2015 IL App (1st) 141083-U

FIFTH DIVISION
March 13, 2015

No. 1-14-1083

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 C2 20408
	)	
ALAN RUBENSTEIN,	)	Honorable
	)	Marguerite A. Quinn,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE PALMER delivered the judgment of the court.
Justices McBride and Gordon concurred in the judgment.

O R D E R

¶ 1 *Held*: Judgment entered on defendant's conviction of unlawful restraint affirmed over his claim that the evidence was insufficient to prove him guilty beyond a reasonable doubt.

¶ 2 Following a bench trial, defendant Alan Rubenstein was found guilty of unlawful restraint and sentenced to 12 months' probation. On appeal, defendant contends that the evidence was insufficient to prove him guilty of this offense beyond a reasonable doubt.

¶ 3 The record shows that defendant was charged with unlawful restraint in connection with an incident that took place on July 25, 2011, in Northbrook, Illinois. At trial, Trina DeCuire

testified that she is a Nicor Gas employee who went to defendant's home that day to restore his service after Nicor had turned off his gas a few days before. After she turned on the gas valve outside of his home, she spoke with defendant, who stated that he needed assistance lighting the pilot lights inside.

¶ 4 DeCuire entered defendant's home through the front door, and did not notice any other exit doors inside. After checking the pilot lights in his kitchen and fireplace, DeCuire descended the stairs into defendant's basement. She observed water on the floor of the basement and defendant told her there had been some flooding and that the lights in the basement did not work. DeCuire turned on her flashlight and discovered a waterline on the basement walls that indicated the water level in the basement had risen above the pilot light. She explained to defendant that, under Nicor protocol, she could not relight any pilot lights that have been in contact with water. As she began telling defendant that he would have to hire a contractor to determine whether it was safe to relight the pilot light, he ran up the stairs to the front door of the house, slammed it shut, and locked it.

¶ 5 DeCuire followed defendant up the stairs to the front door where he was standing with his arms spread out. He shouted that he would not let her leave until she relit the pilot light and that she would have to kill him to get out. She asked defendant to allow her to leave, but he continued to shout that he wished she died, and that he would not move until she relit the pilot light. DeCuire, who was standing a few feet from defendant during this encounter, used her Nextel phone to contact Nicor dispatch and asked them to call police. She testified that when defendant heard police were on their way, his demeanor "changed" and he opened the front door to let her out. DeCuire stated that the whole encounter lasted about a minute, but he continued yelling derogatory remarks at her as she left.

¶ 6 The State also called another Nicor employee, Deborah McDonald, regarding a previous incident at defendant's home to show defendant's intent and lack of mistake in his encounter with DeCuire. McDonald testified that she went to defendant's home on July 20, 2011, to turn off his gas. As she headed toward the valve on the outside of defendant's home, she noticed that he was standing by the front door holding a small child. When she informed him that she was there to turn off his gas, he placed the small child on the driveway and then charged at her. He shouted that he was not going to let her turn off his gas and stood about a foot away from her with his fists raised shouting that he wished she and her family were killed.

¶ 7 Once defendant lowered his fists, McDonald ran back to her truck and had her dispatcher call police. Before they arrived, defendant got into his car with the small child and drove away. McDonald told police about the incident, but did not press charges against defendant. The court accepted McDonald's testimony as evidence of defendant's intent and lack of mistake in his encounter with DeCuire.

¶ 8 Following closing arguments, the court found defendant guilty of unlawful restraint. In announcing its decision, the court examined the provisions of the relevant statute and found that the State had proved each element of the offense beyond a reasonable doubt. The court specifically found that defendant acted knowingly when he shut and locked the door and stood in front of it, and that he acted without legal authority in doing so. The court further found that this was clearly a restraint even though it was of short duration and there was no physical contact, given defendant's bizarre and threatening behavior.

¶ 9 In this appeal from that judgment, defendant first contends that he did not act knowingly or with intent to restrain DeCuire. He maintains that his only purpose in blocking the front door

for a short duration was to convince DeCuire to relight the pilot light, and he immediately opened the door when she displayed her discomfort with the situation by calling her dispatcher.

¶ 10 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 be given their testimony, to resolve any conflicts and inconsistencies in the evidence, and to draw reasonable inferences from the evidence. *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).

¶ 11 To sustain defendant's conviction for unlawful restraint in this case, the State was required to establish that defendant knowingly restrained DeCuire without legal authority. 720 ILCS 5/10-3(a) (West 2010). A person is said to act "knowingly" if he was consciously aware that his conduct was practically certain to cause the offense described in the statute. 720 ILCS 5/4-5(b) (West 2010); *People v. Melton*, 282 Ill. App. 3d 408, 417 (1996).

¶ 12 Viewed in a light most favorable to the prosecution, the evidence presented in this case shows that DeCuire entered defendant's home through the front door to relight the pilot lights inside, including the one in his basement. When she told him that she would not be able to relight that pilot light because there was evidence it had been in contact with water, defendant became irate, ran up the stairs, and locked the front door. He also blocked the door with his arms

outstretched and shouted that he would not let DeCuire leave unless she lit the pilot light. This continued for about a minute until she radioed dispatch and asked for police. Based on these facts, we conclude that a rational trier of fact could find that defendant acted with intent and the knowledge that his conduct would restrain DeCuire (*People v. Jones*, 93 Ill. App. 3d 475, 479 (1981)), and that he did so without legal authority.

