2011 IL App (2d) 091222-U
No. 2—09—1222
Order filed July 20, 2011

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Du Page County.
Plaintiff-Appellee,	)	
v.	)	No. 09—CF—393
RONALD BOSLEY,	)	Honorable John J. Kinsella,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices Schostok and Hudson concurred in the judgment.

ORDER

Held: The State proved defendant guilty beyond a reasonable doubt of home invasion, specifically that the home was not defendant's; there was evidence that defendant and the victim were never married, that defendant's name was not on the lease, that he lived elsewhere, that he had no key to the deadbolt to the victim's home, that he broke in, and that he fled the scene.

¶ 1 The defendant, Ronald Bosley, appeals his conviction of home invasion (720 ILCS 5/12—11(a)(3) (West 2008)). He argues that there was insufficient evidence that an apartment that he entered was the dwelling of another. We affirm.

I. BACKGROUND

¶ 2 Bosley was charged with various counts, including home invasion, in connection with his February 14, 2009, act of entering an apartment leased by his girlfriend, Turkessa Peters, who told the police and a grand jury that Bosley entered her apartment by breaking a deadbolt lock and pointed a gun at her. At that time, Peters was pregnant with Bosley's child. A jury trial was set, Peters did not appear, and an appearance bond was issued. In September 2009, the jury trial was held.

¶ 3 At trial, Peters testified that the lease to the apartment was in her name. Her children were listed on the lease, but Bosley's name was not listed. She said that an address belonging to Bosley's mother was his home and that Bosley did not live with Peters, but he "pretty much" stayed with her. He did not get his mail at the apartment, but kept clothing and items there. Peters testified that the door to the apartment had two locks with separate keys—a regular lock and a deadbolt. She initially said that the door had always been damaged, but later she indicated that there had never been any problems with it, and she specifically stated that both locks worked. She testified that Bosley had a set of keys that did not work both locks. She had a separate key for the deadbolt and sometimes used the deadbolt.

¶ 4 Peters denied that there was an argument between her and Bosley. She also repeatedly stated that she did not recall him forcibly entering her apartment and did not recall him pointing a gun at her. She said she would not have been surprised if he came over on February 14, 2009, and he would have been allowed to do so. Peters could not explain her inability to recall the events at issue, and she admitted that she was the mother of Bosley's child and that she loved Bosley.

¶ 5 Peters' previous statements to police and to the grand jury were used as impeachment and admitted into evidence. In her grand-jury testimony, Peters stated that Bosley lived in a different

area and that they lived separately. Peters stated that, on February 13, 2009, she went to a party with Bosley and, after he had a lot of alcohol, he accused her of sleeping with everyone at the party. Bosley was then escorted from the party. Peters testified that, the next day, she received a phone call from Bosley, who asked her who she had with her. She said that she felt agitated, told him that no one was there, and hung up on him. Bosley called four or five more times, but Peters did not pick up the phone. According to her grand-jury testimony, about a half-hour later, Peters heard someone trying to open the door with a key and the "jiggling" of the knob. She then heard the door being kicked in. Peters' daughter came into Peter's bedroom and said that Bosley had just come in. Peters testified that Bosley entered her bedroom carrying a chrome handgun with a black handle and asked in an angry voice who was there. When Peters said that no one was there, Bosley came over and put the gun to the side of her face. He then left the room and tossed the gun into a basket in the hallway. Bosley then attempted to calm her down, but she did not want to talk to him and wanted him to leave. Bosley looked for tools to fix the door, and Peters tried to call her parents, but Bosley pulled the phone line from the wall. Peters said that Bosley eventually let her call her parents and, as he left, he said "til death to [*sic*] us part." Peters' parents came to the apartment, and her father called the police.

¶ 6 Peters' written statement to the police was consistent with her grand-jury testimony. At trial, Peters admitted making the written statement to the police and identified her handwriting and signature on it.

¶ 7 Officer John Malatia testified that he responded to the call made by Peters' father and searched for the suspect on a nearby trail. Malatia found Bosley there, who ran away. Malatia chased Bosley and found him hiding near a house. Bosley was searched and no gun was found. But

minutes later, Malatia retraced the path that they had run and found a silver handgun with a black handgrip. The gun was loaded and was in working condition. Another officer corroborated the discovery of the gun.

¶ 8 Officer Eric Gouty testified that he also responded to the call and inspected the apartment door. Wood and paint chips were on the ground around the door, a large crack extended upward and downward from the deadbolt, and the deadbolt plate was damaged and cracked. Gouty opined that the damage was fresh and consistent with the door being forced open. Inside the apartment, Peters showed Gouty that a telephone cord had been unplugged from the wall. Gouty testified that Peters was very upset.

