

No. 1-13-0343

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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. 09 CR 15061
)	
TERRY HAYNES,)	Honorable
)	Thomas V. Gainer,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE PUCINSKI delivered the judgment of the court.
Justices Hyman and Mason concurred in the judgment.

O R D E R

¶ 1 *Held:* We affirm the judgment where the State proved beyond a reasonable doubt that defendant did not stab the victim in self-defense.

¶ 2 Following a bench trial, defendant Terry Haynes was convicted of second degree murder and sentenced to 12 years' imprisonment. On appeal, defendant contends that the State failed to prove beyond a reasonable doubt that he did not stab the victim in self-defense. We affirm.

¶ 3 Defendant was charged with two counts of first degree murder after he used a knife to stab his brother, Tommie Haynes, to death at their residence located at 658 East 91st Street in Chicago on July 31, 2009.

¶ 4 At trial, L.V. Haynes, the mother of six children including defendant, the victim Tommie, and Johnnie, testified that on July 31, 2009, she lived at 658 East 91st Street with her three sons. An unidentified man came to the house looking for defendant, but he was not home. L.V. asked Tommie to find defendant, who was across the street at Donna Purnell's house, and bring him home. After both men returned home, they began fighting in Tommie's bedroom. L.V. heard Tommie tell defendant, "I'm not going to let you kill me," and then defendant pulled out a butcher knife. It was not unusual for defendant to carry a knife, and L.V. testified that he carried one for years. Tommie did not have a knife or weapon on his person. Defendant, who was holding the knife in his right hand, tried to stab Tommie, and Tommie attempted to hold the knife away from his body. According to L.V., Tommie, who was stronger than defendant, had an injured arm and could not continue holding defendant's arm back. L.V. tried to break up the fight, but defendant stabbed Tommy in the abdomen. A short time later, Johnnie returned home and defendant told him, "I just stabbed your brother." L.V. called the police, who arrested defendant at the house, and an ambulance took Tommie to the hospital where he later died from the stab wound. L.V. described the relationship between defendant and Tommie as "real close."

¶ 5 On cross-examination, L.V. testified that defendant and Tommie had fought prior to the incident in question. During the previous fight, defendant attempted to stab Tommie with a knife, but Tommie took the knife away from defendant and then beat defendant with his fist.

¶ 6 Johnnie Haynes testified that when he walked into the house defendant told him that he had just "cut" his brother. Johnnie also stated that defendant always carried a knife with him.

¶ 7 Donna Purnell testified that she lived in the area of East 91st Street in Chicago and that at about 12 p.m. on the date in question she was on her front porch with her daughter, Stephanie Purnell, and defendant. Defendant told her that Tommie had gotten on his nerves and that he was going to cut and kill him with a knife. Although Donna had not seen defendant with a knife that day, she had seen him carrying a knife on two prior occasions. Stephanie testified similarly to Donna.

¶ 8 Detective Patrick Ford testified that he interviewed Donna Purnell and that she essentially stated that she did not think much of defendant's threats because he often carried a knife and threatened people.

¶ 9 Officer O'Neill testified that after he arrested defendant and read him his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), defendant stated that he stabbed Tommie because he "kept messing with him."

¶ 10 Defendant testified that he and Tommie had fought before the subject incident, resulting in both of them having to go to the hospital where Tommie broke his hand while beating defendant. As a result of that initial fight, which happened years before the subject incident, defendant sustained a fractured skull. Nevertheless, defendant stated that he and Tommie were good friends who did everything together.

¶ 11 Defendant also testified that on the date in question, both he and Tommie had been drinking and were on drugs. Defendant admitted that he was at the Purnell's residence earlier on the day in question, but denied telling them that he was going to "cut" Tommie. Tommie went to the Purnell's residence to find defendant because men were looking for defendant, and he was going to "get some more stuff on credit." Tommie returned to the residence first, and after defendant arrived, Tommie started to argue with him. Tommie hit defendant over the head with

their mother's cane, and the force of the blow broke the cane and defendant blacked out.

Defendant then stabbed Tommie because Tommie was "messing with [him]," but did not intend to hurt or kill him. Defendant explained that he was carrying the knife with him because it was "check day" and he had money in his pocket. He denied telling Johnnie that he cut or killed Tommie.

¶ 12 The parties stipulated that the police recovered one wooden cane broken into two pieces on the bed in the bedroom.

¶ 13 Detective Meister testified in rebuttal for the State that defendant told him that Tommie approached him, they began arguing over stolen narcotics, Tommie punched defendant, and then defendant chased and stabbed Tommie. Defendant never mentioned that Tommie hit him with a cane.

¶ 14 On this evidence, the trial court found defendant guilty of second degree murder. In so ruling, the court determined that Tommie was the aggressor, and that the single stab wound inflicted on Tommie by defendant was "not some rage-filled attack by a guy who set out to cut his brother because he got on his nerves." Nevertheless, the court found that defendant performed the acts that caused the death of Tommie, and did so with the belief that the circumstances justified the killing. However, the court held that defendant's belief that he needed to use deadly force was unreasonable.

