

No. 1-14-1566

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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. 13 MC1 220712
)	
JESSICA SCARLETT,)	Honorable
)	Israel Abaya Desierto,
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:* Defendant's conviction for battery is affirmed over her contention that the evidence was insufficient to prove her guilty of the offense beyond a reasonable doubt.

¶ 2 Following a simultaneous bench trial, defendant Jessica Scarlett and codefendant Crystal White¹ were found guilty of battery. The trial court sentenced defendant to one year of supervision. On appeal, defendant contends that the State failed to prove her guilty beyond a reasonable doubt where the State's only witness, the victim, told an illogical version of events that was contrary to human experience, and defendant and another defense witness, codefendant, contradicted the victim's testimony. For the reasons that follow, we affirm.

¶ 3 At trial, the evidence showed that at around 8 p.m. on July 1, 2013, 47-year-old Monica Petties, and two of her nephews, John Molina and Darren, drove to a hair salon located on the 1700 block of East 87th Street in Chicago in Darren's car. Molina had told Petties he wanted to obtain his vehicle back from defendant, the mother of his two children, who took the vehicle to the salon. At the salon, Petties and Molina exited their vehicle and observed defendant inside getting her hair styled. The salon, however, was closed. Defendant and Molina had been communicating, so when Petties and Molina arrived, defendant came to the salon's front door. ¶

¶ 4 Molina asked defendant for his car keys, but she refused to give them to him. Petties told Molina to "take a walk" and said she would speak with defendant, with whom she had a "[w]onderful" relationship and had known for approximately three years. Petties asked defendant if they could speak inside, and defendant allowed her inside the salon. Although defendant told Petties that she did not have the car keys, Petties did not leave because she saw Molina's car parked in back of the salon.

¹ Codefendant White separately appealed in case No. 1-14-1548.

¶ 5 After Petties entered the salon, defendant told White, who was also inside the salon, to lock the door, which she did. Although there were only three individuals inside at that time, Petties was not worried because she "trusted" defendant. Up until this point, the conversation between Petties and defendant was calm. Defendant then told Petties that Petties and Molina "came to jump on her." Petties found this statement odd because defendant knew she was "not that type of person." Suddenly, defendant and White started punching Petties on her arms and chest. Petties fought back and escaped from the front entrance of the salon to an open area of the salon. Defendant and White, however, continued to punch her. Petties eventually separated herself completely from the two women. Petties believed the attack was over, so she bent down to the floor to grab her hat, which had fallen off her head. Defendant then told Petties, "[b]****, I am going to break your a** down." As Petties stood up, defendant stabbed her with scissors in her jaw and underneath her chin. Afterward, defendant ran out of the salon. During the attack, Petties said that Molina was outside the salon, banging on the front door. Petties initially denied telling the police an argument had ensued over the keys. Later, she said a verbal altercation occurred with defendant, but only after she entered the salon.

¶ 6 After the incident, Petties and Molina stopped at the house of defendant's mother because Petties wanted her to see what defendant had done. Molina then took Petties to the hospital where a nurse called the police, and Petties spoke with them. As a result of the stabbing, Petties received three stitches on her face and one stitch underneath her chin, which remained for about two weeks. She had residual scarring to both areas. The State entered into evidence photographs of Petties from the incident, which showed two wounds on her face, bruises on her left arm and a

bloody shirt that she wore on the night in question. Petties acknowledged filing a civil lawsuit against defendant based on the incident, which was pending, and sending a letter to her demanding money.

¶ 7 After the conclusion of the State's case, defendant moved for a directed finding, but the court denied the motion.

¶ 8 In defendant's case in chief, the parties stipulated to Chicago Police Officer Efram's summary of a conversation between him and Petties at the hospital on the night in question. According to the summary, after defendant let Petties into the salon, they began to argue. When the argument became physical, Petties attempted to leave the salon.

¶ 9 Defendant, who was 24 years old at the time of trial, testified that she had a "cordial" relationship with Petties until a "falling out" occurred four months prior to the incident. Since then, they had not spoken. On the night in question, defendant was at the salon having her hair styled by White, her first cousin, although the salon was not open to the public. White had finished "putting [defendant's] hair in," which defendant described as a "full circle weave," but the appointment was not yet over.

