2014 IL App (2d) 130088-U
No. 2-13-0088
Order filed October 20, 2014

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Winnebago County.
Plaintiff-Appellee,	)	
v.	)	No. 11-CF-1713
DAVID STALLWORTH,	)	Honorable Robert R. Wilt,
Defendant-Appellant.	)	Judge, Presiding.

PRESIDING JUSTICE BURKE delivered the judgment of the court.
Justices Hutchinson and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: Where the State proved beyond a reasonable doubt that defendant knowingly or intentionally caused the victim great bodily harm, and where the State proved beyond a reasonable doubt that defendant and his battery victim had a dating relationship, the victim qualified as a family or household member, and defendant's conviction of aggravated domestic battery was affirmed.

¶ 2 Following a jury trial, defendant, David Stallworth, was found guilty of aggravated domestic battery (720 ILCS 5/12-3.3 (West 2010)), and the trial court sentenced defendant to seven years' imprisonment. Defendant argues he was not proved guilty beyond a reasonable doubt of aggravated domestic battery because the State failed to prove that (1) he intentionally or

knowingly caused injury to the victim, Tonya Wade, and (2) alternatively, the victim was a family or household member. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Officer Oskaras Stundzia of the Rockford police department testified at trial that, at approximately 9:09 p.m., he and Officer Michael Fitzgerald responded to a 911 call at 1205 Broadway, Rockford, Illinois. Upon arrival, Stundzia saw Wade and defendant "exiting their upstairs apartment." He stated that Wade and defendant were coming out into the common hallway as the officers were coming up the stairs. Wade was visibly upset about her eye, which appeared to be swollen and bleeding. Fitzgerald escorted Wade outside and the officers called the fire department.

¶ 5 Stundzia stated that he spoke to defendant inside the apartment and asked what had happened to Wade's eye. Defendant told Stundzia that, "[s]ince they had no working TV in the apartment, before going to bed they would play fight to keep from being bored." While they were "play fighting," Wade suddenly ran out of the apartment for no apparent reason and, as she did so, she ran into the corner of the open bedroom door, hitting her face on the door.

¶ 6 Stundzia found no blood on the bedroom door or around the apartment. Stundzia testified that the only furniture in the apartment was a mattress. When Stundzia asked defendant why Wade would get up and run if they were just "play fighting," defendant replied that he had no idea why she ran. Defendant stated that "their play fighting never got serious enough for [Wade] to run from him for any reason." Defendant was calm and cooperative during the interview. Defendant told Stundzia that he and the victim had been dating for six months.

¶ 7 Fitzgerald testified that the victim was so upset about her eye that she could not tell him what had happened.

¶ 8 Thomas Brass, a Rockford fire department firefighter and paramedic, noted that, upon examination, Wade's left eye was significantly swollen and bloody. Brass stated that Wade told him that she had been "hit in the left eye with a fist." Wade also had told the other firefighters at the scene that she had been hit in the eye with a fist and they had relayed this information to Brass.

¶ 9 Dr. Anthony Niezynicki, the emergency room doctor who initially treated Wade, saw blood coming from the victim's eye. The eyeball was enlarged and popping out of the socket. He also stated that the victim told him she had been punched in the eye.

¶ 10 Dr. Eric Cuasay, a radiologist at the hospital where Wade initially had been transported, testified that his findings suggested direct trauma to the globe with rupture of the globe or eye.

¶ 11 Dr. Walters testified as an expert witness. He examined Wade later that night and opined that the injuries were consistent with being punched in the eye. She had swelling from near the eyebrow to close to the cheekbone. He explained that bruises manifest differently. If Wade had been struck by a door, her bruise would be demarcated, rather than generalized swelling. He also testified that Wade told him that she was punched in the eye. Walters diagnosed Wade as having a ruptured left globe and he believed that her injuries were consistent with being punched in the eye. Upon cross-examination, Walters testified that the eye injury could be consistent with a punch or another hard object hitting her eye.

¶ 12 At the close of the State's case, defendant requested leave to file a motion for a directed verdict. Following argument, the trial court denied the motion, finding that there was enough circumstantial evidence to continue the trial.

¶ 13 During closing argument, defense counsel stated: "[T]he State bears the burden of proving this case to you beyond a reasonable doubt. You must be convinced beyond a

reasonable doubt that [defendant] struck Tonya Wade and caused great bodily harm. [The State] ha[s] failed on every part of that except for showing Tonya Wade was a family or household member."

¶ 14 The jury subsequently found defendant guilty of aggravated domestic battery and he was thereafter sentenced to seven years in prison. Defendant's posttrial motions were denied. He timely appeals.

