

2013 IL App (1st) 113010-U

FIFTH DIVISION
May 17, 2013

No. 1-11-3010

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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 CR 13845
)	
JAMES BRICKHOUSE,)	Honorable
)	Jorge Luis Alonso,
Defendant-Appellant.)	Judge Presiding.

JUSTICE HOWSE delivered the judgment of the court.
Presiding Justice McBride and Justice Taylor concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant was proven guilty beyond a reasonable doubt for aggravated domestic battery where he stabbed the victim with a 14-inch sword; defendant's offense did not subject him to \$5 Vehicle Code fee; defendant's conviction affirmed and fee vacated.

¶ 2 Following a bench trial, defendant James Brickhouse was convicted of aggravated domestic battery and sentenced to four years in prison. On appeal, defendant contends his conviction should be reversed because the State failed to prove beyond a reasonable doubt that he caused the victim's injuries knowingly or intentionally. In the alternative, defendant argues

his conviction should be reduced to reckless conduct. Additionally, defendant contends the trial court erred in imposing a \$5 fee under the Illinois Vehicle Code. We affirm defendant's conviction and vacate the fee.

¶ 3 Defendant was charged with one count of attempted first degree murder, two counts of aggravated domestic battery, and three counts of aggravated battery. The undisputed evidence revealed that 26-year-old defendant stabbed his 45-year-old putative uncle, Edward Rowan, through his body with a 14-inch Chinese replica sword causing extremely serious injuries. The stabbing occurred at Edward's residence, an apartment at 1239 South Harding Avenue in Chicago, at about 11 p.m. on July 3, 2010. The State maintained and the trial court ultimately found that defendant acted knowingly or intentionally. Defendant claimed at trial and now on appeal that the stabbing was accidental.

¶ 4 Edward Rowan testified that at the time of the stabbing, he was living with his then-girlfriend, Belinda Brickhouse, who is defendant's aunt. Edward and Belinda had an on-and-off relationship for over 19 years. Edward helped to raise defendant since he was seven years old. Two years before the night of the stabbing, defendant and his fiancé, Brittany Rogers, lived at the South Harding apartment.

¶ 5 Edward testified that on July 3, he returned to the apartment in the evening after setting up to deejay a party at another location. While setting up the party, Edward drank a few beers. When he arrived home, Edward lay down in the bedroom and heard arguing between defendant and Brittany. Brittany and then defendant entered the bedroom and began to argue again. Edward grabbed defendant and told him to leave. Then, Edward and defendant began tussling and grabbing each other. Defendant pushed Edward onto the floor in the front room and Edward hit his shoulder on the radiator. Edward went to the bedroom, and when he returned, Edward's daughter tried to place herself in between Edward and defendant while heated arguing continued.

Edward moved toward defendant. As Edward reached him, defendant turned around, grabbed a 14-inch sword, and stabbed him through the body. As the stabbing happened quickly, Edward did not see defendant's movements and did not know how defendant stabbed him. Edward described his extensive injuries, two surgeries, his permanent scar and nerve damage, and ongoing need for physical therapy. Edward further testified that defendant did not call or visit after July 3.

¶ 6 Roula McCarthy, the responding paramedic on July 3, testified that the stab wound to Edward's belly was critical and he needed to see a trauma surgeon immediately. Based on his condition, McCarthy thought Edward could have died.

¶ 7 Belinda Brickhouse testified that at the time of the stabbing, she was living in the South Harding apartment with her then-boyfriend, Edward. Defendant had an arrangement with Belinda and Edward for two of defendant's children to visit with defendant at the apartment. Defendant himself would also visit the apartment every day.

¶ 8 Belinda testified that in a hallway was a collection of three sharp, stainless steel Chinese replica swords of different lengths that she had purchased 19 years ago. For the past two years, Belinda displayed the swords approximately five to six feet high on the wall to keep them out of reach of children.

