

NOTICE

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2016 IL App (4th) 140573-U

NO. 4-14-0573

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

May 27, 2016

Carla Bender

4th District Appellate

Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Champaign County
EDWARD I. WARE,)	No. 13CF2005
Defendant-Appellant.)	
)	Honorable
)	Harry E. Clem,
)	Judge Presiding.

PRESIDING JUSTICE KNECHT delivered the judgment of the court. Justices Holder White and Pope concurred in the judgment.

ORDER

¶ 1 *Held:* Sufficient evidence was presented at trial to find defendant guilty of aggravated battery.

¶ 2 In December 2013, a jury found defendant, Edward I. Ware, guilty of aggravated battery (720 ILCS 5/12-3, 3.05(d)(4)(i) (West 2012)) for biting a security officer while she attempted to restrain him. Defendant claimed he suffered from a panic attack at the time. Defendant filed a motion for a new trial, which was denied. In April 2014, the trial court sentenced defendant to 48 months of probation. Defendant filed a motion to reconsider, which was denied. This appeal followed.

¶ 3 I. BACKGROUND

¶ 4 On December 7, 2013, defendant was arrested in an unrelated incident in Champaign County by Officer Matt Rush. At the time of his arrest, defendant had dried blood around his mouth. Champaign County police department policy required

defendant to obtain a medical release before he could be admitted to the county jail. He was taken to Carle Hospital (Carle). At Carle, defendant bit a private security officer, Ashley Warren, while medical personnel attempted to conduct an electrocardiogram (EKG). The State charged defendant, by information, with aggravated battery (720 ILCS 5/12-3, 3.05(d)(4)(i) (West 2012))

¶ 5 Prior to trial, defendant filed a motion to appoint a psychiatrist to evaluate his fitness to stand trial. Dr. Lawrence Jeckel conducted an evaluation and found defendant to be bipolar. He did not diagnose defendant with a tendency to have panic attacks. He found defendant fit to stand trial.

¶ 6 At trial, Rush, Warren, and defendant testified. Rush and Warren both recounted the above story. Rush and Warren testified to the same series of events. Defendant was transported to the emergency department at Carle. He was handcuffed behind his back prior to his arrival and remained handcuffed for the duration of his visit. Defendant was escorted into the triage area to await his medical examination. Officer Rush testified, during this time, defendant was screaming profanities at Rush and security officers at Carle. Then, he collapsed on the floor of the triage area and was "kicking and spinning in circles." Defendant remained this way until emergency staff were available to assist him.

¶ 7 Defendant began complaining of chest pain while writhing on the floor. Officer Rush, another police officer, and a private security guard, Ashley Warren, lifted defendant and placed him in a wheelchair. According to Warren, defendant had to be carried because he lay limp and refused to move. They brought defendant to a room in the emergency department. Together, they lifted defendant onto an emergency room bed. Initially, defendant was laid on his stomach. Defendant was turned onto his back to

perform an EKG to detect any possible heart problems. The EKG had to be connected to defendant's chest with leads.

¶ 8 Once defendant was turned onto his back, he became combative.

Defendant was still handcuffed and began kicking his legs. He was wearing steel-toed boots. He nearly kicked Rush in the head. Rush was initially holding down the top portion of defendant's body but lay across defendant's lower body to restrain his legs. Rush removed defendant's boots.

¶ 9 Warren meanwhile held down defendant's torso. She held his right wrist and reached across his chest to hold down his left shoulder. While holding defendant in this position, defendant leaned forward and bit Warren's forearm. Warren was wearing a security guard uniform at the time. Warren felt defendant's teeth through the sleeve of her shirt but pulled her arm away before defendant closed his mouth. Warren's uniform had some of defendant's blood on it after the bite. Warren and Rush held defendant's head down and radioed for more officers to assist. Defendant calmed down. Both Rush and Warren stated defendant seemed angry and mildly intoxicated throughout the entire episode, but he was able to respond to questions.

¶ 10 Defendant testified to a history of panic attacks. He described a panic attack as lying still and experiencing chest pain. Defendant testified he had a panic attack at Carle. He admitted lying on the floor but denied kicking and spinning in circles. Defendant talked to himself during this episode to calm himself down. He testified he was not kicking while in the emergency room bed. Rather, he was attempting to kick off his own boots and roll over to his stomach because he was handcuffed behind his back.

¶ 11 Defendant admitted he knew Warren was a private security officer. He denied Warren's attempt to restrain him by reaching across his chest and holding down

his left shoulder. Instead, he claimed she held defendant down by pressing on the middle of his chest with both hands. He denied ever attempting to bite Warren and testified her forearm was never near his head.

¶ 12 No other medical or expert testimony was presented. The jury found defendant guilty of aggravated battery. A presentence investigation report was prepared. It described defendant's prior mental health diagnoses, including schizophrenia, multiple personality disorder, bipolar disorder, and panic attacks. It stated defendant had not been to counseling or taken medication for his mental health in at least two years. Defendant filed a motion for a new trial, arguing the State failed to prove defendant knowingly committed battery. The trial court denied the motion.

