2011 IL App (4th) 100512-U

Filed 12/22/11

NO. 4-10-0512

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Greene County
GARY G. GOFF,	)	No. 09CF99
Defendant-Appellant.	)	
	)	Honorable
	)	James W. Day,
	)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Justices Cook and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The State presented sufficient evidence to prove defendant guilty of aggravated battery beyond a reasonable doubt.

¶ 2 After a May 2010 bench trial, the trial court found defendant, Gary G. Goff, guilty of aggravated battery on a public way (720 ILCS 5/12-4(b)(8) (West 2008)). In June 2010, the trial court sentenced defendant to two years' imprisonment. Later in June 2010, defendant filed a posttrial motion alleging the State failed to prove defendant guilty beyond a reasonable doubt. The trial court denied the motion after hearing argument from both parties. Defendant appeals, arguing the State failed to prove beyond a reasonable doubt defendant was not acting in self-defense. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On August 29, 2009, defendant and his girlfriend, Michelle Turner, invited guests

into their home for dinner. Among the guests were the victim, Michael Feldman; his fiancée Wendy Freeman; Feldman and Freeman's two children; Turner's cousin, Jennifer Pritchett; and Jennifer Pritchett's husband, John Pritchett. Feldman was intoxicated when he arrived at defendant's home. Feldman was arguing with his fiancée, speaking loudly while using profane and vulgar language, and appeared aggravated. As a result of his continuing inappropriate behavior, Feldman was asked to leave. Feldman's mother, Danette, her friend Angela Powers, and Angela's boyfriend's dad, Arlus Day, all drove together to defendant's house to pick up Feldman.

¶ 5 John Pritchett walked Feldman to the street to wait for his ride. While waiting, Feldman wanted a cigarette, so John started walking back toward the apartment to get him one. Feldman followed John back to the house. As they were walking toward the apartment, defendant and Turner started walking toward John and Feldman in the street to warn Feldman to be quiet. The four met in the street and Feldman and defendant began arguing. Shortly thereafter, Feldman's mother arrived to pick him up. Feldman's mother got out of the car and walked over to where Feldman and defendant were arguing in the street.

¶ 6 The parties agree sometime during the argument defendant punched Feldman in the face, causing him to fall to the ground. However, of six witnesses, two testified defendant was the aggressor and punched Feldman without any physical provocation from Feldman. The other four witnesses testified Feldman was the first aggressor and Feldman attacked defendant before defendant ever hit Feldman. Defendant testified he hit Feldman because he feared Feldman would hit him again. He also testified he thought it was the only way to stop Feldman from "arguing and everything." Feldman died as a result of his injuries.

¶ 7 Following the incident, defendant was charged with aggravated battery and declined a jury trial. The trial court found defendant guilty. In doing so, it noted there were "obviously *** inconsistencies in testimony" and it was the "court's job to try to sort out the[se] inconsistencies." The court further emphasized it would not "highlight" any particular evidence in making its decision, in an effort to prevent either party from arguing the court relied too heavily on any one piece of evidence or disregarded other relevant evidence. The court concluded by reminding the parties "the facts [were] on the record and the court [had] considered all the evidence."

¶ 8 II. ANALYSIS

¶ 9 On appeal, defendant argues the State failed to prove beyond a reasonable doubt defendant was not acting in self-defense. " 'The standard of review for this issue is whether, taking all of the evidence in the light most favorable to the State, any rational trier of fact could have found beyond a reasonable doubt that defendant did not act in self-defense.' " *People v. Grayson*, 321 Ill. App. 3d 397, 402, 747 N.E.2d 460, 465 (2001) (quoting *People v. Lee*, 311 Ill. App. 3d 363, 367, 724 N.E.2d 557, 561 (2000)). The trier of fact is in the best position to judge the credibility of the witnesses and we must duly consider the trial court heard and saw the witnesses. *People v. Wheeler*, 226 Ill. 2d 92, 114-15, 871 N.E.2d 728, 740 (2007). Great weight must be given to the trier of fact's findings, and we will not retry defendant when considering the sufficiency of the evidence. *Wheeler*, 226 Ill. 2d at 114-15, 871 N.E.2d at 740.

¶ 10 Initially, defendant contends we cannot afford great deference to the trial court's finding of facts because it made none. More specifically, defendant asserts the trial court failed to state what witnesses it found credible or believable and failed to state why it was issuing its

judgment. We disagree.