¶ 9 Bosley told Gouty and another officer that he had been with Peters at a party the night before and they had argued. He said that he called her on Valentine's day to see if they were still together, but she hung up on him and would not answer his other calls. He said that he took a train to the apartment and let himself in with a key. Bosley denied causing damage to the door. Bosley stated that he left when Peters asked him to leave and that he ran from the police because he thought there was an arrest warrant out for him. At first he denied having a gun, but he later admitted that he had a gun in his waistband when he went to the apartment.

¶ 10 The jury found Bosley guilty of home invasion, along with other counts not at issue in this appeal. He was sentenced to 21 years' incarceration, and he appeals.

II. ANALYSIS

¶ 11 Bosley's sole contention is that there was insufficient evidence to convict him of home invasion because the State failed to show that he entered the dwelling place of another. He argues that he actually lived at the apartment and was authorized to enter it.

¶ 12 "A criminal conviction will not be set aside unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *People v. Collins*, 106 Ill. 2d 237, 261 (1985). In considering a challenge to the sufficiency of the evidence, it is not the function of this court to retry the defendant. *Id*. Rather, " 'the relevant question is whether, after 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.' " (Emphasis in original.) *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). The trier of fact must assess the credibility of the witnesses and the weight of their testimony, resolve conflicts in the evidence, and draw reasonable inferences from that evidence, and this court will not substitute its judgment for that of the trier of fact on these matters. *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001).

¶ 13 A criminal conviction may be based on circumstantial evidence, as long as it satisfies proof beyond a reasonable doubt of the charged offense. *People v. Hall*, 194 Ill. 2d 305, 330 (2000). In a case based on circumstantial evidence, the trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances if all the evidence considered collectively satisfies the trier of fact beyond a reasonable doubt that the defendant is guilty. *Id*.

¶ 14 A person who is not a peace officer commits home invasion when "without authority he or she knowingly enters the dwelling place of another," knowing someone is present. 720 ILCS 5/12—11(a) (West 2008).

¶ 15 When assessing whether a defendant who is or has been in a relationship with the victim entered the "dwelling place of another," we "look beyond the form of the tenancy relationship [in order] to determine the substance of the relationship, considering formal legal documents, informal arrangements, and any other evidence" indicating whether the defendant lived with the victim or

somewhere else. *People v. Delacruz*, 352 Ill. App. 3d 801, 810 (2004). That is, we consider any tenancy interest the defendant has in the premises in addition to any possessory interest in the home. See *People v. Howard*, 374 Ill. App. 3d 705, 712 (2007).

¶ 16 For example, when the defendant rents the home, has resided in the premises "for a while," and keeps personal belongings in the home, the defendant cannot be guilty of home invasion, because the home is the defendant's "dwelling place." *People v. Reid*, 179 Ill. 2d 297, 315-17 (1997) (before legislature amended home-invasion statute to provide that "dwelling place of another" includes a home that the defendant rents but that an order of protection, among other things, prohibits the defendant from entering, the defendant did not commit home invasion when he entered the victim's home and killed her, because the defendant still rented the apartment when the murder occurred). But, where the parties are not married, the defendant's name is not on the lease, the defendant previously vacated the premises, and the authority to enter is limited to picking up children for child care, the location is the dwelling place of another sufficient to sustain a conviction of home invasion. *People v. Gwinn*, 366 Ill. App. 3d 501, 521-22 (2006).

¶ 17 Here, viewed in a light most favorable to the State, the evidence was sufficient to show that Bosley did not enter his own dwelling place. Bosley and Peters were never married, and Bosley's name was not on the lease. Indeed, Bosley picked up his mail elsewhere, and Peters specifically testified to the grand jury that the parties lived separately. At trial, she said that Bosley often stayed with her and kept items at the apartment, but she still never specifically stated that he lived there. There was evidence that Bosley had a key, but also evidence that he did not have a key to the deadbolt, along with strong circumstantial evidence that Peters locked the deadbolt on the night of the home invasion and had not authorized Bosley to enter. That Bosley called Peters from a different

location, took a train to arrive at the apartment, broke in instead of using a key, and then fled the scene is further evidence that the apartment was not his dwelling place and that he was not authorized at that time to enter it. To the extent that testimony from Peters and Bosley indicated otherwise, the jury was free to judge the credibility of their statements and weigh that information as it saw fit. The jury determined that the State sufficiently proved the offense of home invasion and, because there were numerous facts to reasonably support that conclusion, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Accordingly, we affirm.

III. CONCLUSION

¶ 18 The evidence was sufficient to convict Bosley of home invasion. Accordingly, the judgment of the circuit court of Du Page County is affirmed.

Affirmed.