

**NOTICE**

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.2018 IL App (4th) 160521-U

No. 4-16-0521

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

August 20, 2018

Carla Bender

4<sup>th</sup> District Appellate Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Macon County
JAMES E. FOLKS,	)	No. 15CF1392
Defendant-Appellant.	)	
	)	Honorable
	)	Robert Charles Bollinger,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.  
Justices Steigmann and DeArmond concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed, concluding sufficient evidence was presented whereby a rational jury could determine the victim’s injuries constituted great bodily harm.

¶ 2 In January 2016, a jury found defendant, James E. Folks, guilty of aggravated domestic battery, aggravated battery, and domestic battery. In March 2016, the trial court merged the domestic battery and aggravated battery convictions with the aggravated domestic battery conviction and then sentenced defendant to 13 years’ imprisonment.

¶ 3 Defendant appeals, arguing this court should reduce his conviction from aggravated domestic battery to aggravated battery because the State failed to prove the injuries he inflicted against his wife constituted great bodily harm. We affirm.

¶ 4 I. BACKGROUND

¶ 5

#### A. Information

¶ 6 In November 2015, the State charged defendant by information with aggravated domestic battery (720 ILCS 5/12-3.3 (West 2014) (count I)), aggravated battery (720 ILCS 5/12-3.05(c) (West 2014) (count II)), and domestic battery (720 ILCS 5/12-3.2(a)(1) (West 2014) (count III)). Count I specifically alleged “defendant, in committing a [d]omestic [b]attery, \*\*\* knowingly caused great bodily harm to Leslie Folks, a family or household member of \*\*\* defendant, in that \*\*\* defendant struck [Leslie] so that she needed stitches.”

¶ 7

#### B. Jury Trial

¶ 8 In January 2016, the trial court held a jury trial. The following is a summary of the evidence presented relevant to defendant’s argument on appeal.

¶ 9 In September 2008, Leslie and defendant married. On November 4, 2015, Leslie and defendant traveled from Bloomington to Decatur to visit defendant’s mother and Leslie’s son. After visiting with defendant’s mother, Leslie and defendant drove to Leslie’s son’s apartment. Leslie drove the vehicle, and defendant was seated in the front passenger seat. During the drive, a verbal argument transpired between Leslie and defendant. After parking the vehicle outside Leslie’s son’s apartment, the verbal argument turned physical. Leslie testified defendant “snapped” and began “punching” her “several times” with his right fist. Leslie testified defendant punched her in her face, her jaw, and her “whole right side.” Leslie estimated defendant punched her approximately six or seven times. During the assault, Leslie testified she was screaming, crying, and holding her right arm up to try to protect her face. Leslie testified the attack ended after she opened her door and began screaming outside. At that time, defendant exited the vehicle and left. Leslie called the police. After meeting with police officers at the scene, Leslie

was transported by ambulance to the hospital for treatment.

¶ 10 Leslie, responding police officer James Pinney, and treating physician Dr. Worlali Nutakor described Leslie's injuries. Leslie testified she sustained an injury to the right side of her face that required seven stitches, "two little like scrapes" underneath her chin, "a little opening" under her cheek, injuries inside her mouth that caused bleeding, swelling on her right forearm, and bruising from her right elbow down to her wrist. Leslie testified the blood from her injuries went "everywhere," "dripping all over my face, on the ground, everywhere." Responding officer Pinney testified he observed a laceration to Leslie's right cheek, a laceration under her chin, and "a bump" on her right arm. Dr. Nutakor testified he observed Leslie with "facial swelling and a [four-centimeter] laceration to the right side of the face" and "bruising and swelling on the right upper extremities, the hand, and the forearm, and the arm." Dr. Nutakor testified he treated Leslie's injuries by suturing the laceration with six stitches and giving pain medication. He noted the laceration would have healed on its own "but there could be a scar or infection [that] could have delayed the healing." Leslie testified a scar now exists where the laceration was located.

¶ 11 Photographs taken shortly after officers arrived on the scene were admitted into evidence and published to the jury. The photographs show Leslie's injuries as well as the blood on her body, the vehicle, and the ground outside the vehicle. Photographs taken after medical treatment were admitted into evidence and published to the jury. The photographs show a sutured laceration and bruising of the arm.

¶ 12 During deliberations, the jury sought "a clarification of the definition of great bodily harm as compared to regular bodily harm." By agreement of the parties, the trial court instructed the jury: "You have been given all of the instructions in this case. It is up to the jury to

decide what the term ‘great bodily harm’ means.’ The jury returned a verdict finding defendant guilty of aggravated domestic battery, aggravated battery, and domestic battery.

¶ 13 C. Motion for a New Trial and Sentencing

¶ 14 In February 2016, defendant filed a motion for a new trial, arguing the evidence was insufficient to find him guilty beyond a reasonable doubt of the charged offenses. Following a March 2016 hearing, the trial court denied defendant’s motion, merged the aggravated battery and domestic battery convictions with the aggravated domestic battery conviction, and sentenced defendant to 13 years’ imprisonment.

