THIRD DIVISION
May 16, 2012

No. 1-10-0501

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. 06 C4 41452
	)	
RONNIE F. RIDGE,	)	Honorable
	)	Carol A. Kipperman,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE NEVILLE delivered the judgment of the court.
Justices Murphy and Salone concurred in the judgment.

O R D E R

¶ 1 *Held*: Where defendant fired weapon at a closed door after stating he would shoot the victim and seeing the victim at the door moments earlier, the evidence was sufficient to support trial court's finding of an intentional or knowing mental state; defendant's Class X conviction for aggravated battery with a firearm was affirmed.

¶ 2 Following a bench trial, Ronnie Ridge, the defendant, was found guilty of aggravated battery with a firearm, aggravated discharge of a firearm and aggravated battery for firing a gun through a closed door and injuring the victim, who sat on a porch on the other side of the door. Defendant was sentenced to 15 years on the most serious offense of aggravated battery with a firearm. On appeal,

defendant contends that he did not possess the required mental state for the three charged offenses. He also asserts the trial judge erred in limiting cross-examination of the victim about her drug use and her recent drug conviction because such testimony was relevant to her credibility and her potential motive to testify falsely. In addition, defendant contends his sentence was excessive given his rehabilitative potential and ties to the community. We affirm.

¶ 3 At trial, Jamie Conforti, the victim, testified that in the early morning hours of October 25, 2006, she encountered defendant and Allen Eshoo at a bar that they all frequented. The trio proceeded to a second establishment where they continued drinking. At some point, Conforti noticed defendant and Eshoo had left. Because Conforti had been to defendant's residence before, she got a ride to defendant's house in Franklin Park at about 3:30 a.m. Conforti testified she had consumed "a couple" of vodka tonics and had cocaine in her system that night.

¶ 4 Upon arriving at defendant's house, Conforti knocked on the door after hearing defendant and Eshoo talking inside. The men laughed and did not open the door. Conforti told them she needed to use the phone and knocked on the door a second time. She testified the door was a wood door with a window covered by blinds, which defendant moved when he looked out. Conforti could see defendant and Eshoo inside and heard the men laughing.

¶ 5 Conforti testified that defendant then tapped on the window with a gun, displaying the weapon to her, and stated, "I am going to shoot you." As Conforti turned around and walked down the porch steps, she was shot in the back. After the shot, the men dragged Conforti into the house. When Conforti asked to be taken to a hospital, defendant "was just getting angry" and put a gun to her head. Defendant said he could "dump [her] in the river if he wanted to." About 90 minutes later, Eschoo drove Conforti to the hospital. A bullet was removed from Conforti's midsection, and surgery was required and culminated in the removal of a portion of her colon.

¶ 6 On cross-examination, Conforti said she had two drinks and a shot at the first bar and one

beer at the second bar but denied being intoxicated at the time of the shooting. Conforti said she had ingested cocaine a couple of days before the shooting. The defense was allowed, over the State's objection, to elicit testimony that about five months earlier, Conforti was charged with a drug-related offense for which she received probation. Defense counsel then asked Conforti if she had violated her probation by ingesting cocaine in the days preceding the instant offense. The court sustained the State's objection to that inquiry.

¶ 7 Conforti acknowledged that when she first spoke to police at the hospital, she told them she was shot by accident and did not know who shot her. As to the events immediately before the shooting, she said she knocked on defendant's door for an hour. She said "maybe two or three" minutes elapsed between the time she heard someone say "I am going to shoot you" and the time she was shot. During those minutes, Conforti sat on the stairs of the porch.

¶ 8 Eshoo testified that he and defendant consumed alcohol at the bars and at defendant's house. When Conforti arrived and knocked on the door, Eshoo could see her through the door's window. Eshoo said he was drunk at the time of the shooting but denied firing the weapon.

¶ 9 Eshoo told police shortly after the shooting that defendant had been upset with Conforti. Eshoo saw defendant look out the window when Conforti first knocked on the door; however, Eshoo did not see defendant threaten her or point a gun at her.