¶ 9 Belinda testified that on the night of the stabbing, defendant had been at the apartment since morning. Belinda had seen defendant drink one can of beer that day. She also believed Edward had been drinking. Belinda testified that defendant and Brittany had been arguing that evening. She further testified that she had seen Edward sitting on the floor of the living room by the radiator. Soon after, while she was in the kitchen, she heard further arguing and then an "ugh." She looked into the hallway and saw one her swords was lodged into Edward's chest and was sticking out of his back. Defendant told Belinda he did not mean to do it and fled.

¶ 10 Edriana Brickhouse testified for the defense and identified herself as defendant's 17-year-old cousin and Belinda and Edward's daughter. On the night of the stabbing, Edriana heard defendant and Brittany arguing in the main bedroom. Edriana also saw Edward telling defendant to leave the house and defendant telling Edward to leave him alone. Edriana believed that Edward was drunk that evening. Just prior to the stabbing, Edriana put herself between Edward and defendant because they looked as though they were about to fight. Edward went around Edriana and began following defendant, yelling at him. Edriana saw defendant reach at the wall and take a sword, and then saw Edward bend down and fall into the wall. Edriana thought the stabbing happened in a split second. Edriana was not able to see the stabbing because Edward was in front of her at the time.

¶ 11 In closing arguments, the State maintained the stabbing was intentional because of the nature of the injury and the weapon that was used. Defense counsel argued that the stabbing was an accident because the evidence showed that defendant did not intend to hurt Edward and had taken the sword off the wall to hold Edward back. Defense counsel further argued that no evidence was presented showing defendant knew the sword was a deadly weapon.

¶ 12 The trial court rejected the argument that the stabbing was an accident:

I think when you take the circumstantial evidence together with the evidence that I have heard, context of how this happened, when you throw in a little common sense, when you throw in the flight of Mr. Brickhouse, also the nature of the injuries themselves***there can only be one finding. Again, that's it's not an accident, that he intended to do it.”

The trial court found that defendant formed his intent very quickly. However, the trial court did not find that defendant had the intent to kill, and so found defendant not guilty of attempted first

degree murder. The trial judge found that the remaining charges merged into the aggravated domestic battery charge. Defendant was sentenced to four years in prison.

¶ 13 Defendant first contends that his aggravated domestic battery charge should be reversed because the State failed to prove beyond a reasonable doubt that defendant caused Edward's injuries knowingly or intentionally. Defendant argues that the evidence established that the stabbing was accidental.

¶ 14 When a defendant challenges the sufficiency of the evidence, the reviewing court determines “whether, after reviewing 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.) *Jackson v. Virginia*, 443 U.S. 307, 319, *People v. Collins*, 106 Ill. 2d 237, 261 (1985). It is not the reviewing court's function to retry the defendant. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). The determination of the weight to be given to the witnesses' testimony, the credibility of the witnesses, resolution of inconsistencies and conflicts in the evidence, and reasonable inferences to be drawn from the testimony are the responsibility of the trier of fact. *Id.* The reviewing court must allow all reasonable inferences from the record in favor of the prosecution. *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). The fact finder's decision will not be overturned unless its verdict is so unreasonable, improbable, and unsatisfactory as to leave a reasonable doubt as to the defendant's guilt. *People v. Brown*, 169 Ill. 2d 132, 152 (1996).

¶ 15 A person commits aggravated domestic battery when, in committing a domestic battery, he intentionally or knowingly causes great bodily harm or permanent disability or disfigurement. 720 ILCS 5/12-3.3(a) (West 2010). A person commits domestic battery if he intentionally or knowingly without legal justification by any means causes bodily harm to any family or household member. 720 ILCS 5/12-3.2 (West 2010). Defendant only challenges that the

stabbing was intentional or knowing. A person acts intentionally, or with intent to accomplish a result, when his conscious objective or purpose is to accomplish that result. 720 ILCS 5/4-4 (West 2010). A person acts knowingly when he is consciously aware that a result is practically certain to be caused by his conduct. 720 ILCS 5/4-5(b) (West 2010).

