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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 17962
)	
LORENZO MENDEZ,)	Honorable
)	James L. Rhodes,
Defendant-Appellant.)	Judge Presiding.

JUSTICE COBBS delivered the judgment of the court.
Justices Howse and Ellis concurred in the judgment.

O R D E R

- ¶ 1 Held: Judgment entered on defendant's conviction for aggravated battery affirmed over his claim that the evidence was insufficient to prove that the victim suffered great bodily harm.
- ¶ 2 Following a bench trial, defendant Lorenzo Mendez was found guilty of first degree murder and aggravated battery, then sentenced to consecutive, respective terms of 25 and five years' imprisonment. On appeal, defendant contends that the State failed to prove beyond a reasonable doubt that the aggravated battery victim suffered "great bodily harm," and, accordingly, that his conviction of aggravated battery should be reduced to simple battery and remanded for re-sentencing on that count.

¶ 3

I. BACKGROUND

¶ 4 At trial, the parties stipulated that, if called, Maulik Patel would testify that on June 23, 2010, he worked at Ken's Liquor Store at 384 East 159th Street, and that there were movement-activated surveillance cameras in working order inside and outside of the store. He would also testify that he showed the surveillance footage from that night to police who asked him to download the videos to discs.

¶ 5 Ashley Stewart (Stewart) testified that on the evening of June 23, 2010, she was at her home in Harvey, Illinois with Bryan Rogers, Schunklin Williams, Alexandria Elston, and her brother, Patrick Stewart. Rogers and Williams decided to drive to Ken's Liquor Store to purchase snacks and cigarillos, and Stewart and Elston decided to walk there. Stewart and Elston walked up the alley behind the store into the parking lot where they saw Williams sitting in Rogers' car. On their way into the store, defendant, who was in the parking lot, began yelling at them to come over, but Stewart told him to leave them alone. As they approached the door, defendant began to run at the girls and Stewart, who saw that defendant was holding a knife, told Elston to run.

¶ 6 Williams exited the vehicle and began wrestling with defendant, and Stewart went into the store and told Rogers, who was inside, and the storeowners what was happening. Rogers came outside and hit defendant, and defendant stabbed him in the back. Williams and defendant continued wrestling and then fell over onto each other; after which, defendant stood up and fled. Stewart told Rogers he had been stabbed, and Rogers "started freaking out," got into his car, and drove to his mother's house. Williams died on the scene, and Stewart later identified defendant at a police lineup. On cross-examination, Stewart stated that she watched defendant stab Rogers in the back as he was bent over, and saw the knife enter the middle, center of his back.

1-13-1977

¶ 7 Rogers testified to the same series of events related by Stewart leading up to the group's arrival at Ken's Liquor Store on June 23, 2010. When he was inside the store, Stewart came in and told him Williams was being stabbed outside. Rogers went out into the parking lot where he saw Williams wrestling with defendant, who was holding a sharp object that appeared to be attached to a doorknob. He approached the men and hit defendant as hard as he could which caused everyone to stumble. He then heard someone shout that defendant had a gun, so he retreated a few feet. Defendant and Williams then fell to the ground and defendant fled.

¶ 8 Stewart then told Rogers that he had been stabbed, and Rogers discovered that he had a stab wound on his side and another in his back. He checked to see if Williams was okay, but determined that Williams had "nothing left saying he was alive," so he got into his car and drove to his mother's house. His mother then drove him to Ingalls Hospital where he was treated for his injuries and passed out during the procedure. When he awoke, he learned that he had two stab wounds, one on his left side by his rib cage, and another to his back near his spine. Each wound was closed with two stitches, and he was prescribed codeine for pain. On cross-examination, Rogers stated that he never saw defendant attack him, but he may have been stabbed after hitting him when everyone stumbled. He also stated that before leaving the scene, he put the cigarillo he purchased in the trunk of his car because he did not want his mother to see it.

¶ 9 Elston then testified to the same series of events as Stewart, and stated that she watched defendant stab Rogers in the back when he tried to break up the fight between defendant and Williams. After defendant fled, Stewart told Rogers he had been stabbed and Elston observed blood dripping from Rogers' shirt. Rogers told them he needed to go home and got in his car and left.

1-13-1977

¶ 10 Harvey police officer Manual Escalante testified that he arrived at Ken's Liquor Store the evening of June 23, 2010, and observed other police officers and a white sheet in the middle of the parking lot covering Williams' body. He asked the managers of the store to download the store's security footage onto a CD, then learned from another officer that there were three witnesses, one of whom was at Ingalls Hospital being treated for stab wounds.

¶ 11 The parties then stipulated that, if called, Gianluca Lazzaro would testify that according to the Ingalls Memorial Hospital Medical records, Rogers' urine toxicology would show that he had cannabis in his system when he was admitted to the hospital.