¶ 10 Officer Page of the Franklin Park police department testified that he interviewed Eshoo at about 7:30 a.m. on October 25 and again on October 30. Eshoo told the officer that defendant said "that will teach them" and laughed after firing the weapon. Eshoo also said defendant was waving the gun around after Conforti was brought into the house. When Eshoo said he was taking Conforti to the hospital, defendant told him he was not taking her anywhere.

¶ 11 The State also presented evidence that a police SWAT team was deployed to gain custody of defendant on October 25 when he would not respond to numerous attempts at contact by police.

In addition, the parties stipulated that Conforti tested positive for cocaine during treatment for her gunshot wound and that a bullet was removed from her abdomen.

¶ 12 The trial court found defendant guilty on all three charges and merged the lesser counts of aggravated discharge of a firearm and aggravated battery into the Class X offense of aggravated battery with a firearm. After hearing evidence in aggravation and mitigation, the court sentenced defendant to a term of 15 years in prison.

¶ 13 On appeal, defendant first contends that his actions were not knowing or intentional but, at most, were reckless, and, accordingly, his convictions should be reversed or be reduced to reckless discharge of a firearm.

¶ 14 Initially, we reject defendant's attempt to apply a *de novo* standard of review to this issue. Because defendant argues the State did not prove that he fired the gun with the requisite mental state, he challenges the sufficiency of the evidence to establish his guilt. The State must prove the required mental state of an offense beyond a reasonable doubt. *People v. Lissade*, 403 Ill. App. 3d 609, 612-13 (2010), citing *People v. Maggette*, 195 Ill. 2d 336, 354 (2001). When reviewing a challenge to the sufficiency of the evidence, this court considers whether, viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Wheeler*, 226 Ill. 2d 92, 114 (2007). A reviewing court does not retry the defendant, and a conviction is reversed only where the evidence is so unreasonable, improbable or unsatisfactory that it justifies a reasonable doubt of the defendant's guilt. *Wheeler*, 226 Ill. 2d at 115.

¶ 15 Defendant was found guilty of aggravated battery with a firearm, aggravated discharge of a firearm and aggravated battery. Aggravated battery with a firearm occurs when a person knowingly or intentionally commits a battery by discharging a firearm and causing injury to another person. 720 ILCS 5/12-4.2(a)(1) (West 2006). A person commits aggravated discharge of a firearm when he

knowingly or intentionally discharges a firearm in the direction of another person. 720 ILCS 5/24-1.2 (a)(2) (West 2006). Aggravated battery occurs when a person knowingly or intentionally causes great bodily harm or permanent disability or disfigurement. 720 ILCS 5/12-4(a) (West 2006).

¶ 16 Each of those charges requires the State to prove the defendant acted knowingly or intentionally. A person acts knowingly when he is consciously aware of the nature of his conduct or the attendant circumstances. 720 ILCS 5/4-5 (West 2006). A person acts intentionally when his conscious objective is to accomplish a result or engage in the proscribed conduct. 720 ILCS 5/4-4 (West 2006). In contrast, a person acts recklessly when he consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation. 720 ILCS 5/4-6 (West 2006).

¶ 17 Defendant argues the evidence only established that he fired a gun through a closed door. He asserts the sole evidence of his intent comes from Conforti's account, which was not corroborated by Eshoo, who was inside the house and testified he did not see defendant fire the weapon.

¶ 18 Though defendant contends Conforti's testimony is insufficient to establish his mental state, the testimony of a single witness, if positive and credible, is sufficient to convict, even though it is contradicted by the defendant. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). In a bench trial, as occurred here, it is for the trial judge, sitting as the trier of fact, to determine the credibility of witnesses, weigh the evidence and draw reasonable inferences therefrom, and resolve any conflicts in the evidence. *Siguenza-Brito*, 235 Ill. 2d at 228.