¶ 16 Where the defendant denies intent, as here, the State may prove the defendant's intent through circumstantial evidence. *People v. Phillips*, 392 Ill. App. 3d 243, 259 (2009). Intent may be inferred from (1) the defendant's conduct surrounding the act and (2) from the act itself. *Id.* Further, intent can be inferred from defendant's conduct immediately prior to a battery. *People v. Begay*, 377 Ill. App. 3d 417, 421 (2007) (intent inferred from defendant's egging of victim's car right before the battery). The nature and circumstances of an act can also indicate intent. *People v. Farrell*, 89 Ill. App. 3d 262, 265 (1980) (intent for aggravated battery inferred from defendant's striking victim only once to one of the most sensitive parts of the body).

¶ 17 Here, the evidence sufficiently supports the trial court's finding that defendant acted knowingly or intentionally. The context of the stabbing suggests an escalating conflict. Belinda and Edriana testified that defendant was arguing with Brittany, defendant engaged in a heated argument with Edward, and both men were intoxicated to some degree. Neither woman saw the stabbing because Belinda was in another room and Edriana's view was obstructed. The conflict between Edward and defendant began in the main bedroom and escalated as they moved to the living room, where defendant pushed Edward to the floor and into the radiator, and ended up in the hallway. Up to this point, their conflict included verbal arguing and pushing and shoving. While Edward was facing the back of defendant, defendant turned around to face Edward, grabbed a sword from the hallway, and stabbed Edward in the stomach all the way through his body. Defendant claims he intended to fend off Edward or cause him less serious injuries. Even assuming a defendant did not intend the particular injury or consequence that resulted from his

conduct, the trier of fact can still infer the requisite intent. *People v. Isunza*, 396 Ill. App. 3d 127, 132 (2009), *People v. Lattimore*, 2011 IL App (1st) 093238 (2011) (was not error for the trial court to find defendant knowingly caused bodily harm where defendant argued he was merely attempting to disengage from the victim), *People v. Marcotte*, 337 Ill. App. 3d 798, 804 (2003) (the trier of fact determines whether a defendant acted with the requisite state of mind). In light of the evidence and permissible inferences from the evidence, the trial court's findings that defendant formed his intent very quickly and intended the stabbing are not so unreasonable, improbable, and unsatisfactory as to leave a reasonable doubt of defendant's guilt.

¶ 18 In the alternative, defendant argues his conviction should be reduced to reckless conduct. A person commits reckless conduct when he recklessly performs an act that causes great bodily harm or permanent disability or disfigurement. 720 ILCS 5/12-5(a-5) (West 2010). A person acts recklessly when he consciously disregards a substantial risk that a result will follow. 720 ILCS 5/4-6 (West 2010). When determining whether or not a defendant's actions were reckless or intentional, courts look to the manner in which defendant used the weapon and the severity of the victim's injuries. *People v. Solis*, 216 Ill. App. 3d 11, 18 (1991).

¶ 19 A rational trier of fact could find that defendant acted knowingly or intentionally, rather than recklessly. It is reasonable to infer that defendant knew the sword was sharp and that based on where the sword was directed, defendant's proximity to Edward, and the severity of the injuries, defendant knew the sword would injure Edward. *Farrell*, 89 Ill. App. 3d at 265 (finding that trial judge could infer from location of the attack that damage was practically certain to occur), *Solis*, 216 Ill. App. 3d at 18 (stating that from defendant's proximity to the victim and seriousness of the injury trial judge could infer defendant acted intentionally rather than recklessly). We reject defendant's argument that his conduct was merely reckless.

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¶ 20 Defendant asserts and the State correctly concedes that we must vacate the \$5 Vehicle Code fee. 55 ILCS 5/1101(a) (West 2010). This fee only applies to a violation of the Illinois Vehicle Code or similar municipal ordinance and does not apply to defendant's conviction of aggravated domestic battery.

¶ 21 For the foregoing reasons, we affirm the judgment of the trial court, with the modification that the \$5 Vehicle Code fee be vacated.

¶ 22 Affirmed as modified.