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Panel PRESIDING JUSTICE JORGENSEN delivered the judgment of the court, with opinion.

Justices Hutchinson and Schostok concurred in the judgment and opinion.

### OPINION

¶ 1 Following a bench trial, the court convicted defendant, Rondal Kirchner, of attempting to disarm a peace officer (720 ILCS 5/31-1a(b) (West Supp. 2009)) and sentenced him to five years' imprisonment. On appeal, defendant challenges the sufficiency of the evidence. We affirm.

#### ¶ 2 I. BACKGROUND

¶ 3 In the early morning of October 19, 2009, Sean Hughes and Neil Roberts, two Winnebago County sheriff's deputies, were dispatched to 1271 Chadbourne in Davis in response to a domestic violence call. Before they arrived at the scene, dispatch informed them that the suspect was defendant. Dispatch also told them that defendant was wanted on a parole warrant and was possibly armed with a knife. Hughes and Roberts arrived separately at the scene, in marked cars and dressed in full uniform. Hughes was wearing his duty belt, which carried his flashlight, baton, Taser, ammunition, and firearm.

¶ 4 Because defendant was potentially armed, Hughes drew his firearm and Roberts drew his Taser as they approached the residence. Hughes and Roberts heard yelling and screaming coming from the residence as a young female exited the rear door. Soon after, a woman with facial injuries also exited the rear door and told Hughes and Roberts that defendant was inside the residence.

¶ 5 With their weapons still drawn, Hughes and Roberts entered the residence. Defendant was in the bathroom, urinating with the door open, and was unarmed. Consequently, Hughes and Roberts holstered their weapons. Hughes asked defendant to show his hands, but defendant refused and continued to urinate. Hughes and Roberts entered the bathroom, and Hughes gripped the inside of defendant's right elbow while Roberts grabbed defendant's left arm. Hughes told defendant that he was under arrest for a parole hold. Once defendant had

finished urinating, Hughes and Roberts asked him to put his hands behind his back, but defendant refused, tensed his arms, and stated, “You’re going to have to work for this one.”

¶ 6 According to Hughes and Roberts, defendant began to struggle with them. Hughes tried to tase defendant, but his Taser malfunctioned. As he tried to fix the Taser, Hughes felt a tugging on his firearm in its holster, which was on his duty belt near his right hip. Hughes testified that defendant reached back with his right hand to grab Hughes’ firearm. Hughes and Roberts had been trained that, if a suspect grabs for a handgun, it is a dangerous situation that requires the use of weapons-retention tactics and, possibly, deadly force. Hughes yelled, “Get your hands off my gun,” as a verbal command to defendant and an alert to Roberts. Hughes then used a weapons-retention maneuver to trap defendant’s hand on the handgun with his elbow. Hughes then twisted his elbow, forcing defendant’s hand off of the gun. During Hughes’ testimony, he physically demonstrated this maneuver to the court, illustrating the position of the gun in relation to his body and defendant’s hand. While Hughes performed this maneuver, Roberts delivered blows to defendant’s head. After the maneuver, Hughes no longer felt the pressure on his gun. Hughes told defendant not to touch his weapon again, informing Roberts that defendant no longer had his hand on Hughes’ gun. Hughes was then able to successfully tase defendant, who fell to the ground but continued to resist being handcuffed. Eventually, Hughes and Roberts were able to handcuff defendant and take him into custody.

¶ 7 Defendant testified and denied knowingly touching Hughes’ firearm or intending to disarm Hughes. During his testimony, defendant also physically demonstrated his position in relation to Hughes, Roberts, and Hughes’ handgun.

¶ 8 In issuing its finding, the court stated:

“As [Hughes] testified, he has to put his hand back in order to reach his firearm. That’s an important thing. Because when Hughes demonstrated it, it was not a comfortable position that he was demonstrating, reaching back and slightly behind the side to grab the handle of the firearm. \*\*\* Getting your hand up on the gun is a difficult thing. If you’re trying to grab [Hughes’ handgun], it’s difficult. If you’re not trying to grab it, it would be practically impossible because of the location of the weapon. The only reason—the only way a hand could be back there [on Hughes’ handgun] is if it’s intentionally back there trying to grab the weapon. Now the issue is what was [defendant’s] hand doing back there, because there is no doubt it was back there. When [defendant] was bending over and demonstrating things, he had his right hand stretched out behind him. \*\*\* You just can’t do that \*\*\* without trying to grab the gun.”