¶ 10 Defendant heard Molina banging on the front door of the salon, saying "[g]ive me my keys. Give me my f*** car keys." Defendant became "kind of scared." Molina had given defendant the car keys earlier in the day, so she could run errands, and according to defendant, he knew she took the vehicle to the salon. Defendant went to the back of the salon where the car was parked to check on it. There, she saw Molina's brother, Darren, sitting on the car with his own car parked behind. Through a gate, defendant gave the car keys to Darren and locked the

back door. Defendant returned to the front door where she observed Petties knocking on the door and becoming "worked up a little bit." Through the closed front door, Petties asked defendant "[w]hy don't you just give him his f*** keys?" Defendant opened the front door, which locked automatically, and responded that she already gave the keys to Darren. Petties replied that she did not believe defendant and "bum-rushed her way" into the salon.

¶ 11 Upon entering, Petties began to attack defendant by punching her and grabbing her hair. While they were fighting, Petties "hit" a knob on the front door, allowing Molina to enter the salon. Petties and defendant separated, and the fighting stopped. Petties told Molina to "[g]et [defendant]" and "[b]eat her a**." Both Petties and Molina approached defendant, but Molina stopped short and searched White's hair station for his keys. Petties, however, attacked defendant again by punching her and grabbing her hair. Defendant fought back. Eventually, defendant separated herself from Petties and saw Molina attempt to exit the salon with her cell phone. Defendant ran to White's hair station, grabbed a pair of scissors for "protection" because Molina had previously battered her and chased after Molina for the cell phone. While Molina and defendant began "tussling" on the ground, Petties attacked defendant from behind and ripped all the hair off of defendant's head. Defendant let go of Molina and again fought with Petties. While swinging her arms during the fight, defendant stabbed Petties with the scissors. Molina exited the salon and so did defendant. Defendant testified that while the fighting ensued, White called the police, did not become involved and was "yell[ing]" for everyone to leave the salon.

¶ 12 Defendant ran to a Walgreens approximately two blocks away. There, she called the police numerous times and waited thirty minutes for them, but they did not arrive. Defendant

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then called White who informed her that Molina and Petties had left the salon. Defendant returned to the salon and spoke with the police. She made a police report against Petties, but the police told defendant she would not "be able to follow through with the charges" because defendant did not have an "exact address" for Petties.

¶ 13 Crystal White, who was 27 years old at the time of trial, testified that she had worked at the salon, which her mother owned, for 12 years. White had never met Petties and was unaware of anything transpiring between Petties, Molina and defendant prior to the incident. White recalled that when Petties arrived at the salon, Petties was "very aggressive" and "angry." White observed defendant open the front door to the salon, which locked automatically, and tell Petties that she already gave the car keys to Darren. Petties replied "[n]o, you didn't. I don't believe you. Let me in, Miss B****." Petties then "bombarded her way" inside the salon.

¶ 14 After Petties entered, she and defendant began to fight. White observed Petties pull defendant's hair and push her face down. Trying to "[p]rotect[] [her] business," White pleaded with defendant and Petties to leave the salon. During the fight, defendant "hit" a latch on the front door, allowing Molina to enter the salon. Petties and defendant separated. Petties told Molina to "[b]eat [defendant's] ass," and Molina and defendant began fighting. After the second fight, Molina went to White's hair station and started looking "for stuff." Then, Petties "attacked" defendant again.

¶ 15 Meanwhile, White continued pleading with everyone to stop fighting in the salon and leave. White said she called the police, her mom and anyone else who she thought could help. White did not get involved in the fight because Petties "could possibly come back and try to sue

[her], or get [her] involved in something that [she] had nothing to do with." White denied that defendant asked her to lock the front door once Petties entered the salon, and that she touched Petties that day.

¶ 16 After Petties and Molina left the salon, White spoke with the police, but declined to press charges "because [White] and her got into an altercation." The police arrested White "several months" after the incident.

