2024 IL App (4th) 230403-U

NO. 4-23-0403

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
June 18, 2024
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Winnebago County
LESLIE ROLFE,	)	No. 21CM1174
Defendant-Appellant.	)	
	)	Honorable
	)	Tamika R. Walker,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Lannerd and Turner concurred in the judgment.

ORDER

¶ 1 *Held*: (1) Defendant has not met his burden of proving his claim his disorderly-conduct convictions violate his right to free speech.

(2) The evidence is sufficient to support defendant's convictions.

¶ 2 In March 2023, a jury found defendant, Leslie Rolfe, guilty of five counts of disorderly conduct (720 ILCS 5/26-1(a)(1) (West 2020)). He was sentenced to concurrent terms of 24 months' conditional discharge. Defendant appeals, arguing (1) his convictions must be vacated as they punish him for engaging in protected speech on a public sidewalk near city hall and (2) the evidence was insufficient to sustain his convictions. We affirm.

¶ 3 I. BACKGROUND

¶ 4 This appeal stems from a June 4, 2021, interaction between defendant, who was protesting and seeking racial justice, and city employees, who were removing "memorials" or

"posters" from utility poles near city hall. We note defendant's appellant brief identifies defendant as a nonviolent protestor and member of an activist group opposing police brutality and government misconduct in Winnebago County. Defendant's brief further describes the "at least nine criminal cases against him" and alleges these cases are attempts by the government to silence him. This case is a direct appeal from a conviction of five counts of disorderly conduct (*id.*). We will consider the facts relevant to those convictions. Defendant has provided no authority giving this court jurisdiction to consider whether the cumulative criminal suits against him are part of an ongoing effort to keep him from protesting on public property. The facts of the other criminal cases against defendant are, therefore, not relevant to whether defendant's convictions here violate his constitutional right to free speech or lack support by the evidence.

¶ 5 At defendant's trial, the State called five city employees to testify. The first to do so was Stephanie Peavy, a code-enforcement officer with the City of Rockford. Peavy testified she enforced city administrative ordinances. According to Peavy, on June 4, 2021, her shift began at 7 a.m. As directed by management, Peavy began the day by removing memorials from utility poles in the area. She worked that day with Amy Sommerfield and Melissa Masso, going in one direction, while Jessica Anderson, Kyle Saunders, and later Brandon Kruse worked in another area. In the previous few months, this task had been done fairly frequently, at least weekly. Peavy's common work area was near city hall.

¶ 6 Peavy testified it was a common occurrence to see defendant. On June 4, 2021, defendant approached the three yelling profanities and racial slurs. He was also blowing the siren on his bullhorn. Defendant came "[w]ithin a couple feet" of the group. Defendant called the three "Ku Klux Klan members" and racist city workers. The three continued cleaning and completed the task. They attempted to hurry, as defendant was harassing them. Peavy testified "[t]he

[bull]horn was rather loud." She stated she was not issued hearing protection for removing posters from a pole. The siren was "[a]bsolutely" close enough to hurt her ears. Peavy stated they reported the incident to the police via e-mail. Peavy did so because this "felt like this was kind of an escalated event." It was common for the workers to be recorded while they were out there and to hear the things they said, but "[t]he siren was new." The situation "just seemed a little different this time."

¶ 7 On cross-examination, Peavy acknowledged defendant did not physically harm her, touch her, or threaten her. When asked if he said anything to her personally, Peavy said he called the group names. Peavy believed the bullhorn noise was loud enough to cause hearing damage.

¶ 8 On redirect examination, Peavy testified defendant "was using a siren and a bullhorn" and "was shouting" at her. Being in a group made her feel more secure.