¶ 19 A mental state is seldom proved by direct evidence and must generally be inferred from the surrounding circumstances, including the actions of the defendant. *Lissade*, 403 Ill. App. 3d at 613; see also *People v. Colley*, 83 Ill. App. 3d 834, 838 (1980); *People v. Varnell*, 54 Ill. App. 3d 824, 827 (1977). According to Conforti, defendant saw her outside the door and made a point of showing

her he had a weapon. Defendant then told Conforti he would shoot her, and he fired his gun within the next several minutes. In addition, after Conforti was dragged into the house by one or both men, defendant put a gun to Conforti's head. That evidence established defendant acted with an intentional mental state. A reviewing court will not reverse a conviction simply because the defendant claims that a witness was not credible. *People v. Evans*, 209 Ill. 2d 194, 211-12 (2004).

¶ 20 Even disregarding Conforti's testimony, the circumstances of the shooting support a finding that defendant acted knowingly. Again, a person acts knowingly when he is consciously aware of the nature of his conduct or the attendant circumstances. 720 ILCS 5/4-5 (West 2006). Defendant argues he did not know that by firing his weapon, the bullet would strike the victim positioned on the other side of the door.

¶ 21 Defendant contends his actions were reckless at most, citing cases in which the improper handling of a loaded gun in the presence of others was found to constitute recklessness as opposed to a more culpable mental state. See *People v. Perry*, 19 Ill. App. 3d 254, 258 (1974) (handling a gun improperly in the presence of others is reckless conduct); *People v. Rodgers*, 2 Ill. App. 3d 507, 510-11 (1971) (drawing loaded gun in close proximity to others was found by trier of fact to constitute carelessness or recklessness); *People v. Reece*, 123 Ill. App. 2d 97, 100-01 (1970) (involuntary manslaughter conviction affirmed where defendant acted recklessly by taking out gun and showing it to victim).

¶ 22 Here, in contrast to the cases on which defendant relies, defendant did not merely draw a loaded weapon in the presence of others; he aimed and fired a weapon at the last known location of Conforti. As this court has explained in addressing the difference between aggravated discharge of a firearm and reckless discharge of a firearm, "it is more serious for an offender to shoot at/in the direction of someone than it is for the offender to simply go about town shooting a gun at no one in particular and indirectly endangering another's bodily safety; it is more likely that such direct action

will result in more dire consequences and, hence, in a greater and defined risk of bodily harm." *People v. Kasp*, 352 Ill. App. 3d 180, 189-90 (2004).

¶ 23 This court has found that firing a gun into a door can constitute either an intentional or knowing act or a reckless act, depending on the other surrounding circumstances. For instance, in *Colley*, the defendant aimed a gun at a wooden door and said "f– those people" as he fired six shots into the door of a tavern closed to patrons at 4:30 a.m. but in which the lights were illuminated; that act was deemed to reflect an intentional or knowing mental state, as opposed to recklessness. *Colley*, 83 Ill. App. 3d at 837-38; compare *People v. Felton*, 12 Ill. App 3d 201 (1973) (defendant attempted to scare boyfriend by firing shot into apartment door knowing he was inside, and her shot killed boyfriend, but conviction was reduced from murder to involuntary manslaughter based on finding that defendant's actions were merely reckless).

¶ 24 Here, defendant stated his intent to shoot Conforti and was aware that by firing a weapon at the door, the shot could strike anything on the other side of the door, including Conforti, whom he had viewed through the window moments before. The evidence, viewed in the light most favorable to the prosecution, was sufficient to support defendant's conviction.

¶ 25 Defendant next argues on appeal that, during Conforti's testimony, he was deprived of his right to confront her about her recent drug-related conviction and also about her overall drug use. As to both of those arguments, defendant again asserts this court should apply a *de novo* standard of review. However, the correct standard reflects greater deference to the trial judge; a trial court's restriction of cross-examination will not be reversed absent an abuse of discretion. See *People v. Price*, 404 Ill. App. 3d 324, 330 (2010).