¶ 9 The trial court convicted defendant of attempting to disarm a peace officer and sentenced him to five years’ imprisonment. This appeal followed.

¶ 10

## II. ANALYSIS

¶ 11

On appeal, defendant argues that the State failed to prove him guilty beyond a reasonable doubt of attempting to disarm a peace officer. 720 ILCS 5/31-1a(b) (West Supp. 2009). In reviewing the sufficiency of the evidence, the relevant question is whether, after viewing the evidence in a light most favorable to the State, any rational trier of fact could have found the

elements of the crime proved beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). The trier of fact determines the witnesses' credibility, weighs the evidence, draws inferences, and resolves any conflicts in the evidence. *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001). Thus, this court will not substitute its judgment for that of the trier of fact on issues of the credibility of the witnesses or the weight of the evidence. *Collins*, 106 Ill. 2d at 261. The trial court's judgment will not be set aside unless the evidence is so improbable, unreasonable, or unsatisfactory that there is a reasonable doubt of the defendant's guilt. *Ortiz*, 196 Ill. 2d at 259.

¶ 12 Disarming a peace officer is defined in a two-part statute. It creates a Class 1 felony for a person who *successfully* disarms a peace officer (subsection (a)), and a Class 2 felony for a person who *attempts* to disarm a peace officer (subsection (b)). 720 ILCS 5/31-1a(a), (b) (West Supp. 2009). Section 31-1a(b) of the Criminal Code of 1961 states:

“A person who, without the consent of a peace officer \*\*\* *attempts to take a weapon* from a person known to him or her to be a peace officer \*\*\* while the peace officer \*\*\* is engaged in the performance of his or her official duties or from an area within the peace officer's \*\*\* immediate presence is guilty of a Class 2 felony.” (Emphasis added.) 720 ILCS 5/31-1a(b) (West Supp. 2009).

¶ 13 Defendant concedes that he knew Hughes to be a peace officer engaged in the performance of his official duties. Defendant contends, however, that the State failed to prove beyond a reasonable doubt that the touching of the weapon was more than an incidental result of the struggle and, therefore, that he “attempt[ed] to take a weapon.” 720 ILCS 5/31-1a(b) (West Supp. 2009).

¶ 14 In determining the legislature's intent, the court in *People v. Gay*, 239 Ill. App. 3d 1023, 1025 (1993), stated that “the obvious intent of the legislature was to prevent the disarming of police officers and the seizing of weapons by dangerous citizens.” The legislature intended to specifically criminalize the inchoate offense along with the completed offense to further serve the purpose of the statute. Thus, we are left to consider the meaning of attempt within this context.

¶ 15 The offense of attempting to disarm a peace officer (720 ILCS 5/31-1a(b) (West Supp. 2009)) is statutorily defined independent from the general attempt statute (720 ILCS 5/8-4(a) (West 2008)). *People v. Wishard*, 396 Ill. App. 3d 283, 287 (2009). Nevertheless, established definitions of attempt, as set forth in the general attempt statute, guide our analysis. See, e.g., *People v. Woods*, 24 Ill. 2d 154, 156 (1962) (relying on attempt statute to interpret attempt to perform an abortion, an offense that is statutorily defined independent from the general attempt statute); *People v. Bell*, 2012 IL App (5th) 100276, ¶ 24 (relying on attempt statute to interpret attempted possession of anhydrous ammonia, an offense that is statutorily defined independent from the general attempt statute); *People v. Paluch*, 78 Ill. App. 2d 356, 357-58 (1966) (relying on attempt statute to interpret attempt to practice barbering without a certificate of registration, an offense that is statutorily defined independent from the general attempt statute). Thus, the meaning of attempt in section 31-1a(b) comes from the general attempt statute.