¶ 9 Amy Sommerfield, in June 2021, worked as a code-enforcement officer with the City of Rockford. Sommerfield testified, on June 4, 2021, she was assigned to clean up the area near city hall. The workers went to remove "taped-on paperwork, photos and other items that were taped and attached to many of the light posts and sign posts" in the area near city hall. Sommerfield had done this approximately four other times. Sommerfield went out with Peavy and Masso that day. The three exited in the alley and headed from Walnut Street to the corner of First Street and State Street. They worked along State Street toward city hall. As they were walking along First Street, approaching State Street, Sommerfield "could hear one or two of the protestors" and a bullhorn. Sommerfield saw defendant holding the bullhorn. She knew him to be someone "in front of city hall quite a bit protesting." She would see him daily as she entered and exited city hall. Defendant "would switch between turning on the siren in the bullhorn and then

turning the siren off and talking, yelling into the bullhorn." Defendant's conduct was directed at Sommerfield, Peavy, and Masso. At times, defendant was "standing right next to us with a bullhorn basically in our—aimed at our heads." When he was right next to them, the siren was on and he talked into the bullhorn.

¶ 10 Sommerfield testified defendant "basically follow[ed] us[,] so most of the time [he was] a couple of steps behind us." When the trio "stopped, he'd come right up next to us about three steps behind." Defendant followed them the full block between First and Second Streets. That entire time, defendant alternated from using the siren to shouting through the bullhorn. Sommerfield was worried about her well-being, as she suffered headaches and, at times, migraines. When asked if she was worried about her hearing, Sommerfield testified, "Yes. Part of it, yes I was."

¶ 11 On cross-examination, Sommerfield testified the items removed from the light poles "were pictures, paperwork, tape, sometimes stuffed animals and balloons." Sommerfield stated she knew the items did not belong there and needed to be removed. She could not remember if she got a headache that day after interacting with defendant. Defendant did not touch Sommerfield. When asked if defendant threatened her, Sommerfield testified she "felt threatened." The incident occurred on sidewalks. Sommerfield did not call the police.

¶ 12 Melissa Masso, a secretary in the property standards building department with the City of Rockford, testified she helped with inspections and other jobs with the code-enforcement division. On June 4, 2021, Masso was asked to help remove pictures and memorials with other code-enforcement personnel. Masso had done this work probably three or four other times. They were asked to remove the posters weekly or every other week if there was going to be a parade or special occasion in downtown Rockford.

¶ 13 Masso had seen defendant outside city hall in front of the office windows. On June 4, 2021, the trio came into contact with defendant at the corner of State Street and North First Street. Masso testified defendant's bullhorn sounded like a loud siren. He was shouting into the bullhorn. Masso did not recall the words he was shouting. Masso was scared by "[t]he way he was coming at us, the way he was shouting at us and just very threatening." Defendant was "right at [her] shoulder." The three continued to clean. Defendant followed them "[t]he entire time." Masso testified the police department was notified. Each person typed up their testimony and submitted it to the police. Masso testified she needed to report the incident, as "it felt very threatening." When asked if defendant said anything to her, Masso testified, "He specifically said something to me in regards to being a mother at one point and made me feel very upset."

¶ 14 On cross-examination, Masso testified defendant did not touch her. Masso testified regarding the comment defendant directed at her:

> "Q. You did testify on direct examination that you remember him saying something about you being a mother but you don't remember when he said, though, do you?
>
> A. I remember.
>
> Q. What did he say?
>
> A. He basically asked me what I would do if that was my son or daughter laying on the ground murdered.
>
> Q. But that wasn't about you, was it?
>
> A. I felt like it was towards me, yes."

Masso testified they were removing memorials around city hall. Masso agreed defendant was with the group for around 15 to 20 minutes. The group did not call 9-1-1.

¶ 15 Brandon Kruse, the construction services coordinator for the City of Rockford, testified he met with his coworkers "to remove the posters that were all over the light posts scattered around city hall location." Kruse had performed this task approximately five or six times. Kruse had seen defendant approximately 30 times before that day, while entering and exiting city hall. Kruse testified he went with Masso, Peavy, and Sommerfield. At North First Street and State Street, defendant approached. Defendant "had a [bull]horn that was making loud noises." Defendant came "within five feet" of the city workers. The group tore down posters on both sides of State Street and Second Street. Defendant was "blowing the siren on the bullhorn and then he was also screaming into the microphone a bunch of different slogans and a variety of different things at us." The bullhorn was pointed at the workers. The sound "was very loud," making Kruse feel "very intimidated, a little bit scared." Kruse believed the confrontation lasted 5 to 10 minutes.

