

THIRD DIVISION
January 13, 2016

No. 1-13-3818

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 C5 50301
)	
MICHAEL PETERSEN,)	Honorable
)	Colleen Ann Hyland,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE MASON delivered the judgment of the court.
Justices Fitzgerald Smith and Pucinski concurred in the judgment.

O R D E R

¶ 1 **Held:** Evidence was sufficient to prove beyond a reasonable doubt that defendant intended to increase or prolong the suffering of an animal where defendant's dog became severely emaciated over several months and was kept with other demonstrably aggressive dogs in a filth and excrement covered room.

¶ 2 Following a jury trial, defendant Michael Petersen was found guilty of two counts of animal torture and one count of aggravated cruelty to a pet dog he owned. The trial court merged the counts into a single count of animal torture and sentenced Petersen to 30 months'

imprisonment. On appeal, he contends that the evidence presented at trial was insufficient to prove him guilty of animal torture beyond a reasonable doubt. We affirm.

¶ 3 The evidence at trial established that Petersen owned three American Staffordshire terriers, commonly known as pit bulls: Tyson, Hercules, and Mickey. He also owned a collie. Michael Hill, Petersen's next-door neighbor, frequently saw the dogs in Petersen's yard. Until the winter of 2011, the three pit bulls appeared healthy and friendly to each other. But in February of 2011, Hill noticed that Tyson began to lose "an awful lot of body weight." Around the same time Hercules's disposition changed. Hercules frequently became aggressive, particularly towards Tyson. Hill observed Hercules bite Tyson on multiple occasions, including twice when Hercules pinned Tyson to the ground and bit his neck. The attacks would cause Tyson to "scream." Hercules also became aggressive towards Hill and his family. From February through May of 2011, Hill noticed new scars and sores on Tyson, around the dog's nose, legs, and hips. The dog also continued to lose weight.

¶ 4 Hill was in his home on May 8, 2011, when he heard Petersen's dogs fighting and Tyson "screaming" and "crying" for about an hour. Eventually, Hill's girlfriend went outside, looked into Petersen's backroom window, and became hysterical. As Hill ran outside, other neighbors also ran to Petersen's house. Hill and others banged on windows and doors trying to break up the dogs and see if anyone was home. When no one answered, Hill called the police. Officers Ally and Flores responded. As the officers approached Petersen's backroom window, Ally noticed a strong odor of feces and urine. Tyson appeared to be lifeless on the floor of the back room. The other two pit bulls were biting Tyson all over his body and throwing his body into the air and

against the wall. One of the pit bulls growled at Flores and leapt at the window. Eventually, Barry Adamaczyk, an animal control officer, as well as Petersen's brother, Brian, arrived at the house. At the officers' request, Brian entered the house and removed Mickey, Hercules, and the collie from the home. He then reentered with Adamaczyk and brought Tyson out on a stretcher. The dog was covered in blood and wounds, and feces were leaking from his rectum.

¶ 5 Once all of the dogs were removed, Ally and Flores entered the back room to investigate. The smell of feces and urine was "almost unbearable" according to Flores. The walls were covered in grime, blood, and fresh and dried-out feces. The floor was slippery with urine. The officers found six empty dog bowls in the room. None of the bowls contained any crumbs or sign of moisture. According to Adamczyk, Brian did not act as if anything was wrong with the condition of the room. Adamczyk took the four dogs to the Animal Welfare League. Tyson arrived alive, but died later that night. According to Hill, the next day Petersen approached him asking who had called the police. Hill told him that if Hercules had gotten out of the house, he "would have killed somebody." Petersen agreed.

¶ 6 Tony Estrada, a humane investigator for the Animal Welfare League, examined Petersen's three pit bulls on May 9, 2011. Both Mickey and Hercules were underweight, with their ribs, hips, and spines visible through the skin. Both dogs had old and new wounds and staining on their paws. Estrada performed only a visual examination of each dog because both were unpredictable and exhibited aggression towards him. Mickey also growled and snarled at other animals and employees at the Animal Welfare League. Estrada also examined Tyson's body. The deceased dog was "extremely emaciated." His hips, ribs, and spine were very visible

through his skin and his stomach was sunken into his body. His body was covered in bite marks, wounds, and lacerations.

¶ 7 Dr. Mark Kahn, a veterinarian for the Animal Welfare League, also examined Petersen's pit bulls on May 9, 2011. Examining Tyson's body, Kahn found him to be emaciated so that "[t]he body was eating itself basically." The dog's bones were visible through his skin to a point that is "almost never seen." The emaciation had caused large spots of hair to be rubbed away over the hips, spine, and tail in a way similar to bed sores. Kahn testified that Tyson's emaciation was the worst he had ever seen in his career. He noted that the condition could not have occurred "overnight," but would have happened over months. Medical records established that Tyson weighed 61.2 pounds in 2008; Kahn estimated that he weighed 20 pounds on May 9, 2011. The veterinarian also found wounds "too numerous to count," including a large laceration under the dog's leg. Tyson bore several older scars. While Kahn also visually examined Mickey and Hercules, he could not physically examine either because they were too aggressive. Both dogs were underweight and had old and new wounds on their bodies.

