

2013 IL App (1st) 120178-U

FIFTH DIVISION
May 24, 2013

No. 1-12-0178

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. 11 MC3 4662
)	
SOON MO PARK,)	Honorable
)	Thomas P. Fecarotta, Jr.,
Defendant-Appellant.)	Judge Presiding.

JUSTICE TAYLOR delivered the judgment of the court.
Justices Howse and Palmer concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant was proven guilty of misdemeanor battery of Gina Rhodes beyond a reasonable doubt, based on the testimony of the victim.
- ¶ 2 In a bench trial, defendant Soon Mo Park was convicted of misdemeanor battery and sentenced to one year of probation. On appeal, defendant contends that he was not proven guilty beyond a reasonable doubt.
- ¶ 3 At trial, Lydell Ray Martin testified that on November 2, 2011, he was golfing at the Schaumburg Golf Course in Schaumburg, Illinois. After playing the first nine holes by himself,

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Martin was teamed up to play the final nine holes with two strangers, Gina Rhodes and her son, Austin Rhodes. Martin became aware of a loud foursome playing behind his group. On the 13th hole, a club employee approached Martin's group and told them that people were complaining that they were playing too slowly. After this, members of the foursome began to yell every time one of Martin's group approached to hit a ball. On the 15th hole, Gina became upset and was crying. Then one of the foursome said "Hey nigger hurry up." Martin, who was African American, walked over to the foursome with a golf club in his hand and asked which one had called him a nigger and which one was heckling them. Defendant then came from behind two of the golfers, pushed Martin, and said "I don't want to talk to you, nigger, go back." Defendant also told Martin to "get the fuck" out of there. Martin attempted to speak to the man who appeared to be the oldest member of the foursome, but that man said he did not want to talk to Martin. Defendant then pushed Martin again, this time from behind.

¶ 4 At this point, Martin noticed that a golf cart driven by Austin, with Gina as a passenger, was driving toward them. Defendant dived at the cart, which had turned away from them. Defendant's right arm hit the cart and he fell off. Austin and Gina then drove away toward the club house. Martin started to walk away from the foursome, but one of them came toward him. Martin had a golf club in his hand and he lunged at the man and told him he should return to the foursome. Defendant and another member of the foursome got in their cart and "peeled off" toward the clubhouse. Because of the obstruction of trees and buildings, Martin could no longer see Austin and Gina in their cart. Martin testified that, other than when defendant dived at the golf cart, he did not see a confrontation between defendant and Gina.

¶ 5 Gina testified that at the time in question, she and Austin were playing the back nine holes with Martin. After a club employee told them that there were complaints about their slow play, they approached the 15th hole. Members of the foursome began hitting balls toward them

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and yelling when members of Gina's group tried to make a shot. When Gina, Austin, and Martin finished the 15th hole, Martin did not put the flag back in the hole. Members of the foursome began to yell and curse at them, saying "Motherfucker, put the fucking flag back in the hole." They were also calling Martin a nigger. When Martin walked over to the foursome to talk to them, Gina saw defendant push Martin with both hands. Gina denied that Martin was holding a golf club at this time. Accompanied by Gina, Austin then drove their cart toward the group to see what was going on. As Austin attempted to turn the cart, defendant and another member of the foursome began to chase the cart. Defendant took a golf club from the cart and swung it at Gina, striking her right arm and causing the club to come apart. Gina testified that as the result of this blow, her ulnar nerve was paralyzed and the fourth and fifth fingers on her right hand were numb. The blow from the club left bruises from her armpit past her elbow. Gina identified several photographs of her arm as depicting the bruising she had incurred.

¶ 6 Tok Kim testified that he had been friends with defendant for about 15 years. On the day in question, Kim played with defendant's foursome. The group in front of them was playing very slowly. Around the 12th hole, a golf club "ranger" summoned by one of the members of the foursome came out and spoke to Martin's group. On the 15th hole, when Kim began to make an approach shot, he saw that the flag was not in the hole. He told Martin's group to replace the flag, but he denied swearing at them. Kim also denied that any of his foursome ever called Martin a nigger. Gina replaced the flag, but then Martin and Austin began to yell at the foursome, saying something to the effect of "Fuck you. Chink." Kim replied "Fuck you too." Martin approached the foursome, holding a golf club in his left hand with his right hand on the small of his back. After some discussion, Martin began to walk away from the foursome. At that point, Gina and Austin drove up in their cart, knocking defendant to the ground. Defendant first tried to chase the cart on foot, but he then got into his cart and began to follow Gina and Austin's

cart. Kim denied that he ever saw defendant take a golf club out of Gina and Austin's cart or that he saw defendant "take a swing" at Gina.