¶ 16 Kruse testified when they arrived at South Second Street and East State Street, there were other protesters there. Saunders and Anderson were on the other side of the street. Kruse admitted it was possible he was late that day and was not "immediately with the rest of the group."

¶ 17 On cross-examination, Kruse testified there was only one person with a bullhorn screaming at the group. Defendant did not touch him.

¶ 18 On redirect examination, Kruse testified he did not recall the words defendant said. Kruse acknowledged the group may have started the process of tearing down the memorials without him. He did not see the entire interaction of defendant with the workers.

¶ 19 Jessica Anderson, supervisor of code enforcement, testified her department "clean[s] up and enforce[s] our ordinances." They were removing posters that were placed on the

light poles within a two-block radius of city hall. Anderson did not make the decision to remove the posters. Anderson and Saunders, the public works director, worked with her that day, while Peavy, Sommerfield, Kruse, and Masso went in a different direction.

¶ 20 According to Anderson, defendant had been outside city hall "at that point for several months." Anderson had removed posters approximately 10 to 12 times. Anderson first saw defendant that day when he was in front of city hall. When Anderson was at the corner of South Second Street and State Street, Anderson saw defendant "maybe like a half block northwest on State Street." At that time, defendant was holding a "megaphone," and he was screaming,yelling, and playing a siren. Near him were Masso, Peavy, and maybe Kruse. Anderson said defendant was "[n]ext to them," "[p]laying his siren and yelling at us through it." The six met up at the intersection of South Second Street and East State Street. At that time, defendant was "[s]creaming, yelling and playing the siren next to us and following us as we were trying to walk and continued clearing down the posters and walking back into city hall." Anderson said defendant "was probably like three, four feet behind me" while "playing the siren and shouting through the megaphone." Anderson believed defendant's behavior lasted "probably *** five to ten minutes." When asked if this time was different than the 10 to 12 other times Anderson removed the posters, Anderson testified, "From our prior interactions with him, he seemed very agitated, screaming more. More detailed bringing up kids. He was just more agitated than he was in previous interactions with him." Anderson stated her "fear was definitely heightened just because it was escalated more than his typical behavior in the past."

¶ 21 Anderson testified the reason the group went out together was to remove the posters before the rest of the city hall staff arrived. They began work around 7 a.m. Anderson reported the incident to her supervisors and director, as well as to the police.

¶ 22 On cross-examination, Anderson testified they were removing posters. She did not believe they were memorials to anything or anyone. Anderson agreed defendant did not physically harm her or touch her. Anderson was alarmed by what defendant said, but she did not understand "it to be a threat."

> "Q. Because [defendant] didn't say anything to you specifically; right?
>
> A. He was aiming it in my direction. I'm not sure who it was towards.
>
> Q. Towards the group?
>
> A. And previous he has brought up my kids so when he was talking about kids, yes, I did take that—."

Anderson did not call 9-1-1.

¶ 23 Defendant testified on his own behalf. On June 4, 2021, defendant, who considered himself a "protestor," was sitting outside city hall and noticed the memorials in the area were being removed. Defendant knew, based on the wardrobe, city workers were removing the memorials. Defendant grabbed his phone and started to live stream on Facebook. Defendant grabbed a megaphone and headed toward the memorials, narrating his efforts for the live-stream viewers. Defendant spoke into the megaphone, stating Rockford government employees were removing the memorials. Defendant intermittently changed between using the siren function on the megaphone and using the talk function, as both could not be used at the same time. As defendant arrived at the memorials, he would begin filming, showing the light pole and "what was going on." He estimated he was "three to ten feet" away, in constant motion. Defendant explained he used the megaphone to draw attention to the government employees' actions.

¶ 24 When defense counsel asked where he was when he first saw the workers removing the memorials, defendant testified as follows:

> "I don't remember the exact street, exact locations, but they were—the light pole memorial was right here. I was down here by city hall. I began to walk towards them filming, speaking. I approached the first memorial. Once the first memorial was cut and taken down, they moved to the next memorial so I would walk to the next memorial. A lot of times I would try to walk to the next memorial before they got there so that people could see the picture that was there before it was taken down."

¶ 25 Defendant stated he intended to stand next to the memorials, as he wanted people to see them and to see how he felt as they were being removed. Defendant stated this all occurred in approximately five minutes. Defendant did not threaten anyone or touch anyone.

