

Nos. 1-13-1981 & 1-13-1982, consolidated

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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.)	Nos. 12 MC1 245140
)	12 MC1 245157
)	
YOUNG CHUNG and TAE CHUNG,)	Honorable
)	Anthony J. Calabrese,
Defendants-Appellants.)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hall and Lampkin concurred in the judgment.

O R D E R

¶ 1 *Held:* Defendants' convictions for battery were affirmed as supported by the evidence over arguments that testimony of the State's witnesses was incredible, and there was insufficient proof of an injury.

¶ 2 Following a bench trial, defendants Young Chung (Mrs. Chung) and Tae Chung (Mr. Chung) were each found guilty of misdemeanor battery and sentenced to one year of supervision. On appeal, defendants argue the evidence was insufficient to prove them guilty of battery beyond a reasonable doubt, particularly where the State's witnesses were incredible, and there was

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insufficient evidence of an injury. We find the State met its burden as to defendants' guilt and we affirm.

¶ 3 The charges in this case arose from an altercation which occurred on September 29, 2012, at approximately 3 p.m. at a dry cleaning store located at 900 North Kingsbury Street in Chicago owned by complainant, Suk Kim, where defendants, who are husband and wife, allegedly battered Ms. Kim. Mrs. Chung was charged with battery on the day of the incident (case number 12 MC1 1245140). Mr. Chung was later charged with battery on November 7, 2012 (case number 12 MC1 245157).

¶ 4 Defendants were tried in a simultaneous bench trial on June 6, 2013.

¶ 5 Ms. Kim testified that she owns 13 dry cleaning stores in downtown Chicago. In July 2012, she and defendants agreed that defendants would operate one of her dry cleaning businesses in Chicago for a period of three years beginning in August 2012, for a payment of \$60,000. After one week, defendants ceased operating the store without any explanation to Ms. Kim.

¶ 6 On the day of the incident, Ms. Kim was "going through the revolving door" in the lobby of the building where the Kingsbury Street store is located. Mrs. Chung followed her inside, pulled her hair, struck her on the back, and knocked her to the floor of the hallway in front of the store. Mrs. Chung was screaming at Ms. Kim. Ms. Kim got up and went inside her store. Shortly thereafter, Mr. Chung entered the store. Mr. Chung struck Ms. Kim on her head, pulled her hair, struck her left shoulder, then went out to the hallway. When Mr. Chung returned to the store, he struck Ms. Kim in the head, pulled her hair, and threatened to kill her. Mr. Chung then left the store and a building doorman prevented him from again reentering the store.

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¶ 7 Mrs. Chung, who had been standing in the hallway outside the store, reentered the store at the same time as the police arrived. At that point, Ms. Kim was still on the floor of the store. The police asked Ms. Kim and Jessica, an employee of the store, for identification. According to Ms. Kim, the police did not ask her about any details of the incident and she did not tell them what happened. Ms. Kim did recall telling the police that Mr. Chung had threatened to kill her. Ms. Kim observed the police arrest Mrs. Chung on that day, but not Mr. Chung. The officers did not give Ms. Kim information regarding who had been arrested and charged for the offense.

¶ 8 Thereafter, Ms. Kim went to the hospital emergency room for treatment of her injuries and later went to her doctor. Ms. Kim testified that she sustained injuries to her left shoulder, stomach, hair, and back which were caused by being struck by Mr. Chung. A photograph taken three days after the incident at her doctor's office depicted bruising on Ms. Kim's left shoulder was admitted into evidence.

¶ 9 On cross-examination, Ms. Kim testified that while attending court on the first scheduled court proceeding, she discovered that Mr. Chung had not been charged in the incident. After leaving court, Ms. Kim went to the police station and signed a battery complaint against Mr. Chung.

¶ 10 Jessica Razo, a cashier at the Kingsbury Street dry cleaning store, testified that on the afternoon of September 29, 2012, she and Ms. Kim were in the lobby of the building where the store is located. Ms. Kim, who was walking ahead of her, turned around and told Ms. Razo to call 911. Ms. Razo went back to the store and was on the phone with the 911 operator when she saw Mrs. Chung walk through the revolving doors of the building. Mrs. Chung screamed at Ms. Kim, struck her, pulled on the shoulder of her shirt, and pulled her hair. When the trial court

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asked Ms. Razo to indicate where on Ms. Kim's body Mrs. Chung struck her, Ms. Razo motioned toward her right shoulder stating: "I don't remember. I just know she started pulling her shoulder, and knocked her out and pulled her hair, too." Ms. Kim was knocked to the floor.

