

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (3d) 100896-U

Order filed July 10, 2012

IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,  
  
Plaintiff-Appellee,  
  
v.  
  
CHERRON COOLEY,  
  
Defendant-Appellant.

) Appeal from the Circuit Court  
) of the 9th Judicial Circuit,  
) Knox County, Illinois,  
)  
) Appeal No. 3-10-0896  
) Circuit No. 10-CF-28  
)  
) Honorable  
) James B. Stewart,  
) Judge, Presiding.

JUSTICE CARTER delivered the judgment of the court.  
Justices Lytton and O'Brien concurred in the judgment.

## ORDER

¶ 1 *Held:* The correctional officers' testimony presented at trial was sufficient to prove defendant guilty beyond a reasonable doubt of two counts of aggravated battery.

¶ 2 Following a bench trial, defendant, Cherron Cooley, was convicted of two counts of aggravated battery (720 ILCS 5/12-4(b)(18) (West 2008)) and sentenced to two concurrent terms of five years' imprisonment. Defendant appeals, arguing that the evidence was insufficient to prove him guilty beyond a reasonable doubt. We affirm.

¶ 3

## FACTS

¶ 4 On January 20, 2010, defendant was charged with two counts of aggravated battery.

Count I alleged that defendant made contact of an insulting or provoking nature with Sergeant John Frost, in that he threw toilet water in Frost's face, knowing Frost to be a correctional officer.

Count II alleged that defendant knowingly made contact of an insulting or provoking nature with Officer Brian Ledbetter, in that he spit in Ledbetter's face, knowing Ledbetter to be a correctional officer.

¶ 5 At the bench trial, the evidence established that on November 29, 2007, at Hill Correctional Center, Frost and Ledbetter moved defendant to a new cell. Defendant refused his initial cell assignment, so the officers put defendant in a holding cell before they found him a second cell in the segregation hallway.

¶ 6 The State called Ledbetter, who testified that he and Frost escorted defendant to his second new cell. Defendant was handcuffed behind his back, but did not have a lead chain attached. On the way, defendant asked if he would receive a disciplinary report for refusing his first cell. Ledbetter informed him that he would, and defendant requested to speak to a "white shirt," which referred to a lieutenant or a major. Ledbetter informed defendant that no one was available at the time. When the officers put defendant in his new cell, defendant refused to give up his restraints until he spoke with a white shirt. At this point, Ledbetter attached a lead chain to defendant's handcuffs, which was four or five feet long. Ledbetter testified that using a lead chain allowed the officers to direct an inmate to the cell door once it was closed in order to remove handcuffs.

¶ 7 Ledbetter testified that defendant's lead chain was placed through the chuckhole, which

was a small window with a flap in the cell door that was about 18 inches wide and 6 inches tall. When the cell door closed, Frost held onto the lead chain. Defendant then backed up to the door and placed his hands through the chuckhole. Once Ledbetter removed the handcuff from defendant's right hand, defendant spun around to face the door. Defendant started to tug on the lead chain and pulled Ledbetter's hands through the chuckhole. Ledbetter let go, but Frost was still holding the lead chain. Frost pulled back on the lead chain, and Ledbetter was able to get defendant's left hand through the chuckhole to remove the handcuff.

¶ 8 Defendant then reached for a styrofoam cup from inside the cell, dipped it into the toilet, and splashed water at an upward angle through the open chuckhole at Frost's face and chest. After defendant did this a second time, Frost pepper sprayed defendant. Defendant was placed in handcuffs, and Ledbetter testified that defendant walked out of the cell under his own power. Ledbetter and Officer Steve Miller escorted defendant to the showers so he could wash off the pepper spray. After defendant had been in the shower for 15 minutes, Ledbetter asked if defendant was doing okay, and defendant spit in his face. Ledbetter testified that Major Cane also observed the incident.

¶ 9 During cross-examination, the defense played a surveillance video of still-frame photographs from the segregation hallway of Hill Correctional Center. While watching the video, Ledbetter identified Frost and Miller in the video, but noted that it was hard to depict the people in the video.

¶ 10 Frost's testimony was similar to Ledbetter's, except Frost testified that defendant had a lead chain on his handcuffs while he was being escorted to his second cell. Frost testified that after Ledbetter uncuffed defendant's right hand, defendant pulled back on the lead chain and

placed his foot against the cell door for leverage. The struggle lasted about two seconds. After Ledbetter was able to get defendant's second handcuff off, Frost was standing about one foot from the cell door when defendant threw toilet water at him. The toilet in defendant's cell was within two to three feet from the cell door. After defendant threw water on Frost a second time, Frost pepper sprayed defendant to prevent him from throwing more toilet water. After spraying defendant, Frost ordered him to put handcuffs on. Defendant placed his hands behind his back, and Frost and Ledbetter reapplied defendant's handcuffs through the chuckhole.