¶ 26 On cross-examination, defendant acknowledged he testified he was between 3 and 10 feet of the city workers. During that time, he was "[t]alking and changing it to the siren." Defendant denied pointing the megaphone at the workers, but he acknowledged his actions could have been interpreted that way:

> "The megaphone wasn't being pointed towards somebody as if I'm speaking into the megaphone and this is the person and I'm trying to get the megaphone to be put into their ear. I'm holding the megaphone and I'm talking where we're about all the same height. Some of them are shorter than me so I could understand how that could be misinterpreted, but I was not holding the megaphone

yelling in their ears."

Defendant acknowledged the workers "were in the line of the audio of the megaphone." Defendant stated the megaphone was not at full volume.

¶ 27 The jury found defendant guilty. At sentencing, the State requested orders barring defendant from having contact with Rockford City Market for certain periods of time and from Rockford City Hall between 9 a.m. and 5 p.m. daily. The State suggested 24 months' probation. The trial court denied the State's request for the no-contact provisions, finding defendant "should have the freedom of movement." The court found probation inappropriate upon concluding there were "no conditions that need to be monitored." The court sentenced defendant to 24 months' conditional discharge and fined him $150, plus the minimum court assessment of $439. The court ordered defendant have "no unlawful contact" with Anderson, Sommerfield, Peavy, Masso, and Cruz and no unlawful contact with City Market and City Hall. This appeal followed.

¶ 28 II. ANALYSIS

¶ 29 A. First Amendment

¶ 30 Defendant contends we must vacate his convictions, as they punish him for protected speech on a public sidewalk and, therefore, violate the first amendment's speech protections. See U.S. Const., amend. I. Defendant's argument regarding the first amendment summarizes his speech and conduct on that day as merely a "choice of words" protected by the first amendment. In support of this contention, defendant cites multiple cases establishing the first amendment protects various types of speech, including vulgar or inflammatory language: *Watts v. United States*, 394 U.S. 705, 708 (1969) (a threat to shoot the president as part of political hyperbole); *Cohen v. California*, 403 U.S. 15, 16, 20 (1971) ("F*** the Draft" on a jacket); and *Snyder v. Phelps*, 562 U.S. 443, 459 (2011) (peaceful picketing with inflammatory

language on signs at soldiers' funerals).

¶ 31 In contrast, the State rejects the contention defendant is being punished based on the content of the words alone, but because defendant "ran the siren on a very loud bullhorn while aiming it at people's faces, following them ***, and yelling at close range." The State emphasizes the trial court's conclusion, when denying defendant's motion in arrest of judgment, defendant's convictions were not based on words alone.

¶ 32 Under the first amendment, Congress may not enact laws abridging the freedom of speech. *People v. Relerford*, 2017 IL 121094, ¶ 31, 104 N.E.3d 341. This first-amendment right to free speech "is a fundamental right protected from invasion by the state by the fourteenth amendment [(U.S. Const., amend. XIV)]." *People v. Redwood*, 335 Ill. App. 3d 189, 192, 780 N.E.2d 760, 762 (2002). The government thus lacks authority to hinder expression based on its ideas, message, subject matter, or content. *Relerford*, 2017 IL 121094, ¶ 31. However, the right to freedom of speech is not "absolute at all times and under all circumstances." *Chaplinsky v. New Hampshire*, 315 U.S. 568, 571 (1942).

¶ 33 As both parties agree, the question of whether a statute as applied to defendant's circumstances violates the first amendment is a legal question this court reviews *de novo*. See generally *People v. Swenson*, 2020 IL 124688, ¶ 19, 181 N.E.3d 116. That is where the agreement ends, however, as the parties disagree on who bears the burden of proving or disproving the governmental action unconstitutionally limited free speech. Defendant contends the burden is on the State to prove his right to free speech was not violated. In support of this contention, defendant largely relies on *United States v. Playboy Entertainment Group, Inc.*, 529 U.S. 803, 816 (2000) (*Playboy*) as establishing, "[w]hen the Government restricts speech, the Government bears the burden of proving the constitutionality of its action."

