

**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).

**FILED**

April 10, 2017  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

2017 IL App (4th) 140742-U

NO. 4-14-0742

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Macon County
MILO D. BOSTON,	)	No. 13CF1090
Defendant-Appellant.	)	
	)	Honorable
	)	Timothy J. Steadman,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.  
Presiding Justice Turner and Justice Knecht concurred in the judgment.

**ORDER**

¶ 1 *Held:* (1) The State presented sufficient evidence to prove defendant guilty of domestic battery beyond a reasonable doubt.

(2) The trial court did not err in allowing witness testimony regarding the cause of the complainant’s injuries.

¶ 2 A jury found defendant, Milo D. Boston, guilty of domestic battery (720 ILCS 5/12-3.2(a)(1) (West 2012)), and the trial court sentenced him to three years in prison. Defendant appeals, arguing (1) the State failed to prove him guilty of domestic battery beyond a reasonable doubt; and (2) the trial court erred in allowing a treating nurse to testify about the cause of the complainant’s injuries. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In August 2013, the State charged defendant with vehicular invasion (720 ILCS

5/18-6) (West 2012)) (count I) and domestic battery (720 ILCS 5/12-3.2(a)(1) (West 2012)) (count II). In count II, defendant was subject to a Class 4 felony sentence due to his prior conviction for domestic battery (720 ILCS 5/12-3.2(b) (West 2012)). The vehicular invasion charge was dismissed prior to trial.

¶ 5 The State elicited the following testimony at trial. On July 9, 2013, the complainant, Ashley Mosley, attended a small gathering at a friend's home in Decatur. Mosley testified that she offered a ride to a man named "Cardiac," whom she had just met that night.

¶ 6 Mosley testified that while she was driving with Cardiac, she encountered defendant at the intersection of Martin Luther King Jr. Drive and Pershing Road. Mosley testified that defendant, her "on and off" again boyfriend of seven years, started running toward her car, screaming at her for having "another guy in the car." Defendant tried to open Mosley's car doors, but they were locked. Mosley testified that defendant "jumped through" the open front passenger window of her car. She stated that defendant landed on top of Cardiac and then "wiggled himself to the backseat." Mosley testified that she put her "arm up" to "hold [defendant] back" when he "bit" her right arm. While attempting to stave him off, Mosley drove to a nearby Kroger. Once she parked, Cardiac exited the car and defendant moved to the front passenger seat. According to Mosley, Cardiac told defendant that Mosley "was just giving him a ride home."

¶ 7 Mosley testified that after Cardiac walked away from the car, she opened the driver's side door and tried to escape. She stated defendant reached over and slammed her door shut, demanding that she drive him to her home. Once they arrived, defendant "pulled [her] in the house" and started arguing with her in the living room about "messing with the other guy."

Mosley testified that defendant ripped off her “shirt and bra” and “pulled [her] in the bedroom.” Mosley explained that defendant vacillated between “crying” and “hitting” her for the remainder of the evening.

¶ 8 Mosley testified that once defendant had fallen asleep, she went to her car to retrieve her phone and then returned to the house. After trying to sleep for approximately one hour, Mosley’s alarm woke her at 6 a.m., and she walked to the bathroom to dress for work. Defendant followed Mosley into the bathroom and kicked her in the stomach, causing her to fall to the ground and drop her phone. Mosley testified she went to the hallway where defendant was “trying to go through [her] phone.” She stated that defendant became “aggravated again and started punching [her] in [the] head” with his fist.

¶ 9 Mosley testified that she “must [have] blacked out” because the next thing she remembered she was “laying flat on the ground with [defendant] standing over [her].” At that point, defendant started to calm down. Mosley testified defendant said “he was sorry, that he shouldn’t have done that and he didn’t want to lose [her].” Defendant then helped her ice her eye and prepare for work since Mosley was too weak to stand on her own. Later that day, Mosley was taken to a domestic abuse center, and then to the hospital where police were notified of the incident.