¶ 11 Ms. Kim stood up and went inside the dry cleaning store. Mr. Chung then entered the store and struck Ms. Kim and pulled on her shirt and hair. Ms. Kim fell to the floor after being struck by Mr. Chung. Mr. Chung was close to Ms. Kim's face and said something in Korean, which Ms. Razo did not understand. Building security personnel entered the store and Ms. Razo told them that she had contacted the police.

¶ 12 When the police arrived at the store, Ms. Kim was still on the floor. Ms. Razo testified that Ms. Kim appeared nervous, was shaking, and did not speak. An officer assisted Ms. Kim to a chair about two feet from where Ms. Razo was speaking with an officer. Defendants continued to argue with Ms. Kim but Ms. Kim was not responding and the officers separated them. Ms. Razo was not aware of any problems between defendants and Ms. Kim. Ms. Razo called an ambulance, which arrived shortly thereafter, taking Ms. Kim to the hospital.

¶ 13 Mrs. Chung was arrested that afternoon. Ms. Razo told the officers what Mr. Chung had done to Ms. Kim, but Mr. Chung was not arrested at that time. Ms. Razo attended the first court date with Ms. Kim on November 7, 2012, and also later accompanied Ms. Kim to the police station where Ms. Kim signed battery charges against Mr. Chung.

¶ 14 Mrs. Chung testified through an interpreter. Mrs. Chung was 60-years old, had been married to Mr. Chung for 30 years; they lived in Springfield, Illinois. In July 2012, she and her husband agreed to purchase a dry cleaning store from Ms. Kim and paid Ms. Kim \$60,000 which had come from defendants' retirement funds. On September 29, 2012, Mr. and Mrs. Chung

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arrived at the Kingsbury Street store at approximately 3 p.m. They wished to meet with Ms. Kim in person because Ms. Kim had not turned over the keys to the store and was not returning their calls. Ms. Kim had refused to return the \$60,000. Mrs. Chung approached Ms. Kim as she was exiting the dry cleaning store. When Ms. Kim saw Mrs. Chung, she "made this surprising face," and slowly walked back into the building. Mrs. Chung yelled: "give me money, give me money." Mrs. Chung denied going inside the store, or pulling Ms. Kim's hair, or hitting her in any way. While in the hallway, outside the store, Mrs. Chung continued to demand the return of her money until security guards and the police arrived. The police told Mrs. Chung not to go into the store. Mrs. Chung was crying and continued to ask for her money. Mrs. Chung did not see whether her husband, who had entered the building from the parking lot, went into the dry cleaning store. Mrs. Chung did not see her husband strike Ms. Kim or pull her hair.

¶ 15 Mr. Chung testified through an interpreter that he was 76-years old and had been working as a Taekwondo instructor for nearly 52 years. On September 29, 2012, Mr. Chung was upset, drove with his wife from Springfield to see Ms. Kim at the Kingsbury Street store. Mr. Chung watched his wife walk inside the building while he was parking their car. He entered the building about 15 to 20 minutes later. Mr. Chung first denied going inside the dry cleaning store, but on cross-examination said he entered the store to greet the employee who worked there. He also said that Ms. Kim had "a problem with the doorway" and tripped and fell down. On cross-examination, Mr. Chung explained he did not actually see Ms. Kim trip and fall, but that she was already on the floor when he entered the building. Mr. Chung saw Ms. Kim when she was sitting on a chair inside the dry cleaning store. He was unable to speak to Ms. Kim, so he left the

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store and went to the police station where his wife had been taken. Mr. Chung denied grabbing Ms. Kim's hair or striking her on either shoulder.