¶ 15 II. ANALYSIS

¶ 16 A. Sufficiency of Mental State Evidence

¶ 17 Defendant contends that the State failed to prove beyond a reasonable doubt that he intentionally or knowingly committed aggravated domestic battery. When faced with a challenge to the sufficiency of the evidence, it is not this court's function to retry the defendant. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). "The relevant question is whether, after viewing 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." (Emphasis in original.) *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

¶ 18 A person who commits aggravated domestic battery intentionally or knowingly causes great bodily harm, or permanent disability or disfigurement with a family or household member. 720 ILCS 5/12-3.2, 12-3.3 (West 2010). Every offense is comprised of both a voluntary act and a mental state. *People v. Martino*, 2012 IL App (2d) 101244, ¶ 13. For a battery offense, "the State must prove, as an essential element, that defendant's conduct was knowing or intentional, and not accidental." *People v. Phillips*, 392 Ill. App. 3d 243, 258 (2009). Defendant maintains that, at best, his conduct was "more indicative of recklessness," and the State failed to prove beyond a reasonable doubt that he acted "intentionally or knowingly."

¶ 19 Statutory law defines the terms at issue here: intentionally, knowingly, and recklessly. A person "acts intentionally" if the "conscious objective or purpose is to accomplish [the] result." 720 ILCS 5/4-4 (West 2010). A person "acts knowingly" if "he is consciously aware that his conduct is of such nature" that it is "practically certain" to cause the result proscribed by the offense. 720 ILCS 5/4–5(a), (b) (West 2010); *People v. Phillips*, 392 Ill. App. 3d 243, 258-259 (2009); *People v. Moore*, 358 Ill. App. 3d 683, 688 (2005); *People v. Psichalinos*, 229 Ill. App. 3d 1058, 1067 (1992). In contrast, a person "acts recklessly" if "he consciously disregards a substantial and unjustifiable risk that *** a result will follow." 720 ILCS 5/4-6 (West 2010). Recklessness is a " 'less culpable mental state' " than knowledge, and evidence of recklessness is insufficient to prove that a person acted knowingly. *People v. Fornear*, 176 Ill. 2d 523, 531 (1997) (quoting *People v. Spears*, 112 Ill. 2d 396, 408 (1986)).

¶ 20 Defendant maintains that nothing in the State's case indicated that he struck Wade in anger, or that their behavior involved any level of hostility. Defendant notes that he remained calm and cooperative when he was cuffed and interviewed by Stundzia, and there was no sign in the apartment of a struggle. He contends that no evidence contradicted his statement that the play fighting "got serious enough for [Wade] to need to run from him."

¶ 21 The trier of fact is responsible for determining a witness's credibility and the weight to be given to a witness's testimony, as well as drawing any reasonable inferences from the evidence. *People v. Jimerson*, 127 Ill. 2d 12, 43 (1989). Although all reasonable inferences in the record must be given in the prosecution's favor, unreasonable inferences will not be allowed. *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). The trier of fact is also in the best position to resolve any conflicting inferences produced by the evidence. *People v. McDonald*, 168 Ill. 2d 420, 447 (1995). Further, "the trier of fact is not required to disregard inferences that flow from the

evidence, nor is it required to search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt." *Id*.; see also *People v. Siguenza-Brito*, 235 Ill. 2d 213, 229 (2009) ("the trier of fact is not required to accept any possible explanation compatible with the defendant's innocence and elevate it to the status of reasonable doubt"). Additionally, the trier of fact's findings of credibility are given greater weight because it saw and heard the witnesses. *People v. Wheeler*, 226 Ill. 2d 92, 114-15 (2007). "The testimony of a single witness, if it is positive and the witness [is] credible is sufficient to convict." *People v. Smith*, 185 Ill. 2d 532, 541 (1999). Circumstantial evidence can sustain a conviction, "provided that such evidence satisfies proof beyond a reasonable doubt of the elements of the crime charged." *People v. Hall*, 194 Ill. 2d 305, 330 (2000). A defendant's conviction will not be reversed "simply because the evidence is contradictory [citation] or because the defendant claims that a witness was not credible." *Siguenza-Brito*, 235 Ill. 2d at 228.