¶ 17 Joan Scarlett, defendant's mother, testified that on the evening in question, Petties came by her house alone and told her that she "whooped [defendant's] ass twice." Scarlett did not notice "anything" about Petties.

¶ 18 After argument, the trial court found defendant guilty of battery. In so finding, the court found parts of defendant and White's testimony incredible, as well as Scarlett's testimony. Moreover, the court noted that any impeachment of Petties by the parties' stipulation was "collateral."

¶ 19 Defendant filed an unsuccessful motion for a judgment notwithstanding the verdict and in the alternative, a new trial. In ruling on the motion, the court clarified its comments concerning the impeachment of Petties. The court stated it "chose the wrong phrase" and instead meant the impeachment of Petties by the parties' stipulation did not "impugn[]" her credibility. It also added that Petties "was able to answer the questions truthfully." The trial court subsequently sentenced defendant to one year of supervision. This appeal followed.

¶ 20 Defendant contends the State failed to prove her guilty beyond a reasonable doubt because Petties had numerous flaws in her testimony. Specifically, defendant argues Petties'

testimony was "unconvincing," "contrary to human experience," "completely illogical" and "contradicted by the two other witnesses."

¶ 21 When a defendant challenges her conviction based upon the sufficiency of the evidence presented against her, we must ask whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could find all the elements of the crime proven beyond a reasonable doubt. *People v. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). All reasonable inferences must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42. The testimony of a single, credible witness may be sufficient to convict (*People v. Smith*, 185 Ill. 2d 532, 541 (1999)), even if the witness is the victim and the defendant's version of events contradicts the victim's. *People v. Brink*, 294 Ill. App. 3d 295, 300 (1998). We will not overturn a conviction unless the evidence is "so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt." *Brown*, 2013 IL 114196, ¶ 48. While we must carefully examine the evidence before us, we must give proper deference to the trier of fact who observed the witnesses testify (*id.*), because it was in the "superior position to assess the credibility of witnesses, resolve inconsistencies, determine the weight to assign the testimony, and draw reasonable inferences therefrom." *People v. Vaughn*, 2011 IL App (1st) 092834, ¶ 24.

¶ 22 To sustain a conviction for battery, the State was required to prove that defendant knowingly, and without legal justification, caused bodily harm to Petties. 720 ILCS 5/12-3(a)(1) (West 2012). The lack of "legal justification" is not an element of the offense which the State must prove (*People v. Meor*, 233 Ill. 2d 465, 470 (2009)), but rather an affirmative defense

defendant must raise (*People v. Sambo*, 197 Ill. App. 3d 574, 582 (1990)), which she did in the instant case by presenting evidence that her actions were justified by self-defense.

¶ 23 Self-defense is considered raised if some evidence is introduced to show that "(1) the person is threatened with unlawful force, (2) the person threatened is not the aggressor, (3) the danger of harm is imminent, and (4) the use of force is necessary." *People v. Brown*, 406 Ill. App. 3d 1068, 1081 (2011). Once self-defense was raised by defendant, the State was required to prove beyond a reasonable doubt that defendant did not act in self-defense (*id.*), which it could do by negating any of the elements of self-defense beyond a reasonable doubt. *People v. Dillard*, 319 Ill. App. 3d 102, 106 (2001).

¶ 24 Here, Petties' testimony, which the trial court implicitly found credible, sufficiently established the elements of battery. Petties testified that she asked to speak with defendant inside the salon regarding John Molina's car keys. Upon entering, defendant told Petties that she and Molina "came to jump on her." Prior to this statement, according to Petties, the conversation between her and defendant had been calm. Suddenly, defendant and Crystal White began punching Petties in the arms and chest. The fighting continued until defendant stabbed Petties in the face and underneath her chin with a scissors. The State's photographic evidence corroborated Petties' injuries. Therefore, viewing the evidence in the light most favorable to the State, a rational trier of fact could have found defendant caused bodily harm to Petties. Additionally, based on the credible testimony of Petties, who adamantly stated defendant and White instigated the fight, a rational trier of fact could also have found that defendant did not act in self-defense. Consequently, there was sufficient evidence to convict defendant of battery despite Petties being

the only State witness, and defendant and White's testimony contradicting hers. See *Smith*, 185 Ill. 2d at 541; *Brink*, 294 Ill. App. 3d at 300.

