

No. 1-12-2013

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 11 CR 2986
)	
TAMOUS WILLIS,)	Honorable
)	Jorge Luis Alonso,
Defendant-Appellant.)	Judge Presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Presiding Justice Howse and Justice Epstein concurred in the judgment.

ORDER

- ¶ 1 *Held:* Evidence was sufficient to find defendant guilty of aggravated battery.
- ¶ 2 Following a bench trial, defendant Tamous Willis was convicted of aggravated battery and sentenced to two years of probation. On appeal, defendant contends that the evidence was insufficient to find him guilty beyond a reasonable doubt.
- ¶ 3 Defendant was charged with armed robbery, aggravated battery, and aggravated unlawful restraint of Roger Uhrhammer for allegedly detaining him and taking money, a wallet and a

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cellphone from him while armed with a metal pipe, and for striking him about the body with a metal pipe, on or about August 1, 2008.

¶ 4 At trial, Roger Uhrhammer testified that he owned a house that, until the day in question, he rented to defendant and his wife. Uhrhammer went there at about 9 p.m. "to secure the property after an eviction." When he entered using his key, the interior looked "abandoned with a lot of trash strewn over the floor." There was a young dog, a pit bull, inside, so Uhrhammer closed the door and called the police to "escort" him. The police called animal control officers, who removed the dog; Uhrhammer then entered the house and the police left. He examined the house, went to a hardware store to purchase locks and boards to secure the house, and then returned. Though he had locked the side door when he left, he found it open on his return. He found that the stove was missing and a window was now broken that had been intact when he left for the store, so he called the police. As he waited outside the house, he saw defendant and another man enter the property by the front gate; nobody else was in the area at the time. Uhrhammer met them outside the front door, and defendant said "you better not have done anything to my dog" or similar words before entering the house.

¶ 5 Defendant came out again "very quickly," walked up to Uhrhammer, and struck him several times with his fists and arms. Uhrhammer staggered from the blows; when he fell to the lawn, defendant kicked him several times. Defendant walked away, then the other man hit Uhrhammer several times with his hands, then defendant returned to kicking him. At some point, defendant produced a hollow aluminum pole; Uhrhammer presumed it was the leg of a barbecue grill as there was an upturned grill nearby, but he did not see defendant pick up the pole. Defendant struck Uhrhammer several times on the head and body with the pole, which felt hollow, before giving it to the other man, who also struck Uhrhammer repeatedly. Neither

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defendant nor the other man said anything to him before or during the attack. While Uhrhammer was focusing on warding off these blows, one of the two men rifled through his pockets and took his cellphone, camera, wallet, and \$70 cash. When Uhrhammer managed to stand up, he saw defendant rifling through his wallet. Defendant again struck Uhrhammer several times with the pole. Uhrhammer staggered to the front stoop of the house, then no longer saw defendant or the other man. "[A]t least a dozen children" from 10 to 17 years old stood nearby but did not help him or speak to him.

¶ 6 When the police arrived, Uhrhammer named defendant as his assailant. He had "gashes in my head, at least two, and blood in my eyes. *** My mid-section ached. I had a gouge in one of my hands [and] one of my legs." He went to a hospital for treatment, receiving stitches on his head. He was wearing glasses as of trial, though he had no "prescription or need: for glasses at the time of the incident. He spoke later with a police detective, viewed a photographic array from which he identified defendant as one of his attackers, and later viewed a lineup from which he also identified defendant as one of his assailants. At trial, Uhrhammer authenticated photographs of his injuries taken the day after the attack. He denied using the word "nigger" when speaking to defendant that day.

¶ 7 Detective David Damato testified that he investigated "the beating and robbery of" Uhrhammer. A search of the scene by other officers had not found the pole or leg. After Uhrhammer provided defendant's rental application listing prior addresses, Detective Damato checked, and had other officers check, those addresses. One such residence was a particular address on Ingleside Avenue; when Detective Damato visited that residence, once, nobody answered the door. Defendant was arrested in 2011 after he registered a new address with the Secretary of State. Detective Damato showed Uhrhammer a photographic array on December

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11, 2010, from which he identified defendant. After defendant was arrested on January 14, 2011, at work at a bank as an armed security guard, Detective Damato saw Uhrhammer view a lineup from which he again identified defendant.

¶ 8 Defendant made a motion for a directed finding. Following argument, the court granted the motion as to aggravated unlawful restraint but otherwise denied the motion.

¶ 9 Defendant and Danielle Willis, his wife, testified that they had a two-year lease with an option to purchase on the house in question, but lived there only about four months and had paid a deposit of approximately \$3,000 but no rent. When a dispute arose, and because any late payment would terminate the purchase option, they "stopped paying rent and went through the eviction process," owing about \$4,000 rent. On August 1, 2008, they were at the house moving their property to the Ingleside Avenue address in advance of the sheriff executing the eviction order. While they lived at the house in question, the Willis's owned a small table-top grill on three wiry bent aluminum legs that they kept on the porch. Before trial, defendant was employed as an armed security guard at a bank.