¶ 12 Harvey police officer A. Sinnott testified for the defense that he spoke with Rogers at Ingalls Hospital the evening of June 23, 2010. Rogers initially refused to speak because he was being attended to by the medical staff in the emergency room, but he eventually told Officer Sinnott that he was at Ken's Liquor Store that night, and observed defendant and Williams fighting. He told the officer he was stabbed and then fled the scene and returned to his residence. On cross-examination, Officer Sinnott stated that he knew Rogers was in pain during their conversation because he was screaming while the doctor was cleaning the wound on his back and seemed to be in pain the entire time they were speaking.

¶ 13 Following closing arguments, the court viewed the video surveillance tapes and noted that the time stamps on the video were inaccurate and skipped around. Both defense counsel and the Assistant State's Attorney informed the court that they were not sure if the clock was working properly, and that the timing on the cameras was never "synced up." The court concluded that the time stamp on the videos "doesn't mean anything," and expressed doubt as to whether the surveillance footage "shows things in any kind of proper perspective time-wise." The court then found defendant guilty of murder and aggravated battery. After considering the appropriate

1-13-1977

factors in aggravation and mitigation, the court sentenced defendant to consecutive prison terms of 25 years for murder and 5 years for aggravated battery.

¶ 14

II. ANALYSIS

¶ 15 In this appeal, defendant solely contends that the evidence regarding Rogers' injuries was insufficient to prove him guilty of aggravated battery beyond a reasonable doubt. He does not challenge the proof to establish his guilt of battery, but claims that there was not enough evidence to prove that the injuries sustained by Rogers constituted "great bodily harm." Specifically, defendant argues that the evidence of Rogers' "lacerations," without more, is insufficient to support a finding that his injuries rose to the level of "great bodily harm."

¶ 16 Where defendant challenges the sufficiency of the evidence to sustain his conviction, the reviewing court must consider whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Jordan*, 218 Ill. 2d 255, 270 (2006). This standard recognizes the responsibility of the trier of fact to determine the credibility of the witnesses and the weight to give their testimony, to resolve any conflicts and inconsistencies in the evidence, and to draw reasonable inferences therefrom. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). A reviewing court must allow all reasonable inferences from the record in favor of the prosecution, and will not overturn the decision of the trier of fact unless the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of defendant's guilt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011); *People v. Smith*, 185 Ill. 2d 532, 542 (1999).

¶ 17 To sustain defendant's conviction for aggravated battery, the State was required to prove that defendant, while committing a battery, knowingly caused great bodily harm to Rogers. 720 ILCS 5/12-4(a)(1) (West 2012). Whether an injury constitutes "great bodily harm" is a question

1-13-1977

for the trier of fact. *People v. Figures*, 216 Ill. App. 3d 398, 401 (1991). There is no exact definition of "great bodily harm," however, our supreme court has noted that for there to be "bodily harm," "some sort of physical pain or damage to body, like lacerations, bruises or abrasions, whether temporary or permanent, is required." *People v. Mays*, 91 Ill. 2d 251, 256 (1982). It follows that "great bodily harm" requires an injury more serious in character than ordinary battery. *People v. Costello*, 95 Ill. App. 3d 680, 684 (1981). Rather than finding that lacerations, bruises or abrasions are strictly considered mere "bodily harm," this court has consistently found that the trier of fact makes the determination of what constitutes "great bodily harm" based on the injuries the victim actually received (*People v. Psichalinos*, 229 Ill. App. 3d 1058, 1068 (1992)) and can be a matter of degree of harm from these and other injuries. See *People v. Cisneros*, 2013 IL App (3d) 110851, ¶ 13; *People v. Matthews*, 126 Ill. App. 3d 710, 715 (1984). Moreover, hospitalization of the victim and permanent disability or disfigurement are not required. *People v. Jordan*, 102 Ill. App. 3d 1136, 1140 (1981).

¶ 18 Viewed in the light most favorable to the prosecution, the evidence presented here shows that Rogers was stabbed twice, once in his left side, and once in his back. At the scene, he began bleeding from his wounds through his clothing, which was observed by Stewart and Elston. Rogers then drove home and his mother took him to the hospital where he lost consciousness and screamed while his wounds were being cleaned. Both wounds needed to be closed with two stitches and he was prescribed codeine for pain. Officer Sinnott testified that Rogers was in pain throughout their conversation at the hospital and that Rogers was unable to immediately talk to him because of his medical care. Thus, there is sufficient evidence in the record to allow a reasonable trier of fact to find that Rogers' injuries were more serious than ordinary battery and constituted "great bodily harm." *Jordan*, 102 Ill. App. 3d at 1140.

1-13-1977

¶ 19 Nonetheless, defendant contends that Rogers did not suffer "great bodily harm" because the video surveillance footage shows that Rogers did not leave the scene for three or four minutes after becoming aware that he was wounded, and even took the time to place the cigarillo he purchased in his trunk before driving home. We observe, initially, that the trial court and trial counsel recognized that the time stamps on the videos were unreliable. Not only did the time stamps jump around depending on which video camera was activated, but there was nothing to show that the time stamps were accurate or portrayed the "proper perspective time-wise."