¶ 13 Defendant contends, however, that his intent was to have DeCuire hear him out for a moment before she left, and the fact that the interaction lasted less than a minute shows he had no intention of restraining her. The State responds that defendant's claim is not supported by the evidence. We agree.

¶ 14 In announcing its decision, the court found that when defendant locked the door and stood in front of it with his arms outstretched, he acted knowingly. He did precisely as he intended to do, which was to restrain DeCuire inside his house without legal authority. The totality of these circumstances and the reasonable inferences therefrom were sufficient to support the trial court's determination that defendant unlawfully restrained DeCuire. *People v. Lee*, 376 Ill. App. 3d 951, 958 (2007); *Jones*, 93 Ill. App. 3d at 479.

¶ 15 Defendant next contends that no detention actually occurred because he never actually touched DeCuire and used only words, which are insufficient to create a detention. In support of his argument, defendant equates unlawful restraint to false imprisonment, which, he asserts, is based on assault, which generally cannot occur only through words.

¶ 16 A detention includes actions that delay, hinder, hold, or restrain an individual from proceeding. *People v. Satterthwaite*, 72 Ill. App. 3d 483, 485 (1979). Physical force or contact is not required, so long as defendant's actions impair a person's ability to move freely. *Lee*, 376 Ill. App. 3d at 958; *People v. Bowen*, 241 Ill. App. 3d 608, 628 (1993).

¶ 17 In reaching its conclusion in this case, the trial court considered not only defendant's actions toward DeCuire, but also referenced his prior confrontation with McDonald. The trial court believed that based on the evidence adduced at trial, defendant was intent on restraining DeCuire until she lit the pilot light, and relented only when she contacted police. Although defendant shouted at DeCuire, he went beyond using mere words when he locked his front door, and then blocked it, which prevented her from leaving. Under these circumstances, it is clear that defendant restrained DeCuire even though he did not touch her. *Satterthwaite,* 72 Ill. App. 3d at 485.

¶ 18 Defendant next contends that his threats occurred "in the spur of the moment," and that courts are reluctant to punish defendants for outbursts made in such a way. In support of this argument, defendant cites two Pennsylvania cases, *Commonwealth v. Anneski*, 525 A. 2d 373 (Pa. Super. 1987) and *Commonwealth v. Kidd*, 442 A. 2d 826 (Pa. Super. 1982) which concerned that state's criminal statute for terrorist threats. We note, initially, that decisions by courts from foreign jurisdictions are not binding on Illinois courts. *Travel 100 Group, Inc. v. Mediterranean Shipping Co. (USA) Inc.*, 383 Ill. App. 3d 149 (2008). That said, we find them factually distinguishable from the case at bar.

¶ 19 In both of the Pennsylvania cases, defendants were charged with making verbal threats under a state terrorist threat statute, and the appellate court held that "spur of the moment" threats are not punishable thereunder. *Anneski*, 525 A. 2d at 376; *Kidd*, 442 A. 2d at 827. Here, by contrast, defendant's words were accompanied by physical acts, which unlawfully restrained DeCuire momentarily, thus establishing the elements of unlawful restraint. *Bowen*, 241 Ill. App. 3d at 628.

¶ 20 Defendant further contends that no detention occurred because he blocked the door for only a minute, and when DeCuire expressed her dissatisfaction with the situation, by calling police, he immediately let her leave. However, when a person is acting without legal authority, as here, the duration of the restraint, however short, is inconsequential. *People v. Sparks*, 314 Ill. App. 3d 268, 274 (2000). Moreover, the trial court noted the short duration of the incident, but did not consider it to be a decisive factor, and, instead, focused on defendant's bizarre and threatening behavior before and during that period of time in concluding that defendant had restrained DeCuire.

¶ 21 In sum, the evidence shows that defendant restrained DeCuire without legal authority when he prevented her from leaving his house by blocking the locked front door and shouting that he would not let her leave until she relit his pilot light. *Lee*, 376 Ill. App. 3d at 958. The evidence also shows that he did so knowingly and without legal authority and was thus proved guilty of the charged offense beyond a reasonable doubt. *Jones*, 93 Ill. App. 3d at 479. This conclusion is not altered by the fact that defendant let DeCuire leave his home after a short period of time had passed (*Sparks*, 314 Ill. App. 3d at 274) after he realized police had been called.

¶ 22 Defendant finally contends that this court should reduce the offense to attempted unlawful restraint. Under Supreme Court Rule 615(b)(3), this court has "the authority to reduce the degree of the offense of which a defendant was convicted when the evidence fails to prove beyond a reasonable doubt an element of the greater offense." Ill. S. Ct. R. 615(b)(3) (eff. Jan. 1, 1963); *People v. Rowell*, 229 Ill. 2d 82, 98 (2008). An attempt occurs when a person, with intent to commit a specific offense, takes a substantial step toward the commission of that offense. 720 ILCS 5/8-4(a) (West 2010). However, as discussed, *supra*, defendant's actions satisfied each

element of the charged offense of unlawful restraint beyond a reasonable doubt. Therefore, we have no basis for reducing defendant's offense to that of attempt.

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

¶ 24 Affirmed.