¶ 15 D. Motion to Reconsider Sentence

¶ 16 In April 2016, defendant filed a motion to reconsider his sentence. Following a June 2016 hearing, the trial court denied defendant’s motion.

¶ 17 This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 On appeal, defendant argues this court should reduce his conviction from aggravated domestic battery to aggravated battery because the State failed to prove the injuries he inflicted against his wife constituted great bodily harm. The State disagrees.

¶ 20 “When a reviewing court considers a challenge to the sufficiency of the evidence it must determine 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.” *People v. Jophlin*, 2018 IL App (4th) 150802, ¶ 38, 99 N.E.3d 597 (Internal quotations, citations, and emphasis omitted.). A reviewing court will defer to the trier of fact’s judgment “where the trier of fact determines the credibility of the witnesses, the weight to

be given to the testimony, and the inferences drawn from the evidence.” *Id.* A conviction will be reversed on appeal “only where the evidence is so improbable and unsatisfactory it creates a reasonable doubt as to [the] defendant’s guilt.” *Id.*

¶ 21 As charged in this case, a person commits aggravated domestic battery when he or she, “in committing a domestic battery, knowingly causes great bodily harm \*\*\*.” 720 ILCS 5/12-3.3(a) (West 2014). The only element defendant asserts the State failed to prove is whether Leslie’s injuries constituted great bodily harm.

¶ 22 While the term “great bodily harm” is not susceptible to a precise legal definition, it requires “an injury of a graver and more serious character than [the bodily harm needed to sustain a conviction of] an ordinary battery.” *People v. Figures*, 216 Ill. App. 3d 398, 401, 576 N.E.2d 1089, 1092 (1991); see *People v. Mays*, 91 Ill. 2d 251, 256, 437 N.E.2d 633, 635-36 (1982) (stating the bodily harm needed to sustain a conviction of an ordinary battery requires “some sort of physical pain or damage to the body, like lacerations, bruises[,] or abrasions, whether temporary or permanent”). That is, “the element of ‘great bodily harm’ turns squarely upon the *extent* of the harm inflicted.” (Emphasis in original.) *People v. Willett*, 2015 IL App (4th) 130702, ¶ 53, 37 N.E.3d 469. “Whether [a] victim’s injuries rise to the level of great bodily harm is a question for the trier of fact.” *People v. Garry*, 323 Ill. App. 3d 292, 297, 752 N.E.2d 1244, 1248 (2001). In making that determination, the trier of fact is entitled to consider the description of the attack, the victim’s injuries, and the amount of blood caused by those injuries. See *People v. Lopez-Bonilla*, 2011 IL App (2d) 100688, ¶ 19, 962 N.E.2d 1100.

¶ 23 The evidence showed defendant struck Leslie approximately six or seven times with his fist, causing multiple injuries to Leslie’s body. See *People v. Costello*, 95 Ill. App. 3d

680, 684, 420 N.E.2d 592, 595 (1981) (“[T]he law in Illinois recognizes that a physical beating may qualify as such conduct that could cause great bodily harm.”). The State introduced photographs of the injuries, and the jury heard testimony from individuals who saw the injuries in person. The photographs allowed the jury to observe the injuries both before and after treatment as well as the amount of blood on Leslie’s body, the vehicle, and the ground outside the vehicle. The jury also learned Leslie’s treatment at the hospital included six stitches for the laceration to her face and pain medication. Leslie testified she now has a scar on her face where the laceration was located. The jury was in the best position to determine whether these injuries constituted great bodily harm. Based on the evidence presented, we find a rational jury could determine Leslie’s injuries constituted great bodily harm.

¶ 24 In reaching this decision, we have reviewed the cases cited by defendant where a reviewing court reverses a conviction or adjudication based on the absence of injuries sufficient to constitute great bodily harm and find each of those cases to be distinguishable. In *In re J.A.*, 336 Ill. App. 3d 814, 818, 784 N.E.2d 373, 377 (2003), the State did not present evidence of bleeding or the extent of the victim’s injury. In *Figures*, 216 Ill. App. 3d at 400, a bullet pierced the victim’s shoe but did not penetrate the skin. In *People v. Steele*, 2014 IL App (1st) 121452, ¶ 35, 19 N.E.3d 1084, a medical discharge report and photographs showed the victim’s injuries were “nothing more extensive than bruises and abrasions.” In *In re Vuk R.*, 2013 IL App (1st) 132506, ¶ 9, 2 N.E.3d 1083, the State did not present any evidence of the pain suffered by the victim or the details of his treatment. In *In re T.G.*, 285 Ill. App. 3d 838, 846, 674 N.E.2d 919, 926 (1996), the victim did not realize he suffered stab wounds until he opened his shirt and saw blood and the State did not introduce other evidence of the extent of his injuries. In contrast to

these cases, the State in this case presented sufficient evidence of the extent and nature of Leslie's injuries.

¶ 25

### III. CONCLUSION

¶ 26

We affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment as costs of this appeal. 55 ILCS 5/4-2002(a) (West 2016).

¶ 27

Affirmed.