

2011 IL App (1st) 102405-U

FIRST DIVISION
9/26/11

No. 1-10-2405

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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. 06 CR 24018
)	
JUAN VILLEGAS,)	Honorable
)	Daniel P. Darcy,
Defendant-Appellant.)	Judge Presiding.

JUSTICE HALL delivered the judgment of the court.
Presiding Justice HOFFMAN and Justice KARNEZIS concurred in the judgment.

ORDER

¶ 1 *Held:* The State's evidence showing that defendant entered the victim's apartment without authority while under a court order of protection to have no contact with the victim, was sufficient to sustain his conviction of home invasion.

¶ 2 Following a bench trial, defendant Juan Villegas was found guilty of the first degree murder of his estranged wife Luz Villegas, home invasion, and violating an order of protection. He was then sentenced to consecutive prison terms of 38 years for murder and 12 years for home invasion, and a concurrent term of 3 years for violating an order of protection. On appeal,

defendant contends that his home invasion conviction must be reversed because the State failed to prove beyond a reasonable doubt that he entered Luz's apartment without authority.

¶ 3 The evidence adduced by the State at trial showed that defendant and Luz had been married for about 12 years before separating in March 2006. Defendant was under a court order of protection to have no contact with Luz when he entered the apartment she shared with their three children, and fatally stabbed her more than 40 times.

¶ 4 Juan, Jr., who was 11 years old at the time of trial, testified that shortly after 1 a.m. on September 22, 2006, he was asleep in his sisters' bedroom when he heard his mother screaming in her bedroom. He then heard his father, defendant, who sounded angry, "like a lion growling with the teeth closed," and his mother say, "Stop Juan; stop." He heard footsteps, and when he looked through the keyhole of the bedroom door, he saw defendant enter the kitchen. He heard knives rattling and then saw defendant stabbing and punching his mother. After they disappeared from his view, he heard his mother breathing "like a mouse's voice" and heard defendant leave. He and his sisters stayed in the bedroom until the police came.

¶ 5 Luz's parents lived in the basement apartment in the same building. Her mother, Maria Armenta, testified that the first-floor neighbors knocked on her door at 4 a.m. and said that the children were crying upstairs. She and her husband went upstairs to Luz's apartment and found the front door ajar. Inside, Maria saw blood on Luz's bedroom door, and tried to open it, but could not do so because Luz's body was up against it and she was unresponsive.

¶ 6 Forensic Investigator James Shader processed and photographed the crime scene. He did not observe any signs of forced entry. He observed blood spots in the dining room, living room, and bloody shoe prints just outside Luz's bedroom. Inside that bedroom, he observed Luz lying against the door in a pool of blood and blood splatter on the walls and window blinds. Luz had stab wounds to the chest, back, face, arms, and hands. Shader also photographed defendant

following his arrest. Although his clothes were covered with blood, defendant suffered only "slippage wounds" on his right hand from using the knife and a small cut on his left hand.

¶ 7 Detective Arthur Young testified that he arrived at the crime scene at 5 a.m. and did not observe any signs of forced entry. When he returned to Area 5 Detective Headquarters, he learned that defendant was under an order of protection, which identified his address in Cicero. Young, his partner, and two assisting officers subsequently arrested defendant in Cicero at 8:20 a.m. Defendant was barefoot and covered in blood. After being advised of his *Miranda* rights, defendant stated that he stabbed his wife and it was her blood on his clothing.

¶ 8 Defendant testified that he went to Luz's apartment sometime after 1 a.m. to talk to her about their impending divorce and seeing the children. He had been drinking beer throughout the afternoon and into the evening. When he arrived at the apartment building, Luz buzzed him inside through the first door, then walked downstairs to open a second door to allow him upstairs to the apartment. They were talking, then arguing, about the divorce when Luz ran into the kitchen and grabbed a knife. He backed into Luz's bedroom as she approached him with the knife. They struggled over the knife, and when defendant obtained it, he blacked out. He acknowledged that he stabbed Luz, but he could not remember the details.