¶ 34 We disagree with defendant's contention the State bears the burden of proving his freedom of speech was not violated. The case upon which defendant relies, *Playboy*, is distinguishable. In *Playboy*, the governmental action at issue was a federal regulation that limited sexually oriented programming, a "content-based speech restriction." See *id.* at 806, 827. In his appeal, defendant does not assert a facial challenge to a governmental content-based speech restriction, *i.e.*, the governmental ordinance itself is invalid. Defendant, instead, raises an as-applied challenge, arguing the circumstances surrounding his convictions for disorderly conduct show those convictions, as applied to him, violate the first amendment. Defendant is protesting " 'against how an enactment was applied in the particular context in which the [party] acted or proposed to act, and the facts surrounding the [party's] particular circumstances become relevant.' " *Swenson*, 2020 IL 124688, ¶ 19 (quoting *Napleton v. Village of Hinsdale*, 229 Ill. 2d 296, 306, 891 N.E.2d 839, 845-46 (2008)). When asserting an as-applied challenge under the first amendment, that party bears the burden of showing the statutes underlying his convictions were unconstitutionally applied to him. See *People v. Rollins*, 2021 IL App (2d) 181040, ¶¶ 15, 55-58, 183 N.E.3d 997 (finding the defendant, who raised an as-applied challenge to his convictions, failed to prove his convictions for child photography by a sex offender violated his first-amendment right to free speech). As such, defendant carries the burden of establishing his convictions violate his right to free speech.

¶ 35 Defendant has not, however, met this burden. Defendant's first-amendment-based argument is founded on his characterization of his conduct as only words. Defendant's case law is not on point. Defendant's cases involve facial challenges, rather than as-applied challenges, to governmental regulations or rules limiting protected speech (see, *e.g.*, *Packingham v. North Carolina*, 582 U.S. 98, 107 (2017); *Playboy*, 529 U.S. at 806, 827; *Relerford*, 2017 IL 121094,

¶¶ 48, 50, 63; *People v. Jones*, 188 Ill. 2d 352, 363-64, 721 N.E.2d 546, 553 (1999)) or cases in which the defendants were convicted based solely on the content of the message (see, *e.g.*, *Cohen*, 403 U.S. at 15, 16, 20; *Watts*, 394 U.S. at 708).

¶ 36 While we agree the disorderly conduct statute "cannot criminalize protected speech" (*Swenson*, 2020 IL 124688, ¶ 21), defendant has not proved his disorderly conduct convictions are based on only "protected speech." We agree the content of defendant's statements were protected. Despite defendant's repeated characterization of his conduct as only words, defendant's choice of words is not the issue. Defendant's conviction is based on more than words. It was his conduct of shouting into a bullhorn and blaring the bullhorn's siren as close as three feet from government employees and continuing the conduct while following those employees. Defendant has cited no case law showing the first amendment protects him from prosecution for that conduct.

¶ 37 Defendant has, therefore, not met his burden of proving his convictions violate the first amendment's protection of free speech.

¶ 38 We note the last paragraph of defendant's first-amendment-based argument, in which he raises an issue regarding the lack of an instruction on protected speech: "even if this Court feels that a portion of [defendant's] conduct in this case is not protected, the jury was not instructed to disregard the protected speech and certainly considered it in convicting him." Defendant, in violation of court rules mandating appellant briefs contain citations to authorities, cites none and develops no argument showing the jury was not permitted to consider the words shouted through the bullhorn at the government employees when considering the charges against defendant. This argument is forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) ("Points not argued are forfeited.").

¶ 39 B. Sufficiency of the Evidence

¶ 40 Defendant next argues the evidence was insufficient to prove him guilty of disorderly conduct beyond a reasonable doubt. Defendant argues, "making loud noises in a public place for a few minutes simply is not sufficient to sustain a disorderly conduct conviction." Defendant emphasizes he did not threaten anyone, and there was no evidence of a group response to be construed as a breach of the peace.