¶ 10 Defendant testified that he was returning to the house with Cordell Simmons around 7 p.m. when he saw Uhrhammer. Defendant and Uhrhammer discussed defendant's dog and one of Uhrhammer's appliances being missing from the house; while defendant was angry about his dog, he asked Uhrhammer where the dog was rather than saying "you better not have touched my dog" or the like. Defendant denied that he or Simmons touched Uhrhammer or struck him with anything. When defendant denied taking any appliance, Uhrhammer replied loudly "this is what happens when you deal with niggers." A group of teenage males standing near the house then approached the house. Simmons suggested that they leave, and defendant agreed, so defendant and Simmons left. Danielle called the police and later returned to the house.

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¶ 11 Danielle testified that, sometime between 4:30 p.m. (when she left the house with a truckload of their property) and 9 p.m., defendant phoned her to say that their dog was "gone," Uhrhammer was at the house, and "a group of unknown individuals from the neighborhood" was also there so he was leaving as he "didn't feel safe." Because of this call, and to retrieve remaining property, Danielle returned to the house after 8 p.m. She did not see Uhrhammer at the house that day. At trial, she identified a barbecue grill of the same model as hers. To the best of her knowledge, her grill was still at the house along with other small household items.

¶ 12 Cordell Simmons testified that he was a "good friend" of defendant for several years. At about 8:30 p.m. on the day in question, he was helping defendant move from the house. Upon arriving at the house, he saw that the front door was open and Uhrhammer was standing nearby. While Simmons entered the house to retrieve boxes, defendant stayed outside and had a "very heated" argument with Uhrhammer regarding his dog and "some home appliances." A group of teenagers was on the street nearby, and they approached the house upon hearing the argument. Simmons suggested to defendant that they should leave before the group arrived. Simmons denied that he or defendant struck Uhrhammer in any way. Simmons admitted to prior felony convictions and as of trial was on probation for a narcotics conviction.

¶ 13 Nora Wesley, defendant's mother-in-law, testified that she resides at the Ingleside Avenue address, from well before August 2008, and did not remember anyone coming to her home looking for defendant.

¶ 14 Richard Richardson testified that he has known defendant from the neighborhood for several years and defendant has good character.

¶ 15 Following closing arguments, the court found defendant guilty of aggravated battery and not guilty of armed robbery. After noting that the central issue in the case was credibility, the

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court found Uhrhammer credible and noted that if he was "framing" defendant he would not have testified that he was unsure who searched and took property from his person. The court opined that defendant "lost his temper when his dog was missing and beat Mr. Uhrhammer" and gave defendant "the benefit of the doubt" regarding robbery. As to the instrument of the battery,

"Uhrhammer never said it came from the barbecue. He said he assumed it came from the barbecue because he saw an upturned barbecue. Clearly there was no confusion about the tiny leg that's here in court and the pipe or pole that he assumed was a leg that was used to beat him. He was very specific about its description."

Based on Uhrhammer's testimony to requiring stitches for his injuries, and the photographs of his injuries, the court found that he suffered great bodily harm.

¶ 16 Following evidence and argument in aggravation and mitigation, the court sentenced defendant to two years of probation with fines and fees, finding him be "obviously a good citizen, father, husband, etc." who on the day in question "lost control when he saw that his dog was missing." This appeal timely followed.

¶ 17 On appeal, defendant contends that the evidence was insufficient to find him guilty beyond a reasonable doubt.

¶ 18 When presented with a challenge to the sufficiency of the evidence, this court must determine whether, after taking 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. Brown*, 2013 IL 114196, ¶ 48. Because it is the role of the trier of fact to fairly resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences, we will not substitute our judgment for that of the trier of fact on issues involving the weight of evidence

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or witness credibility. *Id.* The trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances; instead, it is sufficient if all the evidence taken together satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt. *In re Jonathon C.B.*, 2011 IL 107750, ¶ 60. Similarly, the trier of fact is not required to disregard inferences that flow normally from the evidence nor to seek all possible explanations consistent with innocence and elevate them to reasonable doubt. *Id.* A conviction will be reversed only where the evidence is so unreasonable, improbable, or unsatisfactory that a reasonable doubt of the defendant's guilt remains. *Brown*, 2013 IL 114196, ¶ 48.

¶ 19 Here, taking the evidence in the light most favorable to the State as we must, we cannot conclude that no reasonable finder of fact would find defendant guilty of aggravated battery. As the trial court stated, this case centers on credibility, on the clearly inculpatory account by Uhrhammer and the clearly exculpatory account by defendant and his witnesses. While defendant argues that he received an alibi from a "non-interested third party," Simmons testified to being defendant's friend for several years so that it is reasonable to find him not significantly more "non-interested" than defendant's wife or mother-in-law. Whether Uhrhammer used a certain vile word in arguing with defendant is inextricably linked to the credibility issue, as only defendant -- and notably not Simmons -- so testified. We do not find it "incredible" that "it took the police over two years to find" defendant, nor do we see any relevance to the issue of defendant's guilt or innocence; Uhrhammer named defendant as his assailant shortly after the attack, and whether Uhrhammer was being honest or lying in making that identification is utterly unaltered by the subsequent efforts or lack thereof by the police.

¶ 20 Accordingly, the judgment of the circuit court is affirmed.

¶ 21 Affirmed.