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2012 IL App (3d) 100906-U

Order filed May 23, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 13th Judicial Circuit,
Plaintiff-Appellee,)	Grundy County, Illinois,
)	
v.)	Appeal No. 3-10-0906
)	Circuit No. 10-CM-221
)	
ADAM A. HOLM,)	Honorable
)	William Balestri,
Defendant-Appellant.)	Judge, Presiding.

PRESIDING JUSTICE SCHMIDT delivered the judgment of the court.
Justices McDade and Wright concurred in the judgment.

ORDER

- ¶ 1 *Held:* The evidence at trial was sufficient to allow a rational fact finder to determine that defendant had not acted in self-defense.
- ¶ 2 Defendant, Adam A. Holm, was convicted of aggravated assault (720 ILCS 5/12-2(a)(1) (West 2010)) and sentenced to one year of conditional discharge. Defendant appeals, arguing that the State failed to prove beyond a reasonable doubt that he was not justified in his actions based on self-defense. We affirm.

FACTS

¶ 3

¶ 4 Defendant was charged with aggravated assault (720 ILCS 5/12-2(a)(1) (West 2010)) and disorderly conduct (720 ILCS 5/26-1(a)(1) (West 2010)). Prior to trial, defendant raised an affirmative defense of defense of person and defense of property. The cause proceeded to a jury trial.

¶ 5 At trial, the State called a number of witnesses, including the victim, Ryan Gasteier, and bystanders to the encounter. Their testimony established that defendant and his son circled a park where the daughter of Gasteier's girlfriend was playing and began shouting obscenities at her. After hearing about the incident, Gasteier traveled to the park to confront the two men. As Gasteier approached defendant's truck, it began driving away. Thereafter, the truck kept driving toward Gasteier and then reversing and driving away from him in what one witness described as a "teasing" motion. Gasteier threw a small rock at the truck. Defendant and his son emerged and retrieved a large stick and a four-prong rake from the truck bed and approached Gasteier. Gasteier was unarmed and had to defend himself by grabbing hold of the large stick and rake.

¶ 6 Defendant and his son also testified. They claimed that they did not yell obscenities towards the girls and that Gasteier approached their truck without warning. Gasteier then threw a number of rocks at the truck. Defendant stopped the truck so they could assess the damage while Gasteier ran toward them. Defendant and his son retrieved a stick from the back of their truck in an attempt to fend off Gasteier. As he approached, defendant swung the stick at Gasteier, who was able to catch the stick; however, a fight ensued.

¶ 7 After hearing the evidence from both sides, the jury found defendant guilty of aggravated assault. Defendant was sentenced to one year of conditional discharge and a \$500 fine.

Defendant appeals.

¶ 8

ANALYSIS

¶ 9 Defendant argues that the evidence produced at trial was not sufficient to prove beyond a reasonable doubt that he had not acted in self-defense. When presented with a challenge to the sufficiency of the evidence, it is not the function of this court to retry defendant; 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. *People v. Collins*, 106 Ill. 2d 237 (1985).

¶ 10 In order to establish self-defense, a defendant must establish some evidence of each of the following elements: (1) force threatened against a person; (2) the person threatened is not the aggressor; (3) the danger of harm was imminent; (4) the threatened force was unlawful; (5) he actually and subjectively believed a danger existed which required the use of the force applied; and (6) his beliefs were objectively reasonable. *People v. Dickey*, 2011 IL App (3d) 100397. Once the defendant has provided some evidence for the above elements, the State has the burden of disproving at least one element beyond a reasonable doubt. *Id.*

¶ 11 Here, we believe that the evidence presented at trial could allow a rational trier of fact to find, beyond a reasonable doubt, that defendant was not acting in self-defense. The State's evidence established that prior to any aggressive action by Gasteier, defendant had taunted both Gasteier and his girlfriend's daughter. Further, although Gasteier threw a rock at defendant's truck, he was otherwise unarmed and presented little danger to defendant or his son. Therefore, the evidence was sufficient to prove beyond a reasonable doubt that defendant was not justified when he attacked Gasteier with a large stick.

¶ 12

CONCLUSION

¶ 13 The judgement of the circuit court of Grundy County is affirmed.

¶ 14 Affirmed.