¶ 15 On appeal from that judgment, defendant contends that the State failed to prove beyond a reasonable doubt that he did not act in reasonable self-defense. In particular, defendant points out that Tommie was stronger, previously violently assaulted him, and was the aggressor during the incident in question where he beat defendant with his mother's cane.

¶ 16 A person is justified in the use of force, which was intended or likely to cause death or great bodily harm, only if he reasonably believed that such force was necessary to prevent imminent death or great bodily harm to himself or another. 720 ILCS 5/7-1(a) (West 2008). Self-defense is an affirmative defense, and once defendant raises it, the State has the burden of proving beyond a reasonable doubt that he did not act in self-defense in addition to the elements of the charged offenses. *People v. Washington*, 2012 IL 110283, ¶ 34; *People v. Jeffries*, 164 Ill. 2d 104, 127 (1995). The elements of self-defense are that: (1) force was threatened against a person; (2) the person threatened was not the aggressor; (3) the danger of harm was imminent; (4) the threatened force was unlawful; (5) the person threatened actually and subjectively believed a danger existed that required the use of the force applied; and (6) the beliefs of the person threatened were objectively reasonable. *Washington*, 2012 IL 110283, ¶ 35; *Jeffries*, 164 Ill. 2d at 127-28. If the State successfully negates any of these elements, defendant's claim of self-defense must fail. *Jeffries*, 164 Ill. 2d at 128. The only factor in dispute here is the reasonableness of defendant's belief that deadly force was necessary to defend himself. On review, we consider the evidence in the light most favorable to the State, and determine whether any rational trier of fact could have found, beyond a reasonable doubt, that defendant did not act in self-defense. *People v. Lee*, 213 Ill. 2d 218, 225 (2004).

¶ 17 The evidence presented at trial shows that Tommie told defendant to return home from the Purnell's residence after men stopped by inquiring about drugs. Both Donna and Stephanie Purnell stated that defendant told them Tommie had been annoying him and that defendant wanted to cut Tommie. When defendant returned home, Tommie started arguing with defendant about narcotics and hit defendant with a cane. In response, defendant pulled out a knife, which he regularly carried on his person. Tommie, with an injured arm, attempted to prevent a stabbing

but defendant stabbed Tommie resulting in his death. We conclude that a rational trier of fact could find from the evidence presented that defendant's use of deadly force in this circumstance was unreasonable, and that the State proved beyond a reasonable that he did not act in self-defense. *Jeffries*, 164 Ill. 2d at 128; *Lee*, 213 Ill. 2d at 226. In so finding, we note that even assuming *arguendo* that defendant routinely carried a knife with him, and that he was not specifically armed with it in preparation for the fight that ensued, his use of the knife during the fight was objectively unreasonable. Moreover, the fact that Tommie was stronger than defendant does not change this result. This is particularly true where his mother testified that, at the time of the incident, Tommie's arm was injured making it difficult for him to keep defendant from stabbing him. Whether a defendant acted in self-defense is a question for the finder of fact. *People v. Huddleston*, 243 Ill. App. 3d 1012, 1021 (1993).

¶ 18 In reaching this conclusion, we find *People v. Lynch*, 104 Ill. 2d 194 (1984), relied on by defendant in support of his argument that his use of deadly force was reasonable because Tommie had a prior history of violence, distinguishable from the case at bar. Defendant specifically relies on the language in *Lynch* that "[t]he same deadly force that would be unreasonable in an altercation with a presumably peaceful citizen may be reasonable in response to similar behavior by a man of known violent and aggressive tendencies." *Lynch*, 104 Ill. 2d at 200. *Lynch*, however, does not address the situation at bar. Instead, *Lynch* involved the admissibility of character evidence in cases where self-defense had been raised, and held that evidence of a victim's tendency towards violence was relevant to support a theory of self-defense. *Lynch*, 104 Ill. 2d at 199-202. As indicated by the State, *Lynch* involved the admission of evidence, not the sufficiency of such evidence when it was properly admitted.

¶ 19 We also find *People v. White*, 87 Ill. App. 3d 321 (1980), and *People v. Harling*, 29 Ill. App. 3d 1053 (1975), relied on by defendant, distinguishable from the case at bar. In *White*, the victim, who had previously cut the defendant with a knife, brandished a knife and threatened the defendant's life while approaching the defendant's apartment. In response, the defendant shot and killed him. This court reversed defendant's conviction of voluntary manslaughter where the State did not prove beyond a reasonable doubt that the defendant was not acting in self-defense when he shot the victim. *White*, 87 Ill. App. 3d at 324. Similarly, in *Harling*, this court reversed the defendant's involuntary manslaughter conviction finding that he acted in self-defense where the defendant stabbed the victim after the victim struck and choked him. *Harling*, 29 Ill. App. 3d at 1058. Here, however, Tommie never threatened to kill defendant, and, although Tommie was the aggressor, when defendant brandished the knife and pursued Tommie with it, Tommie was merely struggling to prevent defendant from stabbing him.

¶ 20 For the foregoing reasons, we affirm the judgment of the trial court.

¶ 21 Affirmed.