2019 IL App (3d) 160711-U

Order filed June 27, 2019

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
	)	Rock Island County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal Nos. 3-16-0711 and 3-16-0718
v.	)	Circuit Nos. 15-CF-647 and 14-CF-641
	)	
CHANECIA J. PORTER,	)	Honorable
	)	Frank R. Fuhr,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Justices Holdridge and Lytton concurred in the judgment.

ORDER

¶ 1 *Held*: The evidence was sufficient to prove defendant guilty of obstructing justice, two counts of battery, and mob action. The evidence was insufficient to support one of defendant's battery convictions in Rock Island County case No. 14-CF-641.

¶ 2 In this consolidated appeal, defendant, Chanecia J. Porter, appeals her convictions for obstructing justice, three counts of battery, and mob action. Defendant argues that the evidence in both separate trials was insufficient to prove her guilty beyond a reasonable doubt of any of

these offenses. We reverse one of defendant's battery convictions and affirm her remaining convictions.

¶ 3 I. BACKGROUND

¶ 4 A. Rock Island County Case No. 15-CF-647

¶ 5 In Rock Island County case No. 15-CF-647, defendant was charged with obstructing justice (720 ILCS 5/31-4(a)(1) (West 2014)). The information alleged that "defendant with the intent to prevent the prosecution of the defendant, knowingly furnished false information to *** a police officer, as to the defendant['s] identity in that she furnished a false name and date of birth." Defendant was also charged with driving on a suspended license (625 ILCS 5/6-303(a) (West 2014)).

¶ 6 The matter proceeded to a bench trial. Officer James Feehan testified that he was on duty on the date of the incident. He observed a vehicle with tinted windows driving on a public street. He checked the registration of the vehicle. Feehan learned that Kenliada Porter was the registered owner of the vehicle, and her driver's license was suspended. Feehan conducted a traffic stop. Feehan identified defendant in court as the driver of the vehicle.

¶ 7 During the traffic stop, Feehan asked defendant for identification. Defendant said she did not have any. Feehan then asked for defendant's name, and defendant said that her name was Chalicia B.M. Porter. Defendant also gave her date of birth. Feehan ran the name and date of birth given by defendant and learned that the driving status of that individual was valid. Feehan then told defendant she was free to go.

¶ 8 A few days later, Feehan heard a call come out for criminal damage to property. Feehan recognized the name and vehicle as the one from his traffic stop of defendant, but he thought the name was slightly different. Feehan spoke with the officer who was handling the criminal

damage to property case, and Feehan viewed the booking photograph of the offender. He recognized the woman in the photograph to be the driver from the traffic stop. The woman's name was Chanecia J. Porter, and she had a different date of birth than the one defendant had given to Feehan during the traffic stop. A warrant was issued for defendant's arrest.

¶ 9 A few weeks later, Feehan observed defendant driving the same vehicle she had been driving at the time of the traffic stop. Feehan conducted another traffic stop of the vehicle. When Feehan spoke with defendant during the second traffic stop, she said she did not know how the police could seek charges against her for the previous incident when they did not charge her at the time. Defendant acknowledged that she had given Feehan a false name during the first traffic stop.

¶ 10 Defendant's driving abstract was introduced into evidence. It showed that defendant's license was suspended at the time of the first traffic stop.

¶ 11 The court found defendant guilty of both counts.

¶ 12 B. Rock Island County Case No. 14-CF-641

¶ 13 In Rock Island County case No. 14-CF-641, defendant was charged with three counts of aggravated battery (720 ILCS 5/12-3.05(c) (West 2014)). The first count of aggravated battery alleged that defendant struck Charise Alvarado, causing bruising, while she was on a public way. The other two counts of aggravated battery charged defendant on the theory that she was legally accountable for the conduct of Toteonna Brown. Specifically, the other two counts alleged that Brown struck and kicked Zurisadai Valle, causing bruising, while on a public way. Defendant was also charged with mob action (*id.* § 25-1(a)(1)) in that defendant "knowingly, by use of force and violence, disturbed the public peace in that she, while acting together with Toteonna Brown and without authority of law, struck Charise Alvarado causing bruising."