¶ 11 The defense called Damien Winfield, an inmate whose cell was diagonal from defendant's second new cell. Winfield testified that he saw a correctional officer escort defendant to his new cell, and defendant's arms were handcuffed behind his back. Winfield had an unobstructed view of defendant's cell through the chuckhole in his cell. Winfield did not hear defendant refuse to remove his restraints, but saw Frost grab defendant's hands through the chuckhole. Thereafter, Winfield saw Frost pepper spray defendant and then close the chuckhole. Frost then called for a lieutenant, and Lieutenant Scott Bailey arrived shortly thereafter. Winfield testified that after defendant was removed from his cell, Bailey, Ledbetter, and Frost forced defendant to the ground. The officers hit defendant several times, and then escorted defendant to the showers. Winfield testified that the officers never removed defendant's restraints, and he did not see any water leave defendant's cell.

¶ 12 Defendant testified that after he was placed into his second cell, he requested to speak with a lieutenant, but Frost refused to call one. Defendant denied splashing water on Frost because his hands were restrained behind his back during the entire incident and there was nothing in his cell that would have allowed him to throw water. Defendant testified that after he

was pepper sprayed, Bailey arrived in the segregation hallway. Defendant also testified that in the showers, Ledbetter did come to check on him, but he did not spit on Ledbetter.

¶ 13 In rebuttal, the State called Bailey, who testified that he always wears a white shirt to work. Bailey also testified that the first time he saw defendant on the day of the incident was in the shower holding area, not in the segregation hallway.

¶ 14 After closing arguments, the trial court noted that it did not doubt that there was some truth to what defendant said regarding a dispute in his cell assignment. However, the court determined that the officers' testimony was credible, and found defendant guilty on both counts. Defendant was sentenced to two concurrent terms of five years' imprisonment. Defendant filed a motion for a new trial, which was denied by the trial court. Defendant appeals.

¶ 15 ANALYSIS

¶ 16 Defendant argues that the evidence was insufficient to prove him guilty beyond a reasonable doubt of two counts of aggravated battery. Specifically, defendant asserts that the only evidence against defendant was the incredible testimony of two correctional officers, which was contradicted by a surveillance video of still-frame photographs of the incident.

¶ 17 When defendant challenges the sufficiency of the evidence, we view the evidence in the light most favorable to the State and determine whether any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v. Jackson*, 232 Ill. 2d 246 (2009); *People v. Collins*, 106 Ill. 2d 237 (1985). It is not this court's function to retry a defendant who challenges the sufficiency of the evidence. *People v. Ross*, 229 Ill. 2d 255 (2008). The trier of fact remains responsible for making determinations regarding the credibility of witnesses, the weight to be given to their testimony, and the reasonable inferences to be drawn

from the evidence. *Id.* We will set aside a defendant's conviction only when we find the evidence was insufficient or so improbable or unsatisfactory that a reasonable doubt exists as to defendant's guilt. *Jackson*, 232 Ill. 2d 246.

¶ 18 To sustain a charge for aggravated battery, the State must prove that defendant knowingly made physical contact of an insulting or provoking nature to an individual that defendant knew to be an officer of the State of Illinois, and that officer was engaged in the performance of his authorized duties. In the present case, viewing the evidence in the light most favorable to the State, we find the officers' testimony was sufficient to prove defendant guilty beyond a reasonable doubt of two counts of aggravated battery. See *Collins*, 106 Ill. 2d 237.

¶ 19 The testimony of the officers was credible and generally consistent. Defendant argues that the officers' testimony was incredible because the surveillance video did not depict the struggle that occurred between defendant and the officers. We have reviewed the surveillance video and find it grainy and difficult to determine precisely what happened in each frame. There was also limited testimony at trial regarding what was depicted in the video. Moreover, the time stamp on the video indicated that each frame was taken at random intervals in time, making it difficult to determine what actually occurred in the segregation hallway. As such, we do not find persuasive defendant's claim that the video did not depict the struggle between defendant and the officers.

¶ 20 Additionally, the discrepancy between the testimony of Frost and Ledbetter regarding when the lead chain was placed on defendant does not raise a reasonable doubt of defendant's guilt, because both officers testified that defendant had a lead chain on his handcuffs when he struggled with the officers. Defendant further notes that the video depicts him being forced to

the ground, and Ledbetter testified that defendant walked out of the cell under his own power. However, we find that this discrepancy did not require the court to call into question the totality of Ledbetter's testimony regarding the incident. See *People v. Rodriguez*, 187 Ill. App. 3d 484 (1989).

¶ 21 Furthermore, the testimony of defendant and Winfield was not without discrepancies. Defendant and Winfield testified that Bailey was in the segregation hallway after the incident occurred; however, Bailey testified that he first made contact with defendant in the showers. Moreover, the trial court heard all the testimony. The trial court evaluated the witnesses' credibility and choose to believe the officers over defendant and Winfield. See *Ross*, 229 Ill. 2d 255. Although discrepancies existed, we cannot say the evidence was so unreasonable, improbable, or unsatisfactory that it created a reasonable doubt of defendant's guilt for aggravated battery. See *Jackson*, 232 Ill. 2d 246.

¶ 22 CONCLUSION

¶ 23 For the foregoing reasons, the judgment of the circuit court of Knox County is affirmed.

¶ 24 Affirmed.