

No. 1-13-0239

**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

---

<i>In re</i> Ramadan A.Q., a Minor	)	Appeal from the
(THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
	)	Cook County.
Petitioner-Appellee,	)	
	)	
v.	)	No. 12 JD 4300
	)	
RAMADAN A.Q., a minor,	)	Honorable
	)	Stuart F. Lubin,
Respondent-Appellant).	)	Judge Presiding.

---

JUSTICE GORDON delivered the judgment of the court.  
Presiding Justice Lampkin and Justice Reyes concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Respondent's adjudication of delinquency for battery was affirmed where the evidence established beyond a reasonable doubt that the physical contact with the victim was insulting or provoking. The evidence also supported his conviction for criminal trespass to real property where respondent previously had received notice that entry onto the property was forbidden to him.
- ¶ 2 Following a bench trial, respondent Ramadan A.Q., a minor, was adjudicated delinquent based on the commission of battery and criminal trespass to real property and placed on one year of probation. On appeal, respondent asserts the State failed to establish beyond a reasonable

doubt that the physical contact he made with the battery victim, a high school security guard on school property, was insulting or provoking conduct. Respondent also contends the evidence failed to show he had received notice previously that he was forbidden to enter school property. We affirm.

¶ 3 The State charged respondent in a delinquency petition with one count of battery on Daniel Bernal, a Chicago police officer working as a security guard at Taft High School in Chicago, and one count of criminal trespass to real property at the high school. Respondent's brother Abdullah<sup>1</sup> was charged in a separate delinquency petition, and a joint adjudicatory hearing was held. The prosecution of the minor brothers arose from an incident on October 10, 2012, at the high school where Abdullah was a student.

¶ 4 The State presented the testimony of three Chicago police officers who at the time of the incident were working as part-time security guards at Taft. Officer Daniel Bernal testified that at the time of the incident he and the other security guards were wearing Chicago Public School jackets identifying them as members of "Taft Security." At around 11:20 a.m., Bernal and about five other security guards were escorting a student from the school when they encountered a group of about 15 to 20 students in the school parking lot. The escorted student told Bernal that that group of students had beaten him up. Bernal approached the group and told them several times that they needed to leave the school grounds. They refused to do so and began to scream and yell. They were angry and upset. Bernal walked up to Abdullah, one of the students in the group, and asked him to leave, but he refused. The group became louder and more angry. Abdullah stepped up to Bernal with his fists clenched. Bernal pushed Abdullah about two or

---

<sup>1</sup> Abdullah was found guilty of battery and sentenced to one year of probation. Abdullah appealed, and we affirmed the trial court judgment in *In re Abdullah A.Q.*, 2013 IL App (1<sup>st</sup>) 130240-U.

three feet away from him, and Abdullah pushed Bernal back. Bernal tried to place Abdullah under arrest, but he resisted his efforts. As Bernal was trying to handcuff Abdullah, respondent jumped on Bernal's back. Another security guard, Officer Staszal, took respondent down and placed him under arrest.

¶ 5 Officer Daniel Koloczieski testified that on the date of the incident, Abdullah was a student at the high school. Respondent, Abdullah's brother, previously had been a student at Taft but had either dropped out of the school or been expelled. Prior to that day, Koloczieski had had contact with respondent and had told him on "at least two other occasions" not to be on the school grounds. On the date and time in question, Koloczieski and the other security guards were escorting from the school a student who earlier had been the victim of a battery at the hands of other students. A group of about 15 to 20 students approached and surrounded the student being escorted. To avoid a second battery of that student, Koloczieski and Bernal approached the group, and Bernal told everyone in the group to disperse. While some of the students obeyed the dispersal order, Abdullah approached Bernal with both of his fists clenched in a threatening manner. Bernal pushed Abdullah, who then pushed Bernal in the chest. As Bernal attempted to arrest Abdullah, respondent jumped on Bernal's back. Officer Staszal, another security guard, removed respondent from Bernal's back.

¶ 6 Officer Andrew Staszal testified that he was approached at dismissal time by a student who complained of having been attacked by other students who were then waiting for him in the parking lot. Staszal informed the other security guards, and they escorted the student from the school. Staszal observed a group of students in the parking lot, and the escorted student pointed in the direction of the group. Both respondent and Abdullah were with the group. Officers Bernal and Koloczieski were involved in an altercation, and Staszal observed respondent on

Bernal's back. Staszal removed respondent from Bernal's back, applied a wrist lock, and detained him. Respondent cooperated "once he was on the ground."