¶ 14 The matter proceeded to a bench trial. Detective Chad Sowards testified that he spoke with defendant a few weeks after the incident. Defendant told Sowards that on the date of the incident, she went to an address where "Charise Alvarez" was located to " 'whoop her ass.' "[1] Defendant had been arguing with Charise on social media and decided to confront her in person. Three individuals, including defendant's friend, Toteonna Brown, accompanied defendant to confront Charise. Defendant said she got into a fight with Charise. Charise's sister "jumped in" to defend Charise. Then, Brown "jumped in" and fought Charise's sister.

¶ 15 The following exchange occurred between the court and the parties after Sowards's testimony:

> "THE COURT: Charise, in the information, her name is stated as Alvarado. Is that her name? So when you were referring to her as—you referred to her as something else, but it's Alvarado. Okay.
>
> [DEFENSE COUNSEL]: We can go by—
>
> [ASSISTANT STATE'S ATTORNEY]: I think I said 'Alvarez.'
>
> [DEFENSE COUNSEL]: —first names if you're more comfortable. Although, some of these first names are complicated, too, but at any rate…
>
> THE COURT: Okay."

¶ 16 The State offered a recording of a 911 call into evidence. The defense stipulated as to the foundation for the recording. In the recording, the caller identified herself as Zuri Valle. Valle spelled her first and last name for the 911 dispatcher. Valle said that some women had just beaten her and her sister. Valle said that she and her sister were both bruised and bleeding. Valle

[1]Sowards referred to the victim as "Charise Alvarez" throughout his testimony. However, the information and other evidence presented at trial indicated that her name was "Charise Alvarado." We refer to the victim as "Charise" throughout this order.

said there were approximately five women who were involved in the beating, but she did not know their names. Valle said her sister knew their names. The 911 dispatcher asked to speak to Valle's sister, and a second woman began speaking to the 911 dispatcher. The second woman said her first name was Charise. The dispatcher asked her to spell it, and she said "C-H-E-R-I-S-E."[2] Charise said her last name quickly, and it sounded like "Arado." The dispatcher did not ask Charise to spell her last name. Charise said one of the women who beat her and Valle was named "Chanecia Hernandez." Charise did not know the names of the other women.

¶ 17 Officer Adam Bradley testified that he was dispatched to the scene on the day of the incident. Bradley met with Charise Alvarado and Zurisadai Bailey. When Bradley located these individuals, they were standing on the sidewalk in front of their apartment. Charise had minor bruising and swelling around her left eye, an abrasion to the left side of her forehead, and a minor scrape on the front her nose. Bradley later met with Zurisadai at a hospital regarding the incident. Zurisadai was wearing a neck brace and had scrapes on her left palm and right foot.

¶ 18 The court found defendant guilty of mob action. The court found that the State failed to prove defendant guilty of the three counts of aggravated battery because the State failed to prove that the fight occurred on a public way. However, the court found defendant guilty of three counts of the lesser included offense of battery.

¶ 19 C. Sentencing

¶ 20 A joint sentencing hearing for both cases was held. The court imposed concurrent sentences of 24 months' probation on all the offenses.

[2]In her brief, defendant states that the woman spelled her name "Zherit" rather than "Cherise." We do not find defendant's interpretation of the recording to be accurate. We acknowledge that the woman speaking on the recording spelled her name "Cherise," whereas the information alleged that the victim's name was spelled "Charise." For purposes of consistency, we refer to the woman on the 911 call as "Charise" throughout this order.

¶ 21 II. ANALYSIS

¶ 22 On appeal, defendant argues that the evidence at her trial in Rock Island County case No. 15-CF-647 was insufficient to prove her guilty beyond a reasonable doubt of obstructing justice. Defendant also argues that the evidence at her trial in Rock Island County case No. 14-CF-641 was insufficient to prove her guilty beyond a reasonable doubt of all three counts of battery together with the conviction for mob action.

¶ 23 "When presented with a challenge to the sufficiency of the evidence, it is not the function of this court to retry the defendant." *People v. Collins*, 106 Ill. 2d 237, 261 (1985). Rather, " 'the relevant question is 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.' " *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). Thus, "the reviewing court must allow all reasonable inferences from the record in favor of the prosecution." *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). "A conviction will be reversed only where the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant's guilt." *People v. Belknap*, 2014 IL 117094, ¶ 67.