¶ 26 The following relevant exchange occurred during cross-examination of Conforti:

> "MR. GAMBONEY [defense counsel]: When did you first start using cocaine?

MR. PATTAROZZI [Assistant State's Attorney]: Objection.

THE COURT: Sustained.

MR. GAMBONEY: Well, were you – did you ever consider yourself addicted to cocaine?

MR. PATTAROZZI: Objection.

THE COURT: Sustained.

MR. GAMBONEY: I think it's relevant to explore this in terms of her – I believe there is jury instructions [*sic*] having to do with people that ingest narcotics as to whether it affects their credibility, or not.

MR. PATTAROZZI: Judge, that has been removed. It hasn't been an available IPI [pattern jury instruction] in about ten years.

THE COURT: You can ask her questions about the time that she said she ingested it.

MR. GAMBONEY [to Conforti]: Well, where were you the couple days before when you ingested the cocaine?

A. At my house.

Q. Who were you with?

A. My sister.

Q. How much cocaine did you ingest?

A. I had – I don't know, probably $50 worth or something.

Q. And how did you ingest it into your body?

A. Smoked it.

Q. Is that what they call crack cocaine?

A. Correct.

Q. And that's cheaper than regular cocaine, isn't it?

A. I don't know.

Q. And how often would you smoke this cocaine?

MR. PATTAROZZI: Objection.

THE COURT: Overrruled.

MR. GAMBONEY: How often would you smoke this cocaine?

A. Not often.

Q. Well, once a week, once a month?

A. Every couple of months.

Q. Okay. Well, speaking of that, this happened in October of 2006, correct?

A. Correct.

* * *

Q. About five months before that, back in May 2006, you were out in DuPage County pleading guilty to a possession of cocaine case, isn't that correct?

MR. SANTINI [Assistant State's Attorney]: Objection, Judge.

THE COURT: Overruled.

MR. SANTINI: Judge, this is not a conviction, it's not relevant.

THE COURT: I thought he said she pled guilty.

MR. SANTINI: Judge, and I explained to both [defense] counsels that she pled guilty and received [] probation.

MR. GAMBONEY: It's still relevant, Judge. I believe the result is relevant towards – to affect her credibility. It is also probative of her

actions afterwards.

MR. SANTINI: Judge, objection to this whole line of questioning based on the fact that he is trying to make this – discredit her to be a drug addict. The only relevance is her perception and her use of drugs on the night in question, not whether or not what she had two or three years ago. The courts do not permit that, they do not allow that, which is why you have to have a conviction before you can start bringing up prior arrests and dispositions.

MR. GAMBONEY: The only thing I have –

THE COURT: It's overruled as to that specific event.

MR. GAMBONEY [to witness]: Well, you plead guilty to possession of a controlled substance in May of 2006, is that correct?

A. Correct.

Q. And that was as a result of you having had some cocaine, is that what you had?

MR. SANTINI: Objection.

THE COURT: Overruled as to that."

¶ 27 The State continued to object to questions regarding Conforti's completion of her probation:

"MR. GAMBONEY: Well, did you complete probation?

MR. SANTINI: Objection.

THE COURT: Sustained

MR. GAMBONEY: Well, I will put it this way. Three or four days, or whatever it was, before the day you got shot, you smoked crack cocaine, is that correct?

MR. SANTINI: Objection, asked and answered.

MR. GAMBONEY: I am just trying to set the basis, Judge.

THE COURT: All right. It is asked and answered. Just ask the next question.

MR. GAMBONEY [to witness]: Is that true?

MR. SANTINI: Asked and answered, Judge.

MR. GAMBONEY: Well, Judge, I just want to place the setting. Can I have the question and answer read back so I can –

THE COURT: I mean, she testified it was two days before, $50 worth of cocaine, so it's in the record.

MR. GAMBONEY [to witness]: Was it your understanding that it was a violation of your probation from five months before when you were out using cocaine, isn't that correct?

MR. SANTINI: Objection.

THE COURT: Sustained."

