

2011 ILL App (1st) 102435

FIRST DIVISION  
DATE 1/9/12

No. 1-10-2435

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 07 200 456
	)	
MARY BAKER,	)	The Honorable
	)	Marguerite Ann Quinn,
Defendant-Appellant.	)	Judge Presiding.

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

**ORDER**

- ¶ 1 *Held:* Battery conviction affirmed where the trial court could readily infer from the evidence that defendant acted with intent to cause bodily harm when she assaulted the victim.
- ¶ 2 Following a bench trial, defendant Mary Baker was convicted of battery, and sentenced to two days in jail. On appeal, she claims that the State failed to prove that she intended to cause bodily harm beyond a reasonable doubt.

¶ 3 Defendant was arrested and charged with the battery of Cleo Gowrylow based on an incident that occurred during the evening of September 25, 2007, at a cooperative (co-op) building association meeting. After she was found guilty of that offense, defendant filed a *pro se* motion to vacate and for a new trial. At the proceeding on the motion, the State informed the court that it agreed that a new trial should be granted with the understanding that a behavioral clinical examination (BCX) be conducted to determine if defendant is fit to stand trial. The court granted defendant's motion, and after the BCX, defendant was found fit and sane, and subsequently represented herself at the new trial.

¶ 4 The victim, Cleo Gowrylow, testified that she lived in the two-story residential building at 139-41 Ridge Avenue in Evanston. Gowrylow explained that there are two units on each floor, and each unit is separately owned. She and defendant occupied the first floor, and Dorita Clare and Olga Martinez had units on the second floor. The four co-op owners meet occasionally regarding the payment of the shared expenses of the building by the association.

¶ 5 At 6:30 p.m. on September 25, 2007, the unit owners held a co-op meeting near the first floor landing. The four owners were present along with Byron Watkins, who lives with Gowrylow. When they got to the topic of defendant's unpaid bills, defendant began screaming, and Martinez and Clare returned to their apartments. Watkins left the door of his apartment open while Gowrylow went up to Martinez' unit to show her the bills. Defendant followed Gowrylow, asking to see the bills, but Gowrylow refused, telling her that she had to show them to Martinez first. Gowrylow explained at trial that defendant had previously destroyed some of the records. Defendant insisted on having the documents, and began to hit Gowrylow telling her to let go of

them. Defendant hit Gowrylow in the face, and scratched her; however, Gowrylow did not let go of the records, and screamed for help. Martinez did not open her door, so Gowrylow knocked on Clare's door. When Clare opened her door, defendant hit Gowrylow in the face and she fell on Clare's shoulder. Clare screamed at defendant to go away, and she did.

¶ 6 Byron Watkins testified that he was at the meeting in question, and that Gowrylow and defendant were arguing in raised voices about who should preside over the meeting. While Gowrylow and defendant were so engaged, Martinez and Clare went back to their apartments. Watkins returned to his apartment, then heard defendant and Gowrylow going upstairs to the second floor, and knocking on one of the doors. He then heard Gowrylow raise her voice in alarm and cry out for help. At that time, Watkins went up three steps on the stairwell leading to the second floor. From there he could see defendant holding the file of documents that Gowrylow had brought to the meeting.

¶ 7 Watkins further testified that Gowrylow and defendant were struggling fairly intensely for possession of the documents. Watkins believed they might fall down the stairs, so he "started to make a move to go up the stairs to prevent that." At that time, Clare opened her door a foot wide, and Gowrylow "jerked" the documents away from defendant. She, in turn, punched Gowrylow in the face with her "fist." Gowrylow went inside Clare's apartment, and defendant followed her. Clare, however, ordered defendant to leave and she did. Shortly thereafter, Gowrylow returned to her apartment and Watkins noticed scratches on her forearms and chest. About a half hour later, he noticed a slight discoloration to her face.

¶ 8 Evanston police officer Ron Blumenberg testified that he responded to the incident in

question at 7:50 p.m. When he arrived, he noticed no injuries to defendant, but observed multiple scratches to Gowrylow's forearm and chest and minor swelling on her face. The officer stated that the photographs taken of Gowrylow's injuries accurately reflect what her injuries looked like on September 25, 2007. The officer further testified that the photographs defendant showed him of herself did not show any redness on her skin. Officer Blumenberg arrested defendant within 15 minutes of his arrival at the scene.

¶ 9 Olga Martinez testified that when defendant and Gowrylow started screaming at the September 25, 2007, co-op meeting, she left, and went inside her apartment. She did not see Gowrylow grab or place her hands on defendant.