¶ 8 According to Brian, who lived with Petersen, he and his brother would both feed and walk the dogs. Brian noticed that Tyson was getting thinner during the last two months of his life, but maintained that all the dogs were a healthy weight and were friendly. At trial, Petersen testified that he regularly fed, walked, and let the dogs out into his backyard. While he acknowledged that Tyson had gotten thinner before his death, Petersen did not take him to the veterinarian because his energy level remained the same. Tyson continued to eat normally, and Petersen believed he was feeding the dogs an adequate amount of food.

¶ 9 The jury found Petersen guilty of two counts of animal torture and one count of aggravated cruelty. The trial court merged the counts into a single count of animal torture. Petersen appeals.

¶ 10 We note that the State introduced several photographs into evidence at trial which are not included in the record on appeal. They included multiple photographs of the three pit bulls and the room in which the dogs were kept. Because several witnesses testified extensively about the injuries and condition of the three dogs as well as the deplorable state of the back room, we find these pictures are not essential to our review. However, to the extent that their absence causes any doubt, we resolve that doubt against Petersen, who bore the burden to present a complete record. *People v. Lopez*, 229 Ill. 2d 322, 344 (2008), citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984).

¶ 11 On appeal, Petersen's sole argument is that the State failed to prove beyond a reasonable doubt that he knowingly tortured Tyson while intending to increase or prolong the dog's pain, suffering, or agony. Due process requires the State to prove each element of a criminal offense beyond a reasonable doubt. *People v. Cunningham*, 212 Ill. 2d 274, 278 (2004), citing *In re Winship*, 397 U.S. 358, 364 (1970). When reviewing the sufficiency of evidence, a reviewing court must decide "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (Emphasis in original.) *Jackson v. Virginia*, 443 U.S. 307, 313 (1979); See also *Cunningham*, 212 Ill. 2d at 278. A reviewing court will not overturn a guilty verdict unless the evidence is "so improbable, unsatisfactory, or inconclusive that it creates a

reasonable doubt of defendant's guilt." *People v. Collins*, 214 Ill. 2d 206, 217 (2005). On appeal, the reviewing court must resolve all reasonable inferences in favor of the prosecution.

Cunningham, 212 Ill. 2d at 280. It is the duty of the trier of fact to resolve any minor discrepancies and inconsistencies presented by the evidence. See *id.* at 283. This court may not retry a defendant on appeal. *People v. Milka*, 211 Ill. 2d 150, 178 (2004).

¶ 12 To support a conviction for animal torture, the State was required to prove beyond a reasonable doubt that Petersen knowingly inflicted or subjected an animal "to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the animal." 510 ILCS 70/3.03 (a) (West 2010). Intent may be proven through circumstantial evidence. *People v. Rudd*, 2012 IL App (5th) 100528, ¶ 14. In fact, circumstantial evidence is often the only way to prove a defendant's intent. *Id.* It is presumed that an individual intends "all the natural and probable consequences" that flow from his or her deliberate actions. *People v. Smith*, 402 Ill. App. 3d 538, 547 (2010).

¶ 13 The State presented ample circumstantial evidence of Petersen's intent to increase or prolong Tyson's pain and suffering. Numerous witnesses described Tyson's severely emaciated state. Kahn said it was the worst he had seen in his career. Evidence showed that Tyson lost two-thirds of his body weight between 2008 and 2011. Additionally, it is clear from the evidence that the dog's condition was not a sudden occurrence. Kahn opined that it would have taken months for Tyson to become so emaciated. Petersen's neighbor observed Tyson's worsening health over a period of months. Both Petersen and his brother acknowledged that they witnessed the dog lose weight in the last two months of his life. Thus, the jury could have reasonably inferred that

Petersen was not sufficiently feeding his dog, and due to the clearly obvious weight loss, that he was also aware that the dog was starving.

¶ 14 Moreover, numerous witnesses described the aggressiveness of Petersen's two other pit bulls. Hill described how the dogs' aggressiveness worsened over the same period of months. He testified how Tyson bore more and more wounds as the dogs repeatedly attacked him over time, culminating in the attack that ended the dog's life. Finally, multiple witnesses vividly described the appalling condition of the back room where the dogs were kept. The room was covered in filth and urine, including both fresh and dried feces. Given the extreme state of the room, the jury could have reasonably inferred that the conditions were longstanding and known to Petersen.

¶ 15 The evidence presented at trial supports the conclusion that Petersen did not sufficiently feed Tyson and kept him in a filthy room with other aggressive dogs that repeatedly attacked him. It also supports the conclusion that he continued to do so over a period of months until the dog's death. The natural consequence of starving an animal, allowing it to be repeatedly attacked, and keeping it in filthy conditions is clearly that the animal will suffer pain or agony. Continuing to do so for months would naturally increase and prolong the animal's suffering. Therefore, the jury could presume that Petersen intended the natural consequences of his conduct and that he intended to prolong or increase Tyson's suffering. Thus, taking the evidence in the light most favorable to the State, the jury could have rationally found Petersen guilty of animal torture beyond a reasonable doubt.

¶ 16 For the foregoing reasons, we find that the State presented sufficient evidence to prove Petersen guilty of animal torture beyond a reasonable doubt. Accordingly the judgment of the circuit court of Cook County is affirmed.

¶ 17 Affirmed.