¶ 13 On April 21, 2014, the trial court held defendant's sentencing hearing and took judicial notice of Dr. Lawrence Jeckel's psychiatric evaluation of defendant's fitness to stand trial. The court sentenced defendant to four years of probation. On May 19, 2014, he filed motion to reconsider, which the court denied on June 25, 2014. This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, defendant argues the State failed to prove he acted knowingly beyond a reasonable doubt. "Where a criminal conviction is challenged based on insufficient evidence, a reviewing court, considering all of the evidence in the light most favorable to the prosecution, must determine whether any rational trier of fact could have found beyond a reasonable doubt the essential elements of the crime." *People v. Brown*, 2013 IL 114196, ¶ 48, 1 N.E.3d 888. A conviction will be reversed when the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. *People v. Wheeler*, 226 Ill. 2d 92, 115, 871 N.E.2d 728, 740 (2007).

¶ 16 Battery, as it relates to this case, occurs when a person "knowingly[,]
without legal justification[,] *** makes physical contact of an insulting or provoking
nature with an individual" (720 ILCS 5/12-3(a)(2) (West 2012)). Aggravated battery can
occur when a battery is committed against a private security officer while performing her
official duties (720 ILCS 5/12-3(d)(4)(i) (West 2012)). Defendant admits he knew
Warren was a private security officer. She was performing her official duties in
attempting to facilitate treatment for defendant. Although defendant did not injure
Warren, his action was an offensive contact. The only disputed issue is whether
defendant *knowingly* bit Warren.

¶ 17 A person acts knowingly when he is consciously aware his conduct is
practically certain to cause the result prohibited by statute (720 ILCS 5/4-5(b) (West
2012)). *People v. Lattimore*, 2011 IL App (1st) 093238, ¶ 43, 955 N.E.2d 1244. If
defendant denies intent, the State can prove intent through circumstantial evidence.
People v. Phillips, 392 Ill. App. 3d 243, 259, 911 N.E.2d 462, 478 (2009). "Intent may
be inferred (1) from the defendant's conduct surrounding the act and (2) from the act
itself." *Lattimore*, 2011 IL App (1st) 093238, ¶ 43, 955 N.E.2d 1244.

¶ 18 The act itself suggests defendant was aware his actions would result in
battery. In *People v. Willis*, 170 Ill. App. 3d 638, 641, 524 N.E.2d 1259, 1262 (1988),
defendant was charged with aggravated battery for his "wild and flailing" behavior. The
court found the defendant's action could be less than knowing and warranted a jury
instruction on reckless conduct. *Id.* Here, Warren placed her arm on defendant's
shoulder to restrain him, and he leaned forward and bit her arm. His action appeared to
be a calculated maneuver aimed at removing Warren's restraint. Notably, it was the only
time defendant attempted to bite anyone or anything while at Carle. Enough evidence

was presented to demonstrate a knowing act.

¶ 19 The circumstances of defendant's conduct are also telling. Defendant argues he acted without knowledge at the time because he was experiencing a panic attack. The State argues defendant was conscious and combative when he bit Warren. We agree with the State. A defendant is not criminally liable for performing an involuntary act because an involuntary act is performed without knowledge. *People v. Grant*, 71 Ill. 2d 551, 558, 377 N.E.2d 4, 8 (1978). A panic attack results when four of a list of 13 criteria occur simultaneously. Diagnostic & Statistical Manual of Mental Illness 214 (5th ed. 2013). The relevant criteria are derealization (feelings of unreality) and depersonalization (feelings of detachment from oneself). *Id.*; see also Stedman's Medical Dictionary 477, 479 (27th ed. 2000) (defining derealization as perceiving familiar environments as strange, unreal, or two dimensional, and defining depersonalization as losing the feeling of reality). Defendant claims his symptoms of derealization and depersonalization, as part of his panic attack, put him in an unfamiliar and detached state of reality. He argues he was "effectively out of his mind."

¶ 20 Defendant's testimony recounts many specific details, however, before and after biting Warren. He recalled lying on the emergency room bed, shaking off his boots, being flipped over by Rush and Warren, Warren holding him down, and someone restraining his head. Even if defendant was experiencing a panic attack, he had a superb recollection of all the events surrounding the actual bite.

¶ 21 The State presented evidence to support defendant's knowledge of the bite. Both Rush and Warren testified defendant was capable of responding to questions. Both testified defendant seemed angry and combative, particularly when they attempted to restrain him for an EKG. Defendant's coherence and anger provide both the motivation

and consciousness to commit a battery. *People v. Begay*, 377 Ill. App. 3d 417, 421, 879 N.E.2d 962, 967 (admitting events prior to a battery to support intent to commit battery.) In a light most favorable to the State, a rational jury could compare the circumstances described by the parties and choose to believe the State over defendant. Sufficient evidence was presented to readily support the jury's determination defendant had knowledge beyond a reasonable doubt.

¶ 22

III. CONCLUSION

¶ 23 We affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs for this appeal.

¶ 24 Affirmed.