¶ 16 The attempt statute states: “A person commits attempt when, with intent to commit a

specific offense, he does any act which constitutes a substantial step toward the commission of that offense.” 720 ILCS 5/8-4(a) (West 2008). Therefore, here, the trial court was charged with determining whether the State proved beyond a reasonable doubt that defendant: (1) intended to disarm Hughes; and (2) took a substantial step toward disarming Hughes.

¶ 17 We address first whether the evidence established that defendant intended to disarm Hughes. “[I]ntent to commit a criminal offense need not be expressed, but may be inferred from the conduct of the defendant and the surrounding circumstances.” *People v. Terrell*, 99 Ill. 2d 427, 431-32 (1984). Here, defendant’s statement, “You’re going to have to work for this one,” reflects that he intended to avoid being arrested, or to make the process difficult for Hughes and Roberts. His physical acts of resistance further indicate this intent. Hughes testified that he felt a tugging on his handgun. Accordingly, the trial court reasonably inferred that, where defendant sought to evade arrest, his contact with Hughes’ handgun was intentional, rather than accidental. Moreover, the trial court observed demonstrations of the struggle, during both Hughes’ and defendant’s testimony. The court reasoned that, in light of those demonstrations, defendant’s right hand would not have accidentally landed on Hughes’ gun: “[T]he only way a hand could be back there [on Hughes’ gun] is if it’s intentionally back there trying to grab the weapon.” The court’s inference from the evidence that defendant intended to grab the gun and, therefore, intended to disarm Hughes, is reasonable. It is the trial court’s role to draw inferences from the evidence, and we will not substitute our judgment for that of the trier of fact. *Gay*, 239 Ill. App. 3d at 1026.

¶ 18 Next, we address whether the evidence established that defendant took a substantial step toward disarming Hughes. To determine whether a defendant took a substantial step toward the commission of a crime, the trier of fact looks to the particular circumstances and facts of the case. *Terrell*, 99 Ill. 2d at 433. As a guideline for such analysis, “[t]here must be an act, and the act must not be too far removed in time and space from the conduct which constitutes the principal offense.” (Internal quotation marks omitted.) *People v. Smith*, 148 Ill. 2d 454, 463 (1992) (quoting Ill. Ann. Stat., ch. 38, ¶ 8-4, Committee Comments-1961, at 499 (Smith-Hurd 1989)). The core question is whether the act taken came within “a dangerous proximity to success.” *Paluch*, 78 Ill. App. 2d at 359.

¶ 19 In this case, the evidence established that defendant intentionally placed his hand on Hughes’ weapon. Defendant suggests that the contact was merely incidental, but, in fact, the record reflects that defendant’s hand was on the handgun long enough for: (1) Hughes to physically feel the handgun being tugged; and (2) Hughes to pin down defendant’s hand on top of the handgun with his elbow. The evidence belies, particularly when viewed along with defendant’s expressed intent and actions to avoid arrest, defendant’s assertion that he simply accidentally placed his hand on a peace officer’s handgun in the course of the struggle. Hughes and Roberts testified that this act was immediately threatening to them. Though the officers were able to stop defendant from completing this act, they were forced to initiate defensive tactics and were prepared to use deadly force. They were trained to interpret a suspect’s hand on an officer’s weapon as a life-threatening situation, since the *next* step is a suspect *successfully* disarming an officer. Here, the evidence shows that defendant came within “a dangerous proximity to success.” *Paluch*, 78 Ill. App. 2d at 359. The trial court reasonably found that defendant both intended to disarm Hughes and took a substantial step

toward disarming him, thus meeting the definition of attempt.

¶ 20 The evidence in this case, viewed in the light most favorable to the State, was sufficient to establish that defendant attempted to disarm a peace officer.

¶ 21 III. CONCLUSION

¶ 22 For the above-stated reasons, the judgment of the circuit court of Winnebago County is affirmed.

¶ 23 Affirmed.