¶ 25 Nevertheless, defendant argues that Petties' testimony was "unconvincing and contrary to human experience," so much so that no rational trier of fact could have found her testimony sufficient to prove defendant guilty beyond a reasonable doubt. First, defendant asserts that Petties' story constantly changed and on cross-examination, she contradicted her direct examination. Specifically, defendant points to Petties' testimony where she initially did not remember telling the police that she and defendant argued, yet later, she admitted to telling the police that she and defendant did have a verbal altercation. Defendant further highlights the stipulation concerning Officer Efram whose summary of a conversation with Petties would have included the fact that defendant and Petties argued. While Petties' testimony on this matter could be deemed inconsistent, the resolution of inconsistent evidence and its impact on the trial are the trier of fact's responsibility, not the reviewing court's. See *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006).

¶ 26 Next, defendant posits that Petties "lied" about her actions after the incident because she originally stated Molina rushed her to the hospital, yet on cross-examination, she admitted to stopping at the house of defendant's mother first. But, Petties did not testify that she went directly to the hospital. At most, stopping at the house of defendant's mother was an omission, which was heard and considered by the trier of fact. See *People v. Rodriguez*, 2012 IL App (1st) 072758-B, ¶ 47. Defendant also insists that Petties' testimony was unbelievable because she testified to remaining "calm" and "polite[]" with defendant yet admitted to using the curse word

"damn." Again, however, defendant's claim involves a question of witness credibility, which is a matter entirely within the province of the trier of fact who heard and observed the witnesses testify. See *Sutherland*, 223 Ill. 2d at 242.

¶ 27 Finally, defendant argues that she and White gave consistent and unimpeached testimony that directly contradicted Petties'. The evidence at trial presented two competing narratives, defendant's version, which White corroborated, and Petties' uncorroborated version. By finding defendant and White's testimony incredible, and Petties' implicitly credible, the trial court believed Petties' version was the true narrative of events. A reviewing court will not simply reweigh the evidence at trial and substitute its own judgment for that of the trier of fact, especially when credibility determinations are at the heart of the case. See *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001). Furthermore, the trial court was under no obligation to believe defendant and White's testimony simply because it was unimpeached. See *People v. McCarter*, 2011 IL App (1st) 092864, ¶ 22 ("The trier of fact is free to accept or reject as much or as little of a witness's testimony as it pleases."); *People v. Ferguson*, 204 Ill. App. 3d 146, 151 (1990) ("The trier of fact is not required to accept defendant's version of the facts, but may consider its probability or improbability in light of the surrounding circumstances."). Although defendant argues we should reject the court's credibility finding in Petties' favor due to the various alleged deficiencies in her testimony, the record does not demonstrate her testimony was "so wholly incredible or so thoroughly impeached that it is incapable of being used as evidence against defendant." See *People v. Sanders*, 2012 IL App (1st) 102040, ¶ 15.

¶ 28 Lastly, we reject defendant's contention that *People v. Smith*, 185 Ill. 2d 532 (1999), supports her contention that the trial court was "not reasonable" in finding Petties' testimony credible. In *Smith*, the defendant was convicted based on a single witness's testimony and because of "serious" deficiencies in that witness's testimony, our supreme court reversed the conviction, concluding that no rational trier of fact could have found her testimony credible. *Id.* at 545-46. The witness's testimony was contradicted by other impartial witnesses for the State, and her credibility was seriously undermined by her actions after the crime and repeated impeachment. *Id.* at 542-44. Here, in contrast, the contradictory evidence came from two codefendants, and any impeachment of Petties was minor.

¶ 29 Therefore, despite the alleged improbabilities and inconsistencies in Petties' testimony, which defendant highlights, the evidence is not "so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt." *Brown*, 2013 IL 114196, ¶ 48. Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 30 Affirmed.