¶ 10 Officer Chris Snyder interviewed Mosley several hours later at her home. He testified that Mosley had dark purple bruising around her right eye and cheek, several bruises on her right thigh, and an “oval bruise” with “indentations that appeared to be like teeth marks on the top of her right forearm.” He stated that Mosley appeared to be in shock. On cross-examination, defense counsel inquired into several differences between Mosley’s testimony and

Officer Snyder's report. Officer Snyder acknowledged that Mosley never told him that defendant moved to the backseat after he jumped into Mosley's car, did not disclose that she drove to Kroger, and did not inform him about defendant ripping off her clothing or kicking her in the stomach.

¶ 11 The State also presented the testimony of Sarah Hamilton, a nurse who treated Mosley at the hospital. Hamilton testified that when Mosley arrived at the hospital, she told Hamilton she "had been struck repeatedly throughout the previous night." Hamilton observed multiple bruises on Mosley's body. Hamilton testified that Mosley's "right eye was swollen and the sclera was reddened. She had facial swelling on the right jaw. She had bruising to her right shoulder. She had a bruise to her right forearm that the doctor said was consistent with a bite. She had a right lateral thigh bruise and a left mid-back bruise." Hamilton also testified that most of Mosley's injuries "were to the right side of [her] body" and "[t]here was one at the mid-left back."

¶ 12 During cross-examination, defense counsel asked Hamilton about the cause of Mosley's injuries. The following colloquy occurred:

"Q. [J]ust seeing a bruise doesn't tell you what the cause of that bruise was, correct?

A. No.

Q. And so without actually seeing the incident that caused the bruise, all you have to rely on is the patient's representation of how it occurred, correct?

A. That is correct."

On redirect examination, the State asked Hamilton the following question about Mosley's

injuries:

“Q. In your experience and training, were [Mosley’s] injuries consistent with the history she gave of being physically assaulted?”

MR. RUETER [defense counsel]: Objection, your Honor. Calls for a conclusion, an opinion.

THE COURT: Counsel opened the door. You may answer.

A. Yes.”

¶ 13 The State also presented photographs of Mosley’s injuries, which included photographs of her swollen face and bruises over her eyes. In addition, the State presented the following text messages sent from defendant’s cell phone to Mosley: “do u want me to go to jail... just say it was a misunderstanding n u don’t wanna press no charges... plz can u do that[?]” \*\*\* “[I] guess me cn u wit sumbody else really showd me how much I do miss n love you.”

¶ 14 Sarah Singleton, defendant’s girlfriend at the time of the trial, testified that she sent the text messages from defendant’s cell phone to Mosley without defendant’s knowledge. Singleton claimed that she sent the text messages because Mosley kept “calling, hanging up, stuff so I just was playing back.” On cross-examination, Singleton admitted that she was still dating defendant and she did not want to see him get into legal trouble.

¶ 15 Defendant testified on his own behalf, asserting that he met Mosley at her car after he “got off the phone with her.” Defendant stated that he walked to the passenger side and the windows were down, so he tried to unlock the door, and then he suddenly felt an “arm grab [him].” Defendant testified that he was dragged alongside the car when it started moving, and he

jogged next to the car “out of instinct.” He went on to explain that the passenger in Mosley’s car pulled defendant through the window and he landed in the passenger’s lap. Defendant testified that his feet were “dangling out the window.” Then, Mosley grabbed defendant’s hair while the passenger held defendant’s arm. Defendant testified that he asked them to let him go and, when they refused, defendant “started swinging” and “in the process [he] bit [Mosley] on the arm.”

¶ 16 Defendant testified that, contrary to Mosley’s assertion, the passenger in her car was a man Mosley knew named “Cardio,” and not some other man named “Cardiac.” Defendant also contended that he never went to Mosley’s home after the altercation in the car.

¶ 17 The jury found defendant guilty of domestic battery.

¶ 18 Defendant filed a motion for a new trial, citing the court’s alleged error in allowing Hamilton’s testimony and arguing that the State failed to prove him guilty beyond a reasonable doubt. The court denied defendant’s motion for a new trial and sentenced him to three years in prison.

¶ 19 This appeal followed.

## ¶ 20 II. ANALYSIS

¶ 21 On appeal, defendant argues (1) the State failed to prove him guilty of domestic battery beyond a reasonable doubt; and (2) the trial court erred in allowing a treating nurse to testify about the cause of the complainant’s injuries. We disagree.