¶ 24 A. Obstructing Justice

¶ 25 Defendant argues that the evidence at her trial in Rock Island County case No. 15-CF-647 was insufficient to prove her guilty beyond a reasonable doubt of obstructing justice. Section 31-4(a)(1) of the Criminal Code of 2012 (Code) (720 ILCS 5/31-4(a)(1) (West 2014)) provides, in relevant part, that a person obstructs justice when he or she knowingly furnishes false information "with the intent to prevent the apprehension or obstruct the prosecution or defense of any person." In the instant case, the State was required to prove that defendant knowingly furnished false information to Feehan with the intent to obstruct her own prosecution.

¶ 26 When viewed in the light most favorable to the State, the evidence was sufficient to prove defendant guilty of obstructing justice. The evidence at trial showed that Officer Feehan conducted a traffic stop on a vehicle driven by defendant at a time when defendant's license was suspended. When Feehan asked for defendant's name, she gave him a false name and date of birth. Defendant later admitted to Feehan that she had given him a false name during the traffic stop. The trial evidence supports an inference that defendant provided a false name and date of birth to Feehan with the intent to avoid being prosecuted for driving on a suspended license.

¶ 27 We reject defendant's argument that the State failed to prove that she intended to obstruct her own prosecution for the offense of driving on a suspended license. Defendant argues that there was no prosecution for her to obstruct at the time she furnished false information to Feehan because her prosecution for driving on a suspended license did not begin or exist until the information was filed in this case. Defendant notes that the Code defines "prosecution" as "all legal proceedings by which a person's liability for an offense is determined, commencing with the return of the indictment or the issuance of the information, and including the final disposition of the case on appeal." *Id.* § 2-16.

¶ 28 Contrary to defendant's argument, a person may be held accountable for furnishing false information to law enforcement, with the intent to obstruct a prosecution, after successfully delaying a prosecution due to the false information provided to law enforcement. Black's Law Dictionary defines "obstruct" as "[t]o make difficult or impossible; to keep from happening; hinder." Black's Law Dictionary 1246 (10th ed. 2014). The definition of "obstruct" is broad enough to encompass conduct intended to make an otherwise imminent prosecution impossible, *i.e.*, to keep a prosecution from happening.

¶ 29 B. Battery of Charise

¶ 30 Defendant argues that the evidence at her trial in Rock Island County case No. 14-CF-641 was insufficient to prove her guilty beyond a reasonable doubt of committing a battery against Charise. In order to prove defendant guilty of battery, the State was required to prove that she knowingly and without legal justification caused bodily harm to Charise. 720 ILCS 5/12-3(a) (West 2014).

¶ 31 Detective Sowards testified that defendant told him she went to an address where Charise was located on the date of the incident to " 'whoop her ass.' " Defendant said she had a fight with Charise. Defendant also told Sowards that Charise's sister "jumped in" to defend Charise during the fight, and Brown "jumped in" and fought Charise's sister.

¶ 32 On the 911 recording, a woman identified herself as Zuri Valle and excitedly reported that she and her sister, Charise, had just been beaten by several women. On the recording, Charise said that one of the women was named "Chanecia Hernandez." Despite the fact that Charise said that her assailant had a different last name than defendant, due to the unique nature of the name Chanecia and the fact that defendant admitted that she had a fight with Charise, a rational trier of fact could have found that defendant was actually the "Chanecia" Charise mentioned by another last name.

¶ 33 Officer Bradley testified that he met with Charise and Zurisadai on the day of the incident. The officer observed bruising, abrasions, and scrapes on Charise and scrapes on Zurisadai.

¶ 34 We acknowledge that the State's witnesses were inconsistent with regard to the names of the victims. The information stated that one victim's name was "Charise Alvarado," and Bradley referred to her as "Charise Alvarado" during his testimony. In the recording of the 911 call, one

caller identified herself as Charise. She said her last name quickly. It sounded like she said "Arado," but it is possible that she said "Alvarado" very quickly. Sowards testified that Charise's last name was Alvarez. After his testimony, the court asked the parties whether Charise's last name was "Alvarez" or "Alvarado." The State acknowledged that it had mistakenly used the name Alvarez. Defense counsel did not take issue with the concept that both names, "Charise Alvarez" and "Charise Alvarado," referred to the same person. Despite the inconsistencies regarding Charise's last name, a rational trier of fact could have found that Sowards, Bradley, and the 911 caller were all referring to the same person.