¶ 28 Defense counsel then elicited an acknowledgment from Conforti that she may have told a hospital worker and a police officer shortly after the shooting that she did not know who shot her, but Conforti said she "was in a lot of pain." Conforti also said she had told defendant and Eshoo at defendant's house that she would not say anything to the police if they would not harm her further. Conforti told police five days after the shooting that defendant had shot her.

¶ 29 Defendant first argues that the court erred in limiting defense counsel's examination of Conforti regarding her cocaine use in the days prior to the instant crime. Conforti testified that she used cocaine a couple of days before the instant crime, which occurred during her two years of probation for the 2006 offense, and she acknowledged that she pleaded guilty, which constituted a

conviction. See *People v. Brexton*, 405 Ill. App. 3d 989, 996 (2010). The trial court admitted the evidence of Conforti's conviction in DuPage County.

¶ 30 We note, as the State points out on appeal, that Conforti's probation for the 2006 offense in DuPage County ended in 2008, which was about 14 months before the trial in the instant case began in Cook County in August 2009. Therefore, the 2006 case was not pending when Conforti testified against defendant and took place in a different jurisdiction than this trial.

¶ 31 Defendant nevertheless argues that his counsel should have been permitted to examine whether Conforti's account that defendant shot her was given in exchange for leniency from prosecutors as to a potential violation of her probation. He contends that if Conforti used drugs shortly before the instant crime, she did so during her probationary period, which may have prompted her to cooperate with the State and provide favorable testimony. Defendant points out that Conforti initially told police in the hospital that she was not sure who shot her, but she then implicated defendant several days later.

¶ 32 A defendant has a fundamental constitutional right to confront the witnesses against him, which includes the right of cross-examination of witnesses to inquire into their bias, interest or motive to testify falsely. *People v. Nelson*, 235 Ill. 2d 386, 420-21 (2009); see also *People v. Bull*, 185 Ill. 2d 179, 206 (1998) (only criminal convictions may be used; proof of arrests, indictments and charges are not admissible when attacking character of a witness). However, evidence offered to impeach the witness must raise an inference that the witness has something to gain or lose by his testimony; the evidence must not be remote or uncertain. *People v. Coleman*, 206 Ill. 2d 261, 278 (2002).

¶ 33 Defendant's assertion as to Conforti's motive for testifying is speculative. Though defendant contends on appeal there was no indication that Conforti was held accountable for violating her probation, there likewise is no proof that she was spared from punishment in DuPage County for

ingesting drugs while on probation. It is more likely that Conforti's testimony was prompted by her status as the victim of this case.

¶ 34 Defendant relies heavily on the cases of *Davis v. Alaska*, 415 U.S. 308 (1974), and *Delaware v. Van Arsdall*, 475 U.S. 673 (1986). In *Davis*, the Supreme Court held that a jury should have been allowed to hear evidence that a witness who identified the defendant had been on probation in a juvenile matter at the time of his identification. *Davis*, 415 U.S. at 317-18. Here, unlike in *Davis*, the trial judge acted as the trier of fact, and having heard the evidence in question, could consider the reliability of Conforti's testimony.

¶ 35 Van Arsdall involved the dismissal of a criminal charge against an occurrence witness, Robert Fleetwood, after Fleetwood had agreed to speak to the prosecutor about the instant crime. *Van Arsdall*, 475 U.S. at 676. The Supreme Court held that the trial court violated the defendant's right to confront Fleetwood by prohibiting defense counsel from engaging in any inquiry into Fleetwood's testimonial bias as a result of the dismissal of the charge against him. *Van Arsdall*, 475 U.S. at 679.

¶ 36 Here, the judge allowed the defense to offer evidence of Conforti's 2006 conviction and her probationary period, and the judge made it clear that she understood that Conforti ingested cocaine in the days prior to the shooting. Defense counsel also was permitted to elicit testimony from Conforti that she initially said she did not know who shot her. The trial court was free to consider all of those facts and that testimony in weighing Conforti's credibility.