¶ 22 Viewing the evidence in the light most favorable to the State, we conclude that a reasonable jury could have found that defendant acted knowingly or intentionally in causing the charged injury. Where a defendant denies intent, his or her intent may be proved through circumstantial evidence. *People v. Begay*, 377 Ill. App. 3d 417, 421 (2007). The defendant's intent may be inferred, for example, from his or her conduct surrounding the act and from the act itself. *Id*. at 421-22; see also *People v. Masterson*, 79 Ill. App. 2d 117, 127 (1967) (one is presumed to intend the natural and probable consequences of his or her actions). Here, the evidence shows that Wade told several witnesses that she had been punched in the eye. Her eye had swelling and bleeding, and several doctors who had examined Wade diagnosed that the injury resulted from direct trauma to the globe with rupture of the eye. Dr. Walters opined that the generalized bruising and swelling to the orbit of the eye was consistent with Wade's account

of being punched in the eye and inconsistent with defendant's statement that Wade's injury resulted from striking her face on the edge of the bedroom door while play fighting. Based on this evidence, the trier of fact could have reasonably discounted defendant's statement and determined that defendant was being untruthful.

¶ 23 Furthermore, merely because defendant appeared calm and cooperative and there were no signs of a struggle did not mean that defendant did not have the requisite mental state in committing the battery. Whether defendant acted knowingly, accidentally, or recklessly is a question of fact to be resolved by the jury. *People v. Cardamone*, 232 Ill. 2d 504, 517 (2009). Contrary to defendant's assertions, the evidence he relies on does not refute the evidence that the injury to Wade's eye was attributed to being punched by a fist. Additionally, the argument that the evidence supports the conclusion that defendant hit Wade by accident while play fighting is contradicted by defendant's statement to Stundzia that Wade inexplicably ran from the bedroom and struck her face on the edge of the bedroom door as she ran away. The injury was too serious to be the result of a play fighting accident. The jury was not required to disregard the inferences that flowed normally from the evidence indicating that defendant acted intentionally or knowingly to cause injury to Wade's eye by punching her. Based on the evidence, a reasonable jury could have determined that defendant knowingly or intentionally caused injury to Wade when he punched her in the eye with his fist.

¶ 24 B. Family or Household Member Evidence

¶ 25 Defendant next argues, in the alternative, that his aggravated domestic battery conviction should be reduced to simple battery because the State failed to prove beyond a reasonable doubt that he and Wade were "family or household members" within the meaning of the domestic

battery statute. He requests that we reduce his conviction to simple battery and order that his sentence has been fully served.

¶ 26 To be convicted of a domestic battery offense, the State had to prove that Wade was a "family or household member." See 720 5/12-3.2(a)(1) (West 2010). Section 112A-3 of the Code of Criminal Procedure of 1963 defines "family or household members" as follows:

> " 'Family or household members' include *** persons who share or formerly shared a common dwelling, *** [and] persons who have or have had a dating or engagement relationship ***. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship." 725 ILCS 5/112A-3(3) (West 2010).

¶ 27 Defendant contends that his statement to the police that he and Wade had been dating for six months prior to the incident was uncorroborated and thus insufficient to establish that he and Wade were "family or household members" as required by statute. Proof of *corpus delicti*—that a crime was committed and that it was committed by the person charged—cannot be proved by the defendant's confession alone. *People v. Dalton*, 91 Ill. 2d 22, 29 (1982); see *People v. Willingham*, 89 Ill. 2d 352, 360 (1982) (there must be either independent or corroborating evidence outside of defendant's confession to establish that a crime occurred). If there is such evidence, and that evidence tends to prove that the offense occurred, then that evidence, if it corroborates the facts contained in the defendant's confession, may be considered together with the confession to establish the *corpus delicti*. *Willingham*, 89 Ill. 2d at 361.

¶ 28 There are only two possible theories that would support a finding that Wade was a "family or household member" with defendant: (1) that he and Wade were "persons who have or

have had a dating *** relationship," or (2) that he and Wade were "persons who share or formerly shared a common dwelling." We first consider whether corroborating evidence was sufficient to establish that defendant and Wade were persons who have or have had a dating relationship. If the evidence was sufficient to establish a dating relationship, then we need not consider whether defendant and Wade were "persons who share or formerly shared a common dwelling."

¶ 29 This court has interpreted a "dating relationship" to be a "serious courtship." *Alison C. v. Westcott*, 343 Ill. App. 3d 648, 653 (2003). "[S]erious courtship" has been further interpreted to mean "an established relationship with a significant romantic focus." *People v. Young*, 362 Ill. App. 3d 843, 851 (2005).

¶ 30 In *Alison C.*, this court examined the definition of "dating relationship" in section 103(6) of the Illinois Domestic Violence Act of 1986 (750 ILCS 60/103(6) (West 2002)), which provided that " '[f]amily or household members' include *** persons who have or have had a dating or engagement relationship" but only if the relationship was "neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts." We found that the parties were not engaged in a "dating relationship." The parties, who attended the same high school, had only spoken on the phone one time and they went on only a single lunch date. *Alison C.*, 342 Ill. App. 3d at 653.