¶ 9 According to defendant, the order of protection prohibited him from contact with Luz, but did not prohibit him from seeing the children. He admitted that he wanted to reconcile with Luz, and that he asked her to "get rid of" the order of protection but she said no. At the close of evidence, the trial court found that defendant had been proved guilty beyond a reasonable doubt of first degree murder, home invasion, and violating an order of protection.

¶ 10 In this court, defendant solely contends that the State failed to prove beyond a reasonable doubt that he entered Luz's apartment without authority to sustain his home invasion conviction.

He initially asserts that the appropriate standard of review is *de novo* where, as here, the facts are not in dispute, and the issue of his guilt is a question of law. We disagree.

¶ 11 Because defendant is challenging the inferences that can be drawn from the evidence, his contention is a challenge to the sufficiency of the evidence presented at trial. *People v. Stewart*, 406 Ill. App. 3d 518, 525 (2010). In this context, the relevant question on review is whether, after considering 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. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *People v. Collins*, 106 Ill. 2d 237, 261 (1985).

¶ 12 This standard of review gives "full play to the responsibility of the trier of fact fairly to resolve conflicts in testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts." *People v. Jackson*, 232 Ill. 2d 246, 281 (2009), quoting *Jackson*, 443 U.S. at 319. Under this standard, all reasonable inferences are resolved in favor of the State. *Stewart*, 406 Ill. App. 3d at 525. Our role is not to retry defendant, and we will not reverse a conviction because of contradictory evidence or defendant's claim that a witness is not credible. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009).

¶ 13 At issue is the unauthorized entry element of home invasion. Defendant claims that his entry into the apartment was authorized because Luz let him inside. He argues that the State did not present any evidence to refute his testimony that Luz buzzed him inside through the main entrance and into her apartment on the second floor. This testimony, he notes, is corroborated by Detective Young and Investigator Shader who did not observe any signs of forced entry.

¶ 14 Additionally, defendant cites the limited-authority doctrine, which provides that where a defendant possessed the intent to perform a criminal act at the time entry was granted, the victim's consent to that entry is vitiated because had the defendant's true, criminal intentions been known, the victim would not have allowed the entry. *People v. Bush*, 157 Ill. 2d 248, 253-54

(1993). On the other hand, if the entry is made with an innocent intent, in this case to discuss the impending divorce and visitation, his entry is authorized and his criminal action thereafter does not change the status of the entry (Bush, 157 Ill. 2d at 254).

¶ 15 The evidence at trial established that defendant was under a court order of protection to have no contact with Luz when he went to her apartment and fatally stabbed her more than 40 times. Although defendant was aware of the order of protection, he arrived there at 1 a.m., after drinking beer throughout the day, and asked if she would get rid of the order of protection. He admitted that she said, "no," and that they argued. Although there were no signs of forced entry, the "absence of physical signs of forced entry does not necessarily indicate that an entry was consented to." *People v. Simms*, 121 Ill. 2d 259, 270 (1988). Here, considering that defendant claimed he entered Luz's apartment at 1 a.m. to talk about the order of protection, which prohibited his very conduct, and about visitation, a matter he admitted had nothing to do with the order of protection, we believe that a rational trier of fact could have discounted the credibility of defendant's self-serving testimony that his entry into the apartment was consensual. *Simms*, 121 Ill. 2d at 270-71.

¶ 16 Moreover, despite the fact that the occupant may attempt to confer authority to enter the dwelling place, persons subject to a court order are not relieved from obeying it even with the consent of the protected party (*In re B.J.*, 268 Ill. App. 3d 449, 452 (1994)). Thus, even assuming, *arguendo*, that Luz invited defendant inside her apartment, defendant wilfully violated the order of protection to have no contact with Luz when he entered, and did not have authority to enter Luz's home. *People v. Priest*, 297 Ill. App. 3d 797, 800-01 (1998); *In re B.J.*, 268 Ill. App. 3d at 452; *People v. Howell*, 358 Ill. App. 3d 512, 518 (2005). Accordingly, the evidence was sufficient to establish the unauthorized entry element of home invasion.

¶ 17 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

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¶ 18 Affirmed.