¶ 35 Also, there were discrepancies in the State's evidence regarding the name of the second victim. The information stated that the second victim's name was "Zurisadai Valle," and one of the 911 callers identified herself as "Zuri Valle." However, Bradley stated that her name was "Zurisadai Bailey." Viewing the evidence in the light most favorable to the State, a rational trier of fact could have found that the "Zurisadai Bailey" who Bradley mentioned during his testimony was the same person as "Zurisadai Valle" and/or "Zuri Valle." For purposes of consistency, we refer to this individual as "Zurisadai" throughout the remainder of this analysis.

¶ 36 We reject defendant's argument that the State's evidence did not show that she struck or caused bodily harm to Charise. Defendant suggests that her statement that she fought Charise could be interpreted to mean that the fight was verbal in nature. However, viewing the evidence in the light most favorable to the State, a rational trier of fact could have found that defendant engaged in a physical fight with Charise and caused bodily harm to her based on defendant's admission that she went to an address where Charise was located to " 'whoop her ass.' " Defendant said that Charise's sister and Brown "jumped in" during the fight and ultimately fought with each other. The description of the other women "jump[ing] in" is more consistent

with a physical fight than a verbal one. Also, on the recording of the 911 call, Charise and Zurisadai said they had been beaten and were bleeding. Bradley testified that he observed physical injuries on Charise and Zurisadai on the date of the incident, which would be consistent with a physical altercation.

¶ 37 After viewing the evidence in the light most favorable to the State, we conclude that the State's evidence was sufficient to establish defendant battered Charise.

¶ 38 C. Battery of Zurisadai

¶ 39 Defendant argues that the evidence at her trial Rock Island County case No. 14-CF-641 was insufficient to prove her guilty of two counts of battery for striking and also kicking Zurisadai. The State charged defendant with the two counts of battery against Zurisadai on an accountability theory for Brown's misdeeds. Thus, the State was required to prove that (1) Brown knowingly and without legal justification caused bodily harm to Zurisadai, and (2) defendant was legally accountable for Brown's conduct. See 720 ILCS 5/5-2, 12-3(a) (West 2014).

¶ 40 Sowards testified that defendant told him that while defendant was fighting with Charise, Charise's sister "jumped in" to help her. Brown then "jumped in" and fought Charise's sister. On the 911 recording, Zurisadai indicated that Charise was her sister and that they had been beaten up by some women. Zurisadai said that she and Charise were bruised and bleeding. Later that day, Bradley observed physical injuries on Zurisadai.

¶ 41 We find that the evidence was sufficient to prove defendant was legally accountable for Brown's conduct. Section 5-2(c) of the Code (*id.* § 5-2(c)) provides that an individual is legally accountable for the conduct of another person when "either before or during the commission of an offense, and with the intent to promote or facilitate that commission, he or she solicits, aids,

abets, agrees, or attempts to aid that other person in the planning or commission of the offense." Our supreme court had long recognized that the underlying intent of section 5-2 of the Code is to incorporate the principle of the common-design rule. *People v. Fernandez*, 2014 IL 115527, ¶ 13. Accordingly, section 5-2 also provides:

> "When 2 or more persons engage in a common criminal design or agreement, any acts in the furtherance of that common design committed by one party are considered to be the acts of all parties to the common design or agreement and all are equally responsible for the consequences of those further acts." 720 ILCS 5/5-2(c) (West 2014).

A common criminal design "can be inferred from the circumstances surrounding the perpetration of the unlawful conduct." *People v. Taylor*, 164 Ill. 2d 131, 141 (1995).