¶ 16 The parties stipulated that if called as a witness, Chicago police officer Daniel Barnett would testify he arrived at the Kingsbury Street store at 3:20 p.m. and was informed by Ms. Kim and Mrs. Chung that she and Ms. Kim argued, the argument became heated, then Mrs. Chung struck Ms. Kim about her left arm and face with her hand. Ms. Kim refused Officer Barnett's request to call an ambulance and no injury to Ms. Kim was noted by Officer Barnett in his report.

¶ 17 The parties further stipulated that if called as a witness, Chicago police officer M. Ramirez would testify she interviewed Ms. Kim on November 7, 2012, after she had appeared in court, Ms. Kim said that Mr. Chung was also an offender, that he repeatedly grabbed and punched her, leaving the store and returning several times. Officer Ramirez interviewed Ms. Razo, who provided information regarding the incident which was consistent with the information provided by Ms. Kim. Ms. Razo told Officer Ramirez that Ms. Kim was taken to the emergency room by ambulance on September 29, 2012, and it was ascertained that she had been bruised.

¶ 18 The trial court found each defendant guilty of battery. In doing so, the trial court stated that Ms. Kim was unable to effectively communicate in English and, because there was a language barrier, it was "difficult to call her a very credible witness." The trial court also found that defendants' testimony was not credible and found defendants came to the store in anger and attacked Ms. Kim. The trial court found Ms. Razo to be an "excellent witness," was objective, consistent, and convincing, and her testimony was sufficient to convict defendants. The trial court then sentenced both defendants to one year of supervision. Defendants now appeal.

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¶ 19 Defendants' sole argument on appeal is that the evidence was not sufficient to sustain their convictions of battery. Where a defendant challenges the sufficiency of the evidence on appeal, the relevant inquiry is "whether, after viewing the evidence on appeal, 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." (Emphasis omitted.) *People v. Jackson*, 232 Ill. 2d 246, 280 (2009) (quoting *Jackson v. Virginia*, 443 U.S. 307, 318-19 (2005)). The trier of fact is responsible for assessing the credibility of the witnesses, weighing the testimony, and drawing reasonable inferences from the evidence. *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001). This court will not reverse a criminal conviction unless the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of defendant's guilt. *People v. Wheeler*, 226 Ill. 2d 92, 115 (2007).

¶ 20 Based on the charges here, to prove Mrs. Chung guilty of battery, the State was required to prove that Mrs. Chung, knowingly and without legal justification, made physical contact with Ms. Kim of an insulting or provoking nature by pulling her hair. 720 ILCS 5/12-3(a) (2) (West 2012). Additionally, the charges required the State to prove that Mr. Chung knowingly and without legal justification, grabbed Ms. Kim by the hair causing her injury. 720 ILCS 5/12-3(a)(1) (West 2012).

¶ 21 Ms. Razo testified that Mrs. Chung pulled Ms. Kim's shoulder and hair, and knocked her to the ground. The attack on Ms. Kim took place in a public downtown building where Ms. Kim operated her business and in front of Ms. Kim's employee. The evidence established Mrs. Chung made physical contact with Ms. Kim by pulling her hair, and that this contact was unjustified. Further, the contact in this context was of an insulting and provoking nature. *People v. d'Avis*,

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250 Ill. App. 3d 649, 651 (1993) (where court held "a particular physical contact may be deemed insulting or provoking based upon the factual context in which it occurs"); *People v. DeRosario*, 397 Ill. App. 3d 332, 333 (2009). The State proved the battery charge against Mrs. Chung beyond a reasonable doubt.

¶ 22 Ms. Razo testified that Mr. Chung pulled Ms. Kim's shirt and hair and knocked her to the ground. Ms. Razo testified that afterward, Ms. Kim laid on the floor, shaking and not talking. The testimony of Ms. Razo was found credible and consistent by the trial court. *People v. Smith*, 185 Ill. 2d 532, 541 (1999). Ms. Kim testified that as a result of Mr. Chung's conduct, she suffered injuries to her hair, as well as to her left shoulder, back, and stomach. Ms. Kim was taken to the hospital by ambulance immediately after the altercation. In addition, a photograph showing bruises to her shoulder taken three days after the attack were admitted into evidence. The evidence of injury sustained by Ms. Kim was sufficient to permit a rational trier of fact to find Mr. Chung was proved guilty of battery beyond a reasonable doubt. *People v. Jenkins*, 190 Ill. App. 3d 115, 138 (1989). Based on the record, we find Mr. Chung made physical contact with Ms. Kim which included pulling her hair, as was charged, and striking her and knocking her to the floor. This physical contact was done without justification and resulted in various injuries to Ms. Kim. The State met its burden of proving Mr. Chung guilty of battery beyond a reasonable doubt.

