

No. 1-11-1318

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).

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. 09 CR 11775
)	
SHIRLEY WILLIAMS,)	Honorable
)	Clayton J. Crane,
Defendant-Appellant.)	Judge Presiding.

JUSTICE QUINN delivered the judgment of the court.
Presiding Justice Harris and Justice Connors concurred in the judgment.

ORDER

¶ 1 *Held:* Judgment affirmed where the testimony of the complaining witness was sufficient to sustain defendant's conviction of battery based on bodily harm.

¶ 2 Following a bench trial, defendant Shirley Williams was found guilty of misdemeanor battery (720 ILCS 5/12-3(a) (West 2008)), as a lesser-included offense of the charged offense of aggravated battery on a public way (720 ILCS 5/12-4(b)(8) (West 2008)), and sentenced to 18 months' probation. On appeal, defendant contends that the State failed to prove her guilty of battery beyond a reasonable doubt where there was no evidence that the victim suffered the type of harm necessary to support a finding of bodily harm, such as lacerations, bruises, or abrasions.

¶ 3 At trial, the State presented the testimony of the complainant, Nicole Smith, a professor at Harold Washington College, her brother, Brian Sanders, and the retired president of Harold Washington College, John Wozniak. Smith identified defendant in court as a former student of hers in 2008. Smith testified that she received a number of telephone calls at her house from defendant on Sunday, June 14, 2009, and when she answered the first call at 4 a.m., she recognized defendant's voice. Defendant told her to retrieve a bag at the door of her house and then hung up. A couple of hours later, defendant called her twice, asking why she had not retrieved the bag, and she hung up on defendant both times. When there was enough light to see outside, she noticed a gift bag with a card in defendant's handwriting at the back door and called the police who came to the house but did not take anyone into custody.

¶ 4 Smith further testified that later that day, defendant drove up the alley behind her house and confronted her as she was loading her three children into her car. The confrontation became physical when defendant ignored her request to stay away, grabbed her arm and said she loved her. She told defendant "you're a stupid B," and defendant lunged and knocked her against her car. When she saw defendant retrieve what appeared to be a tire iron, she told defendant to stay back and hit defendant's face when she ignored the warning. She thought she was safe when defendant returned to her car, but then heard defendant's car engine rev and jumped out of the way to avoid being struck.

¶ 5 Smith testified that her mother-in-law came out at that point and conversed with defendant, but that defendant then "came at me again." Smith added that "we got into an actual tussle, to where I was knocked on my car, she was knocked on her car" for a minute or two. Smith explained that she has lupus, and when she was thrown onto the car, "my arm, my shoulder wars [*sic*] hurting, my right wrist was hurting."

¶ 6 Brian Sanders testified that he intervened when he saw defendant swing at his sister with a steering wheel device, which he referred to as "the club." John Wozniak testified that in October of 2008, he expelled defendant because of her harassing behavior toward Ms. Smith and prohibited her from future enrollment at Harold Washington College.

¶ 7 After the State rested, the trial court denied defendant's motion for a directed finding. Defendant rested without testifying or presenting any witnesses on her behalf, and the trial court found her guilty of battery based on bodily harm.

¶ 8 In this court, defendant contends that the State failed to prove the element of bodily harm beyond a reasonable doubt. As controlling authority, defendant cites *People v. Boyer*, 138 Ill. App. 3d 16 (1985), for the proposition that in the absence of a physical manifestation of harm, the State cannot prove the element of bodily harm necessary to support a battery conviction. She argues that under *Boyer*, the bare testimony of Smith that she suffered pain is not enough to show bodily harm.

¶ 9 When defendant challenges the sufficiency of the evidence to sustain her conviction, the relevant question on review is whether, after considering 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, 315-16 (1979); *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009). Under this standard, a court of review must allow all reasonable inferences from the record in favor of the prosecution. *People v. Cardamone*, 232 Ill. 2d 504, 511 (2009).

¶ 10 As it relates to ordinary battery, "bodily harm" requires "some sort of physical pain *or* damage to the body, like lacerations, bruises or abrasions, whether temporary or permanent." (Emphasis added.) *People v. Mimes*, 2011 IL App (1st) 082747, ¶ 29 (quoting *People v. Mays*, 91 Ill. 2d 251, 256 (1982)). However, to establish this element in a battery case, "there is no

requirement that the evidence demonstrate a *visible* injury such as bruising, scratching or bleeding." (Emphasis added.) *People v. McEvoy*, 33 Ill. App. 3d 409, 411 (1975). Physical pain has been held sufficient to constitute bodily harm (*People v. Wenkus*, 171 Ill. App. 3d 1064, 1067 (1988)), and evidence of contact between a defendant and the victim, combined with the trier of fact's common knowledge, has been found sufficient to establish that a defendant's conduct has caused bodily harm (*People v. Gaither*, 221 Ill. App. 3d 629, 634 (1991)).

¶ 11 Applying these principles to the instant case, we conclude that the evidence adduced by the State at trial was sufficient to prove circumstantially that Smith suffered some physical pain that was caused by defendant's conduct. *People v. McCrimmon*, 225 Ill. App. 3d 456, 466 (1992). Smith testified that defendant grabbed her arm and shoved her against her car, and that "we got into an actual tussle, to where I was knocked on my car, she was knocked on her car," during which time, "my arm, my shoulder wars [*sic*] hurting, my right wrist was hurting." Although there was no apparent visible injury to Smith, such visible evidence is not required in order for a battery to have occurred (*People v. Foster*, 103 Ill. App. 3d 372, 377 (1982)), and defendant does not deny that she threw Smith against her car and that Smith suffered pain as a result. Under these circumstances, we do not think that it was unreasonable for the trial court to credit the testimony of Smith regarding the infliction of pain by defendant, which was sufficient to establish the bodily harm element of battery. *Gaither*, 221 Ill. App. 3d at 634.

¶ 12 Defendant's reliance on *Boyer* does not dictate otherwise. In *Boyer*, 138 Ill. App. 3d 16, the court found that defendant did not physically harm the complainant so as to support a conviction of aggravated criminal sexual assault where no evidence linked a bruise on her leg to the offense and that defendant could not be convicted of home invasion in the absence of evidence that the complainant suffered bodily harm. However, more recent cases have declined to read an exception, limitation, or condition into the home invasion statute to say that "injury"

means "bodily harm." *People v. Woods*, 373 Ill. App. 3d 171, 178 (2007). Here, the testimony of Smith that she felt pain after defendant knocked her against her car satisfied the bodily harm element of battery, notwithstanding the lack of any visible signs that she was hurt. See *Woods*, 373 Ill. App. 3d at 178-79 (evidence that the victim suffered pain after defendant applied pressure to her wrist satisfied the "injury" element of home invasion).

¶ 13 As stated, "bodily harm" in a battery case only requires "some sort of physical pain or damage to the body," and, thus, lacerations, bruises, or abrasions are not necessary to satisfy that requirement. *Woods*, 373 Ill. App. 3d at 179. Considering the evidence in the light most favorable to the State, we find that a rational trier of fact could have concluded from Smith's testimony alone that the State proved beyond a reasonable doubt the "bodily harm" element of battery. *People v. Green*, 54 Ill. App. 3d 596, 599-600 (1977).

¶ 14 Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 15 Affirmed.