the trial court that the parent surpassed the limits of reasonableness in the administration of corporal punishment against her daughter. *F.W.*, 261 Ill. App. 3d at 898-903. Likewise, in *People v. Sambo*, the defendant parents argued that the conduct they asserted against their daughter was appropriate and reasonable corporal punishment. However, the evaluating court determined that the defendants' repeatedly hitting their daughter with their hands, a plastic baseball bat, and a belt, pulling her hair, and throwing liquor in her face constituted excessive corporal punishment and, thereby, affirmed the battery conviction assigned by the trial court. *People v. Sambo*, 197 Ill. App. 3d 574, 581-82 (1990). Similarly, in *People v. Reynolds*, the defendant admitted to striking his three-year-old son with an electrical cord. The appellate court denied the defendant's contention that he was reasonably disciplining his child, citing a medical report indicating fresh bruises on the child's body, and affirmed the ruling of the trial court. *People v. Reynolds*, 91 Ill. App. 3d 683, 684-87 (1980); see *People v. Johnson*, 133 Ill. App. 3d 881, 885 (1985) ("This court believes that despite the fact that [defendant's son] deserved to be disciplined for the wrongful act of stealing money from his mother's purse, the use of a whip-like instrument to punish him was vicious and unreasonable"); see *People v. Swanson*, 84 Ill. App. 3d 245, 246-47 (1980) (evidence was sufficient to find reckless discipline where the defendant hit his five-year-old son with a belt).

In the present matter, defendant cannot assert a practical defense based upon the use of reasonable corporal punishment against her child. After receiving a call from the school regarding her daughter's misbehavior, defendant elected to appear at the school

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absent any indication that the administration requested her to do so. The record shows that defendant pulled her daughter out of class, hit her with a cable cord in front of students and law enforcement officers, and pushed her into a wall. Defendant's use of corporal punishment surpassed the bounds of reasonableness. This Court will not withdraw defendant's guilty plea based upon a simple assertion of misapprehension of the law where defendant's conduct clearly exceeded the reasonable limits of legally permissible punishment in the discipline of her child. See, e.g., *In re B.H.*, 389 Ill. App. 3d 316, 320 (2009) (parent's biting and scratching of her child in effort to punish her "exceeded bounds of reasonableness").

Defendant's second and final argument is that there is a reasonable doubt as to her domestic battery charge because there is no evidence to prove that her daughter was injured as a result of defendant's conduct. Under Illinois statutory law, "A person commits domestic battery if he intentionally or 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 2008). According to Illinois case law, while it may be complicated to determine precisely what bodily harm comprises for purposes of the statute, "some sort of physical pain or damage to the body, like lacerations, bruises or abrasions, whether temporary or permanent, is required." *People v. Mays*, 91 Ill. 2d 251, 256 (1982); *People v. Gaither*, 221 Ill. App. 3d 629, 634 (1991). However, direct evidence of physical injury is not mandatory to find one culpable of inflicting bodily harm. *Gaither*, 221 Ill. App. 3d at 634. Rather, bodily injury may be inferred based upon circumstantial evidence in light of common experience and knowledge. See *Gaither*, 221 Ill. App. 3d at 634 ("evidence

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of contact between a defendant and the victim, combined with the jury's common knowledge, is sufficient to establish that a defendant's conduct has caused bodily harm"); see *People v. Bishop*, 218 Ill. 2d 232, 250 (2006); *F.W.*, 261 Ill. App. 3d at 903 ("the degree of physical injury inflicted upon a child is not the exclusive or determinative factor in evaluating the reasonableness of the parental conduct").

Here, defendant admits to whipping her daughter with a cable cord and pushing her into a wall. The battery was conducted at her daughter's school within the purview of multiple witnesses, including other children. A medical evaluation conducted on defendant's daughter, as presented in the record, reported the absence of any visible injury. However, the record reveals the defendant caused her daughter redness, swelling, pain, and dizziness as a result of the injuries she inflicted. Although one may argue that these harms appear minor, they, nonetheless, constitute bodily injury under the law. Common knowledge suggests that defendant's use of a cable cord in striking her child while at school and before several witnesses, including a teacher, other children, and police officers, establishes defendant's lack of reasonableness in the manner by which she chose to regulate her child's behavior. Even though defendant's daughter sustained only, seemingly, minor injuries, defendant cannot prevail on her motion to withdraw her plea of guilty based on her assertion of reasonable doubt. See *Bishop*, 218 Ill. 2d at 250; *F.W.*, 261 Ill. App. 3d at 903.

Ultimately, submitting defendant's case to a jury cannot be approved for the reasons outlined above, as we believe a jury could not disagree with the law as applied to the facts of this case.

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CONCLUSION

Accordingly, for all the foregoing reasons, we affirm the judgment of the trial court.

Affirmed.