¶ 7 The defense presented the testimony of Taft High School students Marie Chew and Gavreel Shoumanov. Chew testified she observed a security guard approach Abdullah and witnessed an altercation between Abdullah and the guard. Respondent stepped in and pushed Abdullah and the guard apart with his hands, but he did not jump on the guard's back. She never observed Abdullah attempt to hit the guard. Shoumanov testified she was standing next to respondent and Abdullah. A security guard approached Abdullah, they began to argue, and the guard pushed Abdullah. Then the guard grabbed Abdullah and did not let him go. Respondent came between them in an attempt to pull Abdullah off the security guard.

¶ 8 At the close of trial, the court announced its factual findings. The court also noted that Koloczieski had "testified he knew that [respondent] was not a student there and he had told him to stay off Taft property at least twice before." The court concluded that "the State's proven both of those charges beyond a reasonable doubt, battery for jumping on Bernal's neck, and criminal trespass for being at Taft High School when he'd been warned not to be there." The court placed respondent on probation for one year with a six-month progress report date for possible early termination of probation, with 20 hours of community service and other conditions of probation.

¶ 9 On appeal, respondent argues that he was not proven guilty of battery beyond a reasonable doubt because his conduct, jumping on the back of security guard Bernal, was not proven to be insulting or provoking. Respondent contends that a *de novo* standard of review applies because he does not dispute the State's narrative of events but argues that, as a matter of law, his conduct did not constitute physical contact of an insulting or provoking nature. We disagree. In essence, respondent is challenging the sufficiency of the evidence to sustain the court's finding of delinquency. When presented with a claim of insufficiency of the evidence, we

view the evidence in the light most favorable to the State and determine whether any rational trier of fact could have found the elements of the crime proven beyond a reasonable doubt. *In re Malcolm H.*, 373 Ill. App. 3d at 893-94, citing *In re W.C.*, 167 Ill. 2d 307, 336 (1995).

¶ 10 To sustain a battery conviction, the evidence must show that respondent intentionally or knowingly, without legal justification and by any means, made physical contact of an insulting or provoking nature with an individual. 720 ILCS 5/12-3(a)(2) (West 2012); *In re Gregory G.*, 396 Ill. App. 3d 923, 926 (2009). Count 1 of the State's petition for adjudication of wardship charged that respondent committed the offense of battery in that he "knowingly made physical contact of an insulting or provoking nature with Daniel Bernal, in that he jumped on his back." When courts evaluate whether physical contact was insulting or provoking, they consider the factual context in which it occurred. *People v. Peck*, 260 Ill. App. 3d 812, 814 (1994), citing *People v. d'Avis*, 250 Ill. App. 3d 649, 651 (1993). Even if the victim did not explicitly testify that he felt provoked or insulted by the physical conduct, the trier of fact may take into account the context in which the contact occurred to determine whether it was insulting or provoking. *People v. Fultz*, 2012 IL App (2<sup>nd</sup>) 101101, ¶ 49, citing *People v. Wrencher*, 2011 IL App (4<sup>th</sup>) 080619, ¶ 55.

¶ 11 Respondent does not dispute that he jumped on Bernal's back, but he asserts that he was just "breaking up a fight," "merely insert[ing] himself into the scuffle between Bernal and his brother." He contends that Bernal did not testify to being insulted or provoked by respondent's conduct, that "this incident was so minor" and that his "impetuous behavior" was "not sufficiently insulting or provoking to constitute a juvenile adjudication." Given the factual context in which the contact with Bernal occurred, we conclude the evidence established that respondent's conduct constituted "physical contact of an insulting or provoking nature" within the meaning of section 12-3(a)(2) of the Code. We cannot agree with respondent that this was a

minor incident. The evidence showed that respondent and Abdullah were with a group of students who refused to disperse upon being ordered by security guards to do so. Abdullah approached Officer Bernal with clenched fists, shoves were exchanged, and Bernal then tried to place Abdullah under arrest. At that point respondent hurled himself onto Bernal's back. Respondent asserts that he was arrested "without resistance," but Officer Staszal testified that, after removing respondent from Bernal's back, he was required to place respondent in a wrist lock and that respondent cooperated "once he was on the ground." This was a tense and potentially harmful confrontation between several security guards attempting to protect a student who was a battery victim and up to 20 angry youths who were approaching the student and may have been responsible for his earlier beating. Respondent's action possibly could have escalated into a dangerous and violent situation. Given the context, we conclude that respondent's forceful act of jumping on Bernal's back constituted physical contact of an insulting or provoking nature and that the trial court was justified in finding that he had committed a battery on Bernal.