¶ 31 In *Young*, we addressed whether the domestic battery claim fell within the definition of "family or household member" within the meaning of section 112A-3(3). The victim testified that she had met the defendant at a homeless shelter and they had spent the night at the same homeless shelter on the evening before the incident. On the day of the incident, they had gone to

a bar to watch a football game. *Young*, 362 Ill. App. 3d at 845. That evening, when the defendant attacked her, he tried to kiss her. *Id.* at 846.

¶ 32 On appeal, we found that the evidence failed to establish that the two were in a dating relationship. We found that "evidence of a romantic element in the relationship is scant, and none of it suggests that such elements were a significant focus." *Id*. at 852. We noted that the only direct evidence of "romantically oriented behavior" was limited to the defendant's attempt to kiss the victim and that "[a]ny inference that the parties' relationship had been consummated because they spent the night together is wholly negated by the fact that the place they spent the night was a homeless shelter." *Id.* Significantly, we found direct evidence of an absence of a romantic, dating relationship because of the victim's choice of the word "social" to describe her relationship with the defendant. *Id*.

¶ 33 Also instructive is *People v. Irvine*, 379 Ill. App. 3d 116 (2008), in which the defendant argued on appeal that the evidence was insufficient to prove that he and the victim were "family or household members" who were involved in a "dating relationship" that was "more serious and intimate than casual" and came within the purview of the domestic battery statute. The court found that the relationship between the victim and the defendant qualified as a serious courtship because they dated for six weeks and continued to have sexual intercourse up to and including the date of their altercation. *Id.* at 118. The court found *Alison C.* and *Young* distinguishable, noting that "[i]n *Young*, the complaining witness denied the existence of a dating relationship but claimed a social relationship" and that "[i]n *Alison*, the parties went on one date." *Id*. at 125. However, in *Irvine*, because the parties spent six weeks in a dating and sexual relationship, the court found this qualified as a "serious courtship." *Id*.

¶ 34 In *People v. Taylor*, 381 Ill. App. 3d 251 (2008), the victim specifically testified that she and the defendant "were dating." She described her relationship with the defendant as more than platonic and revealed that she and the defendant had engaged in sex as recently as two days prior to the date in question. Both she and her daughter testified that they had been living at the defendant's house for approximately three weeks prior to the incident in question. The victim kept both clothes and medications at the defendant's house. She testified that she slept in the defendant's bed. The victim's daughter testified that she believed that her mother and the defendant were "going out" because she saw them hugging and kissing during the weeks they lived at the defendant's house. Accordingly, the Fifth District Appellate Court concluded that the evidence showed that the parties' relationship was neither a casual acquaintance nor ordinary fraternization, but a romantic relationship between two adults who were living in the same household. *Id*. at 257.

¶ 35 In the case at bar, we initially note that, during closing, defense counsel argued to the jury that the State failed to prove defendant committed the offense of aggravated domestic battery, "except for showing Tonya Wade was a family or household member." While this is not an admission by defendant, it certainly renders defendant's present appellate argument disingenuous at best.

¶ 36 Nevertheless, we find that the evidence was sufficient to establish that Wade and defendant were "persons who have or have had a dating *** relationship" within the meaning of section 112A-3(3) (725 ILCS 5/112A-3(3) (West 2010)). In addition to defendant's admission that he and Wade had been dating for six months, the State presented evidence that (1) defendant and Wade were playing in the bedroom the night of the incident; (2) that they often would "play fight" before going to bed to keep from being bored, and (3) the only furniture in the apartment

was a mattress. Six months of dating, coupled with the fact that defendant and Wade *often* "played" before going to sleep on a mattress, which was the only furniture in the apartment, supports the inference that defendant and Wade, at the very least, dated on a regular basis and were more than mere casual acquaintances. That another possible inference may be drawn from the facts does not compel reversal. *People v. Stewart*, 406 Ill. App. 3d 518, 525 (2010) ("The trier of fact is responsible for assessing the credibility of the witnesses, weighing the testimony, and drawing reasonable inferences from the evidence"). We will not substitute our judgment that of the trier of fact. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). When viewing the evidence in the light most favorable to the prosecution, the jury could have found that Wade and defendant were "persons who have or have had a dating *** relationship" and that therefore Wade was a "family member" for purposes of proving defendant's guilt beyond a reasonable doubt of aggravated domestic battery. Accordingly, we will not reduce defendant's conviction to the lesser-included offense of battery.

III. CONCLUSION

¶ 37 For the reasons stated, the judgment of the circuit court of Winnebago County is affirmed.

¶ 38 Affirmed.