### ¶ 22 A. Sufficiency of the Evidence

¶ 23 Defendant contends that the evidence was insufficient to convict him of domestic battery because the testimony elicited from Mosley was inconsistent and unbelievable.

¶ 24 Generally, when reviewing a challenge to the sufficiency of the evidence, “the

relevant inquiry is whether, when 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.” *People v. Ngo*, 388 Ill. App. 3d 1048, 1052, 904 N.E.2d 98, 102 (2008) (quoting *People v. Singleton*, 367 Ill. App. 3d 182, 187, 854 N.E.2d 326, 331 (2006)). “The trier of fact has the responsibility to determine the credibility of witnesses and the weight given to their testimony, to resolve conflicts in the evidence, and to draw reasonable inferences from that evidence.” *Id.* The testimony of a single witness, if positive and credible, is sufficient to convict a defendant. *People v. Smith*, 185 Ill. 2d 532, 545, 708 N.E.2d 365, 371 (1999). The credibility of a witness is within the province of the trier of fact, whose credibility determination is entitled to great weight. *Id.* at 542, 708 N.E.2d at 370. “A court of review will not overturn the verdict of the fact finder ‘unless the evidence is so unreasonable, improbable[,] or unsatisfactory that it raises a reasonable doubt of defendant's guilt.’ ” *Singleton*, 367 Ill. App. 3d at 187-88, 854 N.E.2d at 331 (quoting *People v. Evans*, 209 Ill. 2d 194, 209, 808 N.E.2d 939, 947 (2004)).

¶ 25 To prove defendant committed the offense of domestic battery, the State was required to show (1) defendant knowingly without legal justification; (2) caused bodily harm; (3) to a family or household member. (720 ILCS 5/12-3.2(a)(1) (West 2012)).

¶ 26 Here, defendant admitted Mosley was a household member with whom he had a relationship for seven years. Defendant also admitted that he caused bodily harm to her:

“Q. I just want to make it clear, here. So you admit that you made physical contact with [Mosley]?”

A. Yes, sir.

Q. That physical contact may have left bruises or injuries?

A. Yes, sir.”

¶ 27 Defendant argues, however, that the State’s evidence was insufficient to prove that his use of force was without legal justification. Specifically, defendant contends he acted in self-defense and that Mosley’s testimony was fraught with inconsistencies, including that during her initial interview with Officer Snyder, she failed to mention that (1) defendant moved from the front to the back of the car during the altercation; (2) she parked the car behind Kroger; (3) defendant ripped off her shirt and bra once she returned home; and (4) defendant kicked her in the stomach while she was in the bathroom. Defendant also asserts that his testimony that he was “pulled” through the car window was more credible than Mosley’s “unbelievable” claim that defendant “jumped” into her car through the window.

¶ 28 It is neither the duty nor the privilege of a reviewing court to substitute its judgment as to the weight of disputed evidence or the credibility of witnesses. *People v. Mills*, 40 Ill. 2d 4, 19, 237 N.E.2d 697, 705 (1968). Credibility determinations, as well as conflicts in the testimony, are within the purview of the triers of fact who had the superior opportunity to observe the witnesses as they testified. *People v. Berland*, 74 Ill. 2d 286, 305-06, 385 N.E.2d 649, 658 (1978).

¶ 29 Here, the jury could have reasonably concluded that Mosley’s testimony was credible despite the noted inconsistencies, especially in light of the fact that the statements highlighted by defendant were made only hours after the incident when she was, as Officer Snyder testified, in a state of “shock.” Officer Snyder also testified that his initial report was only a “summary” of his discussion with Mosley, not a verbatim transcript. Thus, what defendant terms “inconsistencies” in Mosley’s statements are more accurately described as omissions in



relation to Officer Snyder's report, which Officer Snyder testified was not meant to be an exhaustive recitation of the events.

¶ 30 Further, Mosley's version of the incident clearly established defendant committed the offense of domestic battery. "The testimony of one witness, if positive and credible, is sufficient to sustain a conviction even though the accused contradicts the witness." *People v. Chitwood*, 148 Ill. App. 3d 730, 738, 499 N.E.2d 992, 997 (1986). Here, the jury could reasonably have concluded that defendant was jealous when he saw Mosley with another man in her car, and, in retaliation, defendant inflicted Mosley's injuries over the course of several hours, both in her car and at her home.