¶ 20 More importantly, there is no requirement that a victim believe his injuries are severe or immediately attempt to seek treatment for there to be "great bodily harm." See *Mathews*, 126 Ill. App. 3d at 710-714 (finding "great bodily harm" where victim was stuck several times by a baseball bat and in the head by a gun but described her injuries as only "a bruise on my head" that did not require medical attention.) Rather, "the relevant question for the trier of fact to answer is not what the victim did or did not do to treat the injury but what injuries the victim in fact received." *People v. Edwards*, 304 Ill. App. 3d 250, 254 (1999). Furthermore, here, Rogers was stabbed during a chaotic fight, in which Rogers' friend was also stabbed and ultimately died in the parking lot as Rogers became aware of his own injuries and left. Thus, the fact that Rogers' may not have immediately recognized the severity of his injuries does not require the trier of fact to find that he did not suffer "great bodily harm."

¶ 21 Defendant maintains that there was no evidence regarding how deep the wounds were or any other medical testimony and therefore, the evidence does not support a finding of "great bodily harm." However, it is well settled that lack of medical testimony does not preclude the trial court from finding injuries constituted "great bodily harm." *People v. Cisneros*, 2013 IL App (3d) 110851, ¶ 21 (citing *Jordan*, 102 Ill. App. 3d at 1138); See also *People v. Dennis*, 5 Ill.

App. 3d 708, 713 (1972) (finding that medical testimony is not needed to find "great bodily harm").

¶ 22 Moreover, we are unpersuaded by defendant's reliance on *In re Vuk R.*, 2013 IL App (1st) 132506, *In re J.A.*, 336 Ill. App. 3d 814 (2003), and *In re T.G.*, 285 Ill. App. 3d 838 (1996). In all of these cases the court did not find the victim suffered "great bodily harm," in part, because there was a lack of evidence presented regarding the nature and extent of the injuries. In *Vuk R.*, the defendant beat the victim with his fists breaking his nose and causing other facial injuries. *Vuk R.*, 2013 IL App (1st) 132506, ¶ 4. However, the reviewing court found that the State failed to present sufficient evidence of "great bodily harm" where there was no evidence presented regarding any pain suffered by the victim or the details of his treatment. *Id.* at ¶ 9.

¶ 23 In *J.A.*, the defendant stabbed the victim once in the left shoulder, which the victim described as feeling like somebody pinched him. *J.A.*, 336 Ill. App. 3d at 815. Although he was advised to have his wound stitched, there was no evidence regarding how many stitches would have been needed or of who gave that advice. *Id.* at 818-19. The reviewing court reduced the defendant's conviction from aggravated battery to simple battery finding that "the record reflects no evidence of the nature and extent of the injury" beyond these facts. *Id.* at 818-19.

¶ 24 In *T.G.*, the reviewing court reversed the defendant's conviction for aggravated battery based on "great bodily harm" where the defendant stabbed the victim three times in the chest, but there was only evidence that he felt the first stab, which he described as being poked with a pen or pencil." *T.G.*, 285 Ill. App. 3d at 846. The victim was not aware he had been stabbed until he noticed his shirt was cut, and opened it to find three bloody wounds. *Id.* Significantly, there was no other evidence of the extent or nature of his injuries or any treatment. *Id.*

1-13-1977

¶ 25 Here, in contrast to the cases cited by defendant, there was substantial evidence regarding the nature and extent of Rogers' actual injuries and the treatment he received. Multiple witnesses testified that they saw defendant stab Rogers and that Rogers' shirt was covered in blood. Rogers testified that he was later driven to the hospital, lost consciousness, received two stitches for each wound, and was prescribed codeine for the pain. The severity of Rogers' injuries was further illustrated by Officer Sinnott's testimony that Rogers was screaming while the doctors were cleaning the wound on his back, and that he appeared to be in pain throughout their conversation. Thus, unlike the cases cited by defendant, Rogers' injuries and treatment were documented in the record and the evidence is sufficient for a trier of fact to conclude that defendant caused "great bodily harm" beyond a reasonable doubt. *Jordan*, 102 Ill. App. 3d at 1140.

¶ 26 Moreover, we find this case more similar to *People v. Cisneros*, 2013 IL App (3d) 110851. In *Cisneros*, the court affirmed a finding of "great bodily harm" where the victim and the defendant engaged in a fist fight and afterwards the victim realized that he was bleeding. *Id.* ¶ 13. Although the defendant denied having a knife, the victim's shirt was soaked in blood. *Id.* ¶¶ 5, 13. The victim went to the hospital, where it was discovered that he had multiple lacerations, two of which required stitches to close. *Id.*

¶ 27 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 28 Affirmed.