¶ 37 On a separate point, defendant contends his counsel should have been allowed to examine Conforti about her overall drug use as a basis of challenging her credibility and the accuracy of her testimony. Whether a witness is a narcotics addict at the time of testifying or at the time of the event in question is a proper subject of cross-examination as affecting the credibility of the witness. *People v. Hogan*, 388 Ill. App. 3d 885, 895 (2009). However, more extensive inquiries, such as an

attempt to show the witness was a habitual drug user, can be seen as an improper tactic of "dirtying up" the witness. See, *e.g.*, *People v. Henderson*, 175 Ill. App. 3d 483, 488 (1988).

¶ 38 The above-quoted colloquy demonstrates that defense counsel was permitted to ask Conforti about her drug use in the days surrounding the shooting but that the trial judge barred counsel's general questioning as to Conforti's drug habits. It was the task of the trial judge, as the trier of fact, to consider Conforti's credibility in light of the evidence of drug use, and a conviction will not be reversed simply because the defendant contends that a witness is not credible. See *Hogan*, 388 Ill. App. 3d at 895. In conclusion, the trial court did not abuse its discretion in limiting defense counsel's cross-examination.

¶ 39 Defendant next challenges the length of his 15-year sentence, which he contends is excessive considering his lack of a prior criminal record, his steady employment, his ties to the community and his overall rehabilitative potential.

¶ 40 At sentencing, Conforti read a victim impact statement to the court in which she described the multiple surgeries and medical procedures she was required to undergo as a result of being shot by defendant. The prosecution argued that it had established the element of great bodily harm to the victim, as required for an aggravated battery conviction.

¶ 41 In mitigation of defendant's sentence, counsel presented letters written on defendant's behalf and argued that defendant had no prior convictions, had worked at Nicor Gas for 22 years and supported two teenage children, one of whom has special needs. Defendant addressed the court and denied responsibility for the offense.

¶ 42 In imposing sentence, the court stated that it considered the facts of the case, including defendant's assertion that he could not have committed the crime, and also considered that Conforti was dragged into the house, was not taken immediately to the hospital and suffered serious injuries as a result. The court also considered the deterrent effect so that others would not engage in this type

of conduct. Defendant was sentenced to 15 years in prison.

¶ 43 Aggravated battery with a firearm is a Class X offense that carries a sentence of 6 to 30 years in prison. 730 ILCS 5/5-8-1 (West 2006). Defendant's sentence therefore fell in the lower half of the applicable sentencing range. An imposed sentence that falls within the statutory guidelines will not be disturbed absent an abuse of discretion. *People v. Gutierrez*, 402 Ill. App. 3d 866, 900 (2010). While this court takes note of defendant's argument that he lived a "responsible, productive, violence-free life before this incident," a sentencing court is not required to give greater weight to a defendant's rehabilitative potential than to the seriousness of the offense. See *People v. Alexander*, 239 Ill. 2d 205, 214 (2010). Based on these facts, the trial court did not abuse its discretion in imposing a 15-year sentence.

¶ 44 Defendant's remaining contention on appeal is that the mittimus should be amended to reflect the trial court's finding that the two lesser counts merged into the Class X count of aggravated battery with a firearm. The State correctly agrees to this amendment of the mittimus. It is unnecessary to remand this case for this correction to be made because this court can directly order the clerk of the circuit court to implement that change to defendant's sentencing order. Ill. S. Ct. R. 615(b)(1); see, *e.g.*, *People v. Diaz*, 377 Ill. App. 3d 339, 351 (2007).

¶ 45 In summary, the evidence established that defendant acted with intent when shooting the victim, and the trial court's limitation of defense counsel's cross-examination of the victim did not constitute an abuse of its discretion. Moreover, defendant's sentence was well within the statutory range. Accordingly, defendant's conviction and sentence are affirmed, and the clerk of the circuit court is directed to correct the mittimus to reflect one 15-year sentence for the single conviction of aggravated battery with a firearm.

¶ 46 Affirmed; mittimus corrected.