¶ 23 Defendants argue, however, that Ms. Kim's testimony lacked credibility pointing to various flaws and inconsistencies in her testimony. However, as noted by the trial court, the record shows that Ms. Kim had difficulties testifying in English and without an interpreter. Ms. Kim's difficulties led the trial court to find it could not determine that she was a credible witness.

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However, the trial court, specifically, found both defendants were incredible based on their demeanor and manner while testifying, and that their version of the incident was not believable. The trial court found Ms. Razo to be an excellent witness and her testimony credible and consistent. We agree with the trial court that Ms. Razo's testimony was sufficient to sustain the convictions.

¶ 24 Defendants, though, contend that Ms. Razo was inconsistent with regard to whether it was Ms. Kim's left or right shoulder which was struck by Mrs. Chung. Whether or not Ms. Razo's testimony was consistent as to this point does not detract from her testimony that defendants struck Ms. Kim, pulled her hair, and caused Ms. Kim to fall to the ground, which is the essence of the charged offenses. Under these circumstances, the discrepancy noted by defendants does not compel a finding that Ms. Razo's entire testimony was not credible, given the consistency with which she testified to the essential elements of the offenses. *People v. Howard*, 376 Ill. App. 3d 322, 330 (2007).

¶ 25 Moreover, a reviewing court will not reverse a conviction simply because the evidence is contradictory, or because a defendant claims a witness was not credible. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). A trial court's findings are entitled to great weight, given that it is in the best position to judge the credibility and demeanor of the witnesses. *Wheeler*, 226 Ill. 2d at 114-15. Here, the trial court explicitly resolved all credibility disputes in favor of Ms. Razo and accepted her version of the facts, which established defendants' guilt.

¶ 26 Defendants also argue that neither Ms. Kim nor Ms. Razo informed the police on the scene that Mr. Chung attacked Ms. Kim and, since he was not arrested with his wife, it indicates their story was a fabrication. Although there is nothing in the record to show why Mr. Chung

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was not arrested, Ms. Razo testified that she told the police about Mr. Chung's involvement in the attack on Ms. Kim. Specifically, the following discussion took place at trial:

"[State's attorney]: Did you tell the officers what [Mr. Chung] did to your employer?

[Razo]: Yes. Hit her and knocked her on the floor.

[Defense counsel]: Now, when the police officer came, you told them what you saw [Mr. Chung] do to your employer Ms. Kim; is that right?

[Razo]: Yes."

On November 7, 2012, when Ms. Kim realized Mr. Chung had not been charged, she and Ms. Kim went to the police station and charges were brought on that day. Ms. Kim also testified that she did not know prior to that day that Mr. Chung had not been charged. In light of these facts, we find defendants' assertion that Ms. Kim and Ms. Razo fabricated Mr. Chung's involvement in the incident is speculative and unsupported by the record.

¶ 27 Finally, Mr. Chung argues there was no physical evidence, *i.e.*, medical reports or photographs, to prove Ms. Kim had been injured as a result of his conduct. Mr. Chung overlooks the photograph of Ms. Kim's bruises which was taken three days after the incident and entered into evidence, and that Ms. Kim testified that Mr. Chung caused those injuries during his attack. Moreover, injury can be inferred by the trier of fact based upon circumstantial evidence in light of common experience. *Jenkins*, 190 Ill. App. 3d at 138. Here, the trial court could reasonably conclude, from the evidence introduced at trial, that Mr. Chung caused Ms. Kim injury by pulling her hair and knocking her to the ground. After falling to the floor, Ms. Kim

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remained there, shaking and speechless, until she was assisted to a chair by the police. After reviewing the record in the light most favorable to the prosecution, we hold that the State's evidence was sufficient to prove defendants guilty of battery beyond a reasonable doubt. *Id.* at 139.

¶ 28 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 29 Affirmed.