¶ 11 The trial court noted it had "considered all the evidence" and was hesitant to make specific statements about particular pieces of evidence or testimony. The purpose was to prevent either party from arguing the court relied too heavily on any one piece of evidence or disregarded other relevant evidence. We find no error in this action. The trier of fact determines witness credibility, draws reasonable inferences from testimony, and resolves conflicts in the evidence. *People v. Dillard*, 319 Ill. App. 3d 102, 106, 745 N.E.2d 185, 189 (2001). The trier of fact is not required to provide, nor is the defendant entitled to receive, a detailed explanation of how the court weighed the evidence and came to its final judgment. This is not to say an explanation by the trial court should not be given–it is helpful both to the litigants and this court to know the trial court's rationale for its decision. Our consideration, however, is whether the State presented sufficient evidence to permit a rational trier of fact to find defendant guilty beyond a reasonable doubt. We conclude it did.

¶ 12 A person acts in self-defense when (1) the person is threatened with unlawful force; (2) the person threatened is not the aggressor; (3) the danger of harm is imminent; (4) the use of force is necessary; (5) the person threatened actually and subjectively believed a danger existed that required the use of force; and (6) the person threatened was objectively reasonable in his belief. *People v. Lee*, 213 Ill. 2d 218, 225, 821 N.E.2d 307, 311 (2004). The State has the burden to prove beyond a reasonable doubt defendant did not act in self-defense. *Dillard*, 319 Ill. App. 3d at 106, 745 N.E.2d at 188. However, the trier of fact has discretion to reject a self-defense claim based on the probability or improbability of defendant’s account, the circumstances of the crime, the testimony of the witnesses, and witness credibility. *Dillard*, 319

Ill. App. 3d at 106, 745 N.E.2d at 189.

¶ 13 For the trial court to reasonably reject defendant's self-defense claim, the State only needs to negate one element of the defense. *People v. Hawkins*, 296 Ill. App. 3d 830, 837, 696 N.E.2d 16, 21 (1998). The first and second elements of self-defense require that defendant (1) was threatened with unlawful force and (2) was not the aggressor. The parties presented conflicting testimony as to whether defendant was threatened with unlawful force. The State presented two witnesses who testified defendant was the initial aggressor and struck Feldman first. Defendant presented four witnesses, including himself, who testified Feldman was the initial aggressor and struck defendant first. As the trier of fact, the trial court heard the testimony of all the witnesses and was at liberty to determine what testimony was most credible. A rational trier of fact could have found defendant was the aggressor and was not threatened with unlawful force.

¶ 14 The third and fourth elements require (1) defendant was in danger of imminent harm and (2) the use of force was necessary. Defendant testified Feldman struck defendant two or three times and hit Turner in the throat. He also testified he feared Feldman would strike him and Turner again, and it was the only way to get Feldman to stop arguing. However, Turner testified Feldman had gone down the street and defendant started walking down there to tell Feldman to "shut up; that he was embarrassing [them] [and] he could get [them] evicted." Further, one witness testified defendant charged Feldman and hit him, and another testified Feldman was walking away from defendant when defendant struck Feldman. Based upon the conflicting testimony, a rational trier of fact could have found defendant was not in imminent danger of harm and the use of force was not necessary.

¶ 15 The final elements of self-defense require defendant actually and subjectively believed (1) a danger existed that required the use of force and (2) defendant's belief was objectively reasonable. Defendant relies on the same testimony outlined above in arguing he reasonably believed the use of force was necessary and objectively reasonable. The State presented evidence defendant could not have actually believed he was in danger, and even if he did, such a belief was not objectively reasonable.

¶ 16 The State's evidence consisted of Feldman's size, intoxication level, and testimony of Feldman's retreat from the argument. The State argued, and testimony supported, Feldman was considerably smaller in height and weight than both defendant and his girlfriend. Defendant was six feet tall and weighed 225 pounds. Turner weighed approximately 218 pounds. She testified Feldman probably weighed around 150 to 160 pounds and was about five feet, six inches or five feet, seven inches tall. Further, at the time of the incident Feldman's blood-alcohol content was over 0.20 and the alcohol interpretation report noted this level of intoxication would include "disturbances of equilibrium and coordination; retardation of the thought processes and clouding of consciousness." Finally, two witnesses testified the victim was walking away from defendant when defendant charged Feldman and struck him. A rational trier of fact could reasonably have found defendant did not actually and subjectively, or with reasonable objectivity, believe the use of force was necessary from the evidence and testimony presented.

¶ 17 We conclude the evidence was sufficient for a rational trier of fact to find defendant was not acting in self-defense. We find defendant was proved guilty of aggravated battery beyond a reasonable doubt.

¶ 18 III. CONCLUSION

¶ 19 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its $50 statutory assessment against defendant as costs of this appeal.

¶ 20 Affirmed.