¶ 42 Here, the State's evidence supported an inference that defendant and Brown engaged in a common criminal design, namely, to batter Charise. Defendant told Sowards that she went to an address where Charise was located in order to " 'whoop her ass.' " Brown, defendant's friend, accompanied defendant. When defendant was fighting with Charise, Zurisadai "jumped in" and attempted to help Charise.[3] Brown then "jumped in" and fought with Zurisadai. The court could have reasonably inferred that Brown did this in order to aid defendant in her battery of Charise. See *Cunningham*, 212 Ill. 2d at 280 ("[T]he reviewing court must allow all reasonable inferences from the record in favor of the prosecution."). Since Brown fought Zurisadai in furtherance of a common criminal design with defendant—that is, to assist defendant in her battery of Charise—defendant was equally responsible for Brown's battery of Zurisadai. See 720 ILCS 5/5-2 (West

[3]We acknowledge that Sowards did not refer to Zurisadai by name during his testimony. However, based on the other evidence presented, a rational trier of fact could have found that Zurisadai was the sister of Charise who Sowards referred to during his testimony.

2014). Consequently, the State's evidence was sufficient to prove that Brown knowingly caused bodily harm to Zurisadai and defendant was accountable from Brown's action.

¶ 43 Next, we consider whether, viewing the evidence in the light most favorable to the State, a rational trier of fact could have found the evidence sufficient to support two separate convictions of battery based on allegations that Brown both struck and kicked Zurisadai. Defendant told Sowards that Brown fought with Zurisadai. In the recording of the 911 call, Zurisadai said someone had beaten her. While the State's evidence was sufficient to show that Brown made some sort of physical contact with Zurisadai that resulted in bodily harm to Zurisadai, nothing in the State's evidence indicated with specificity that Brown committed two separate batteries, one by striking and the other by kicking the same victim, Zurisadai. Accordingly, the State's evidence was not sufficient to support two counts of battery based on Brown's altercation with Zurisadai, and one conviction for battery is reversed.

¶ 44 D. Mob Action

¶ 45 Defendant argues that the evidence at trial was insufficient to prove her guilty beyond a reasonable doubt of mob action because the State did not prove that defendant and Brown had any agreement or commonality of purpose to batter Charise. Section 25-1(a) of the Code (*id.* § 25-1(a)(1)) provides that a person commits the offense of mob action when she engages in "the knowing or reckless use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law." Thus, to prove defendant guilty of mob action, the State was required to prove that defendant, acting together with Brown, engaged in the knowing or reckless use of force or violence disturbing the public peace.

¶ 46 Sowards testified that defendant said she went to an address where Charise was located to " 'whoop her ass.' " Several other individuals accompanied her, including Brown. When

defendant arrived at the location, she began fighting with Charise. Zurisadai attempted to help defend Charise, and Brown "jumped in" and fought Zurisadai. On the recording of the 911 call, Charise and Zurisadai said that several women beat them. Bradley observed injuries on both Charise and Zurisadai that day. The trial evidence supported an inference that Brown became involved in the fight to assist defendant in her battery of Charise. See *supra* ¶ 42. Accordingly, the evidence showed that defendant and Brown acted together in their use of violence, *i.e.*, that defendant and Brown had a common purpose. See *People v. Barnes*, 2017 IL App (1st) 142886, ¶ 68. When viewed in the light most favorable to the State, the evidence was sufficient to prove defendant guilty of mob action.

¶ 47 We reject defendant's argument that the evidence was insufficient to prove her guilty of mob action because the evidence did not show that Brown ever struck Charise. Contrary to defendant's argument on appeal, the information did not allege that Brown personally struck Charise, and the State was not required to prove that she did. Under the mob action statute, the State was required to prove that Brown and defendant acted together in using force or violence, not that they struck the same person. See 720 ILCS 5/25-1(a)(1) (West 2014). As discussed above, the trial evidence supports an inference that Brown used violence against Zurisadai to aid defendant in her battery of Charise. See *supra* ¶ 42.

¶ 48 III. CONCLUSION

¶ 49 For the foregoing reasons, we affirm defendant's conviction for obstructing justice in Rock Island County case No. 15-CF-647. We also affirm defendant's conviction for the battery of Charise, conviction for mob action, and one conviction for the battery of Zurisadai in Rock Island County case No. 14-CF-641. We reverse defendant's second conviction for the battery of Zurisadai in Rock Island County case No. 14-CF-641 because the evidence was insufficient to

prove that Brown, whose conduct defendant was legally accountable for, committed two separate batteries by both striking and kicking Zurisadai.

¶ 50 Affirmed in part and reversed in part.