¶ 10 Dorita Clare testified that prior to the co-op meeting in question, she decided that she would leave if defendant started shouting and acting "crazy." When defendant started to shout at the meeting, Clare and Martinez went to their respective apartments, and did not see Gowrylow grab defendant by the arms. Clare further testified that after she heard a loud noise at her door, she opened it, and saw Gowrylow and defendant "locked" and holding onto each other's hair. Clare told them not in her home, and pushed them out.

¶ 11 Gary Goldman testified that defendant had him go to her building, and tell her what parts of her he could see when she was on certain of the stairs going up to the second floor. Goldman stated that when he stood on the sixth step going up to the second floor, he could see the entire person on the landing above. Goldman also testified that when he was on the third step going up, he could see about half the person on the second floor landing.

¶ 12 Tony Concepcion testified that he has known defendant since 1997. Defendant told him

that Gowrylow had attacked and hit her. Concepcion noticed bruises on defendant the day after the incident. Defendant showed Concepcion some pictures of herself which he indicated showed the bruises on defendant.

¶ 13 Defendant testified that Gowrylow was not initially at the September 25, 2007, co-op meeting when they were discussing the money she had taken from the bank account for the building. About 15 minutes into the meeting, they were discussing damaged pipes in the building when Gowrylow came out of her apartment yelling. Gowrylow said they were not going to discuss the plumbing issue and defendant replied that they needed to do so because they had to talk to the plumber. Gowrylow began to curse and yell at her. Defendant explained that Gowrylow was upset because about a week before the meeting, the other members had voted defendant as bookkeeper, and they had been asking Gowrylow for the records that an attorney, Marshall Richter, had requested to verify based on Gowrylow's prior forgeries.

¶ 14 Defendant further testified that she realized that this was not going to continue as a building meeting and told Gowrylow she was going home. As defendant was walking down the stairs to her apartment, Gowrylow said, "you want the file so bad; you take it," then threw the file at defendant's knee. Defendant caught the file with her left hand, then gave it to Clare. Defendant could not get past Gowrylow to her door, so she ran upstairs to the second floor. Once there, Gowrylow grabbed her causing bruising, and defendant could not get away from her. Gowrylow's force swung defendant against the wall causing a loud noise. Clare then opened her door, and they went inside her apartment. Clare told them she did not want them in her apartment, but helped defendant try to pry Gowrylow's hands off of her. Gowrylow would not

let go, but Clare eventually got Gowrylow's hands off defendant, who told Gowrylow to just take the file, and walked out. Gowrylow followed her, hit her several times in the chest and knocked her up against the wall while Martinez watched from her open door. Defendant then called police, and went inside her apartment.

¶ 15 Defendant further testified that Watkins was not present during the incident. She also testified that attorney Richter should have been allowed to testify because he knew Gowrylow's motive to lie, and that Gowrylow had been physically abusive against her three times. The court reminded defendant that her testimony must only be on the incident which occurred on September 25, 2007.

¶ 16 At the close of evidence, the court found defendant guilty of battery. In doing so, the court noted that it found Gowrylow and Watkins "very, very credible," and that their testimony was consistent with the evidence that was presented at trial. The court also found that Watkins' testimony was corroborated by the defense witness who testified that one can be standing on the lower level stairs and still view what happens on the second floor. The court stated that Martinez and Clare were also "very credible," that their testimony "absolutely contradicted the Defendant's testimony," and further, that the officer's testimony was "very credible." The court noted that the scratches to the outside of the victim's forearms were defensive wounds, and that defendant tried to introduce inadmissible evidence. The court also determined that defendant was "not a credible witness. Nothing added up." The court believed defendant had "lied," and that was "probably a pattern, and has been a pattern throughout this entire investigation that the police conducted." The court then concluded that the evidence of defendant's guilt was

overwhelming.

¶ 17 On appeal, defendant contends that the evidence was insufficient to prove her guilty of battery beyond a reasonable doubt. She specifically maintains that the State failed to prove that she intended to cause bodily harm.

¶ 18 When defendant challenges the sufficiency of the evidence to sustain her conviction, our duty is to determine whether all of the evidence, direct and circumstantial, when viewed in the light most favorable to the prosecution, would cause a rational trier of fact to conclude that the essential elements of the offense have been proven beyond a reasonable doubt. *People v. Wiley*, 165 Ill. 2d 259, 297 (1995). A criminal conviction will be reversed only if the evidence is so unsatisfactory or improbable that it leaves a reasonable doubt of defendant's guilt. *Wiley*, 165 Ill. 2d at 297. For the reasons that follow, we do not find this to be such a case.