¶ 7 Defendant testified that on the day in question, he and his three golf partners were at the 15th hole when Kim noticed that the flag had not been put back in the hole. Kim shouted at the Martin group to put the flag in the hole, and one of them complied. The Martin group had been playing slowly. Defendant admitted that when the Martin group continued to play slowly after being warned by the ranger, other members of his foursome began yelling at Martin's group to speed up. He denied that he or any other member of his group yelled the "N word" at the Martin group. Martin and another man began to swear at defendant's foursome. Martin then walked toward the foursome, carrying a golf club. Defendant told Martin to leave and Martin eventually began to walk away. Defendant then noticed a golf cart heading toward him. He subsequently learned that the person driving was Austin, with Gina in the passenger seat. Defendant tried to move out of the way, but the cart struck him on his left side, cutting his arm and knocking him to the ground. Defendant unsuccessfully attempted to catch the cart on foot. He denied ever taking a golf club out of that cart or striking Gina with a golf club. He also denied that any member of his foursome hit Gina that day. Defendant testified that he only went to the hospital after he arrived at home and noticed that his arm was swollen.

¶ 8 After final arguments, the trial court found defendant guilty of misdemeanor battery of Gina Rhodes and sentenced him to one year of probation. Defendant then brought this appeal.

¶ 9 Defendant contends that the prosecution failed to prove him guilty beyond a reasonable doubt. To resolve this contention, we must determine whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could find the essential elements of the crime beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 18 (2011). We will reverse a conviction only when the evidence is so unreasonable, improbable, or unsatisfactory

that reasonable doubt of the defendant's guilt remains. *Id.* at 8. We also bear in mind that in this case it was the function of the trial court, as the trier of fact, to determine the weight to be given to the testimony of the witnesses, their credibility, and the reasonable inferences to be drawn from the evidence. *People v. Steidl*, 142 Ill. 2d 204, 226 (1991). The trier of fact is free to believe all or part of a witness' testimony *People v. Logan*, 352 Ill. App. 3d 73, 81 (2004).

¶ 10 Defendant highlights differences in the testimony of Gina and Martin. Martin testified that he did not see defendant strike Gina with a golf club, but he did not testify that this did not happen. He did testify that he saw defendant drive his golf cart in pursuit of Austin and Gina's cart. Furthermore, the trial court found that the testimony of the defense witnesses, defendant and Kim, was not credible. The court found that it believed that defendant or members of his group used racial epithets against Martin, but it also found that this did not justify Martin in approaching them with a golf club brandished in a threatening manner. Thus, contrary to defendant's contention, the trial court did not acquit defendant of the battery of Martin because it did not believe Martin. Instead, it found that the actions which Martin stated he took were not justified.

¶ 11 The court found that Gina's testimony about being struck by defendant with a golf club was credible. It also found that her testimony was corroborated by photographs depicting the external bruising to Gina's arm. No other explanation was advanced at trial for how Gina received her injuries, which included the paralysis of her ulnar nerve and numbing of some of her fingers. Finally, the court also noted that Gina's testimony was corroborated by defendant's admission in his testimony that he chased the golf cart in which Gina was riding.

¶ 12 In support of his claim that he was not proven guilty beyond a reasonable doubt, defendant cites to *People v. Eichelberger*, 81 Ill. App. 3d 1012 (1980), where the reviewing court reversed the defendant's battery conviction. But in *Eichelberger*, the alleged battery victim,

Charles Prather, Jr., claimed that the defendant had punched him in the face, breaking his nose and causing his nose to bleed. *Id.*, 1013-1014. Yet a police officer who responded shortly after the occurrence testified that he observed no injuries to Prather's face, and Prather told the officer only that he had been pushed or shoved. *Id.*, 1015. The reviewing court also noted that the complaint for battery in the case was not filed until one and one-half months after the incident. *Id.* Here, Gina gave a clear account of the injuries she sustained and how they were caused, and there was photographic evidence of some of those injuries. Also, the complaint against defendant, which is contained in the record on appeal, was filed on November 8, 2011, less than one week after the Gina was injured on November 2, 2011.

¶ 13 In summary, the trial court stated that he had "no doubt that [defendant] did exactly what Gina Rhodes said he did." Viewing the trial evidence in the light most favorable to the State, we cannot say that no rational trier of fact would have found the evidence sufficient to convict defendant of misdemeanor battery. *Beauchamp*, 241 Ill. 2d at 18.

¶ 14 For the reasons set forth in this order, we affirm defendant's conviction and sentence.

¶ 15 Affirmed.