¶ 31 The State also presented photographic evidence of Mosley's injuries, which included images of a bite mark on her right arm, bruising on her right thigh, her swollen face, a bloody eye, bruising over her eyes, and an indentation on her forehead presumably from defendant's ring. Officer Snyder and the treating nurse corroborated Mosley's description of her extensive injuries. Defendant, on the other hand, testified that he only had a "couple scratches" on his face. Defendant's scratches—when compared to Mosley's multiple injuries—do not support his claim that he acted in self-defense.

¶ 32 The State presented additional evidence that corroborated Mosley's version of the events. Mosley testified defendant attacked her because he "couldn't believe [she] had another guy in the car." Text messages on defendant's cell phone, sent after the incident, lend credence to her testimony. One text message stated: "[I] guess me cn u wit sumbody else really showd me how much I do miss n love you." Another text message asked her to "just say it was a misunderstanding n u don't wanna press no charges." The jury apparently rejected Sarah

Singleton's claim that she, not defendant, sent the text messages to Mosley. The jury determined the credibility issues against defendant. As discussed, these determinations were exclusively within the province of the jury. *People v. Ellis*, 74 Ill. 2d 489, 496, 384 N.E.2d 331, 334 (1978).

¶ 33 Here, the jury was entitled to resolve the conflicts in the testimony, weigh the credibility of the witnesses, and, ultimately, to reject defendant's self-defense claim. Accordingly, viewing the evidence in the light most favorable to the State, we find the evidence was sufficient for a rational trier of fact to find defendant guilty beyond a reasonable doubt of domestic battery.

¶ 34 B. Admission of Hamilton's Testimony

¶ 35 Defendant argues that the court erred by allowing a treating nurse, Sarah Hamilton, to testify on redirect examination that Mosley's injuries were "consistent with the history she gave of being physically assaulted." Defendant claims Hamilton's testimony was "without factual basis or foundation." He further argues that "[b]y using the term 'physical assault,' the State was clearly asking Hamilton whether [Mosley's] injuries were the result of an intentional, unjustified act."

¶ 36 As an initial matter, we find defendant has forfeited any claim of error relating to the question posed to Hamilton on the grounds he now specifies on appeal. Defense counsel objected at trial, asserting only that the question "[c]alls for a conclusion, an opinion." Counsel did *not* object on the basis that such an opinion would lack a factual basis or foundation, or that the question was argumentative. "[S]pecific objections waive all grounds not specified." *People v. Eyles*, 133 Ill. 2d 173, 219, 549 N.E.2d 268, 289 (1989). Since defendant did not object at trial on the same grounds he now specifies on appeal, he has forfeited any claim of error.

¶ 37 Further, any forfeiture aside, defense counsel opened the door to Hamilton’s testimony by asking her the following question during cross-examination: “Without actually seeing the incident that *caused* the bruise, all you have to rely on is the patient’s representation of how it occurred, correct?” (Emphasis added.) It is well settled that “where the door to a particular subject is opened by defense counsel on cross-examination, the People may, on redirect, question the witness to clarify or explain the matters brought out during the previous cross-examination.” *People v. Thompkins*, 121 Ill. 2d 401, 444, 521 N.E.2d 38, 57 (1988). The State may “remove or correct unfavorable inferences left by the preceding cross-examiner.” *Id.* Since defense counsel opened the door to this line of questioning by specifically asking Hamilton about Mosley’s representations and the cause of her injuries, the State on redirect examination was entitled to clarify Hamilton’s testimony on the same subject matter.

¶ 38 We further consider defendant’s claim of prejudice on the issue of Hamilton’s testimony to be overstated. The question for the jury was not whether Mosley suffered injuries by accident or by some third party. Defendant admitted to having caused her injuries. Given defendant’s admission, any prejudice caused by the allegedly argumentative phrasing of the question, which included the word “assaulted,” was slight.

¶ 39 III. CONCLUSION

¶ 40 For the reasons stated, we affirm defendant’s conviction. As part of our judgment we award the State its \$50 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002 (West 2014).

¶ 41 Affirmed.