¶ 19 A person commits the offense of battery if she intentionally or knowingly, without legal justification, causes bodily harm to another. 720 ILCS 5/12-3 (West 2006). An essential element of the crime is that the conduct of the person who committed the battery be knowing or intentional, not accidental. *People v. Phillips*, 392 Ill. App. 3d 243, 258 (2009). A person acts with knowledge of the result of his conduct when she is consciously aware that such result is practically certain to be caused by her conduct. 720 ILCS 5/4-5(b) (West 2006). Where as here, defendant denies that intent, the State may prove it through circumstantial evidence, *e.g.*, an inference drawn from defendant's conduct surrounding the act and from the act itself. *Phillips*, 392 Ill. App. 3d at 259.

¶ 20 Here, defendant maintains that she only intended to obtain the financial records from

Gowrylow, not to cause bodily harm, and that any harm that resulted was accidental. The evidence, however, viewed in the light most favorable to the prosecution, *People v. Campbell*, 146 Ill. 2d 363, 374 (1992)), reveals that defendant's conduct prior to and surrounding the act showed that she was angry, and employed physical force. When the members of the co-op began to discuss defendant's unpaid bills at the September meeting, she started screaming. Then, when Gowrylow refused to allow defendant to see the bills in her possession based on her previous destruction of other records, and walked away, defendant followed her to Martinez' apartment.

¶ 21 Further evidence showed that while they were on the second floor, defendant struggled with Gowrylow for the documents, hitting her in the face and scratching her. Despite Gowrylow's scream for help, defendant punched her in the face with her fist. Defendant's conduct was clearly an intentional, rather than an inadvertent, act in trying to obtain the records. *Phillips*, 392 Ill. App. 3d at 259. Given the repeated physical struggles which followed, a rational trier of fact could have found that defendant increased the likelihood that Gowrylow would be injured and was consciously aware that her conduct was practically certain to cause bodily harm to her (*People v. Lattimore*, 2011 IL App (1st) 093238, ¶¶46, 60)), especially where she punched Gowrylow (*Phillips*, 392 Ill. App. 3d at 259). Moreover, that result was corroborated by the responding officer's testimony that the victim sustained scratches to her forearm and chest and minor swelling to her face.

¶ 22 Defendant notes, however, that Clare did not testify that she saw defendant punch Gowrylow, and maintains that it would defy reason for her to leave out this detail if it happened. Defendant claims that Clare's testimony was the only objective testimony and that Watkins'



testimony was biased in favor of Gowrylow. Defendant further maintains that a more plausible reading of the facts is that Gowrylow inadvertently banged her face into a wall or door during a mutual struggle with defendant over the documents.

¶ 23 We observe that Watkins testified that Clare had only opened her door about a foot when defendant punched Gowrylow in the face with her "fist." Gowrylow then went inside Clare's apartment, and defendant followed her in. Clare quite possibly did not see the punch as it happened when she only had her door open a foot. In addition, her testimony was directed at the struggle between defendant and Gowrylow as they came into her apartment.

¶ 24 Furthermore, we remind, that, in weighing the evidence, the trial court was not required to disregard the inferences which naturally flowed from the evidence, or to search out all possible explanations consistent with innocence and raise them to the level of a reasonable doubt. *People v. Moore*, 394 Ill. App. 3d 361, 364-65 (2009). The trial court was also not required to accept defendant's self-serving testimony (*People v. Moreira*, 378 Ill. App. 3d 120, 130 (2007)), over that of Watkins and Gowrylow.

¶ 25 Moreover, the argument raised by defendant relates to the credibility of the witnesses, a matter within the purview of the trier of fact. *People v. Berland*, 74 Ill. 2d 286, 305-06 (1978). The trial court here specifically found Watkins, Gowrylow and the officer credible, and defendant incredible, and the record before us provides no reason to second-guess that determination. *People v. Hernandez*, 278 Ill. App. 3d 545, 551, 553 (1996). In fact, defendant's testimony was inherently incredible where she testified that Clare helped her pry Gowrylow's hands off of her, but Clare testified that she simply pushed defendant and Gowrylow out of her

apartment; and where defendant testified that she sustained injuries, but the officer saw none.

*People v. Land*, 2011 IL App (1st) 101048, ¶101.

¶ 26 On this record, we conclude that the trial court could draw the reasonable inference that defendant was consciously aware that her conduct was practically certain to cause bodily harm, and her intent readily inferred from the anger she displayed in word and deed before the act (*Phillips*, 392 Ill. App. 3d at 259), her engagement of the struggle for the documents (*Rickman*, 73 Ill. App. 3d at 760), and from the evidence of her physical contact with Gowrylow (*Phillips*, 392 Ill. App. 3d at 259).

¶ 27 In light of the foregoing, we affirm the judgment of the circuit court of Cook County.

¶ 28 Affirmed.