¶ 12 Next, respondent contends the trial evidence did not establish that he committed criminal trespass because the State failed to prove beyond a reasonable doubt that he was on notice he was forbidden to enter Taft school property. As in his previous issue, respondent argues here that *de novo* review is appropriate because he does not challenge the State's evidence. His argument, however, is essentially an attack on the sufficiency of the evidence. As noted above, when a challenge to the sufficiency of the evidence is presented, the critical inquiry on review is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the elements of the offense beyond a reasonable doubt. *Gregory G.*, 396 Ill. App. 3d at 926, citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). On appeal, "[a] reviewing court must allow all reasonable inferences from the record in favor of the

prosecution.' " *Gregory G.*, 396 Ill. App. 3d at 926, citing *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004).

¶ 13 Respondent was charged with criminal trespass to real property pursuant to section 21-3(a)(2) of the Criminal Code of 1961 (720 ILCS 5/21-3(a)(2) (West 2012)). That offense occurs when a person "enters upon the land of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden." *Id.* The evidence supported the trial court's judgment. Bernal, Koloczieski, and Staszal testified that respondent was on school property when he was arrested after jumping on Bernal's back. Koloczieski testified he knew respondent, having had previous contact with him, and that on two prior occasions he had given notice to respondent that entry onto the school property was forbidden.

¶ 14 Respondent assails Koloczieski's testimony that he had personal knowledge respondent was not a Taft student. Whether Koloczieski knew respondent was not a Taft student and had no permission to be on Taft school property, was a factual question that turned on Koloczieski's credibility and on inferences to be drawn from the evidence. The trial court could reasonably infer that Koloczieski came by his knowledge because he knew respondent and was a security guard at the school where respondent was once in attendance.

¶ 15 Respondent contends the evidence was insufficient to show that Koloczieski had the authority to give respondent notice that entry was forbidden, as the school may have given respondent permission to enter the property and thus "trumped" Koloczieski's authority. In support of his argument, respondent cites *People v. Banks*, 281 Ill. App. 3d 417 (1996), which we find inapposite. There, the defense presented the testimony of the 17-year-old daughter of home owners that she gave permission to defendant, a friend of hers, to enter their residence. However, the teen's father testified that he told defendant he was not allowed to enter the home unless invited by one of his daughter's parents. On appeal, although we reversed the conviction for

criminal trespass to a residence on other grounds, we concluded the evidence could support the conviction where the parents had a superior interest in the home and any authority the daughter might have had to allow defendant to enter without their permission had been withdrawn. *Banks*, 281 Ill. App. 3d at 421. In the instant case, respondent merely speculates that school authorities might have given respondent permission to enter the property. Unlike the evidence presented in *Banks*, no testimony to that effect was presented here.

¶ 16 We also reject respondent's argument that Koloczieski's position as a security guard did not make him an "owner or occupant" and that the State was required to present "testimony from an administrator of Taft High School who could testify from personal knowledge" that respondent had been given notice that entry onto school property was forbidden. Koloczieski was more than a mere occupant; as a security guard, he was the first line of defense against trespassers. Significantly, respondent does not argue that Koloczieski or the other security guards lacked authority on the day of the incident to order the crowd of students to disperse. The trial court would have been justified in concluding that, as a school security guard, Koloczieski had the authority to order individuals off school property to maintain order and safety on the premises. We conclude the evidence was sufficient to permit the trial court to find that Koloczieski, as a Taft High School security guard, was authorized to give notice to respondent that entry onto Taft property was forbidden and had given him such notice on two prior occasions. Koloczieski's testimony provided the elements of criminal trespass to real property that the State was required to prove in order to establish respondent's guilt beyond a reasonable doubt.

¶ 17 For the reasons stated above, we affirm the judgment of the trial court.

¶ 18 Affirmed.