¶ 41 On a challenge to the sufficiency of the evidence to support a criminal conviction, we consider the evidence "in the light most favorable to the prosecution" and decide whether "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *People v. Ward*, 215 Ill. 2d 317, 322, 830 N.E.2d 556, 559 (2005). In this process, we consider the record as a whole and not simply the evidence supporting the State's theory of the case. See *People v. Wheeler,* 226 Ill. 2d 92, 117-18, 871 N.E.2d 728, 742 (2007). We will not retry a defendant; "[t]he trier of fact is best equipped to judge the credibility of witnesses, and due consideration must be given to the fact that it was the trial court and jury that saw and heard the witnesses." *Id.* at 114-15.

¶ 42 Under section 26-1(a)(1) of the Criminal Code of 2012, one commits disorderly conduct "when he or she knowingly *** [d]oes any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace." 720 ILCS 5/26-1(a)(1) (West 2020). To convict defendant, a jury had to find beyond a reasonable doubt "defendant knowingly engaged in conduct that (1) was unreasonable, (2) alarmed or disturbed another, and (3) provoked a breach of the peace." *People v. McLennon,* 2011 IL App (2d) 091299, ¶ 29, 957 N.E.2d 1241.

¶ 43 "Disorderly conduct is loosely defined." *Id.* ¶ 30. "The offense embraces a wide variety of conduct serving to destroy or menace the public order and tranquility." *In re B.C.*, 176

Ill. 2d 536, 552, 680 N.E.2d 1355, 1363 (1997). The inquiry into whether one's conduct is disorderly is highly fact specific. *McLennon*, 2011 IL App (2d) 091299, ¶ 30. The question of whether there has been a breach of the peace or whether the defendant's conduct was reasonable "is determined by a defendant's conduct in relation to the surrounding circumstances." *Id.* ¶ 32.

¶ 44 Viewing the evidence in the light most favorable to the prosecution, we find the evidence sufficient for a rational trier of fact to find the elements proved beyond a reasonable doubt. Contrary to defendant's bare contention, no evidence of a group or public response is necessary to provoke a breach of the peace. See *People v. Davis*, 82 Ill. 2d 534, 538, 413 N.E.2d 413, 415 (1980) (affirming a disorderly conduct conviction after finding a breach of the peace occurred when two women were compelled to hear an indirect threat). The Illinois Supreme Court has held, "A breach of the peace may as easily occur between two persons fighting in a deserted alleyway as it can on a crowded public street." *Id.* In addition, the fact defendant did not directly threaten the government workers does not undermine his convictions, as direct threats are unnecessary. See *McLennon*, 2011 IL App (2d) 091299, ¶ 30.

¶ 45 Here, viewed in the light most favorable to the State, the evidence shows defendant engaged in unreasonable conduct that alarmed or disturbed the city workers and provoked a breach of the peace. *Id.* ¶ 29. The testimony of the workers, as well as defendant, establishes defendant used a bullhorn near them. Defendant admitted being as close as three feet from the workers while using the bullhorn and blaring the siren. The workers testified defendant's yelling into the bullhorn and the siren were loud enough to cause hearing damage, and they felt threatened and scared. The testimony further establishes defendant followed or entered their pathways to continue this conduct. Any rational jury could have found the elements of disorderly conduct proved beyond a reasonable doubt.

¶ 46 Defendant's case law is distinguishable. For example, defendant cites *City of Chicago v. Wender*, 46 Ill. 2d 20, 23-24, 262 N.E.2d 470, 472 (1970), as showing "the decibel level of the utterance" is not "determinative." The actual language in *Wender*, however, states "it is not the decibel level of the utterance or the type of conduct *alone* that is determinative." (Emphasis added.) *Id.* Here, the decibel level of defendant's words is not the lone issue. In *People v. Bradshaw*, 116 Ill. App. 3d 421, 422, 452 N.E.2d 141, 142 (1983), the testimony established the yelling that was insufficient to support a disorderly conduct conviction occurred outside of a bar, not through a bullhorn with a siren three feet from the intended targets. In *People v. Kellstedt*, 29 Ill. App. 3d 83, 84, 329 N.E.2d 830, 831 (1975), there is, again, no evidence of a bullhorn or a siren or of the complainant being followed, just "abusive language in a loud voice" on a public street. Similarly, in *People v. Douglas*, 29 Ill. App. 3d 738, 740, 331 N.E.2d 359, 361-62 (1975), the evidence held to be insufficient to support a disorderly conduct conviction showed the defendant screaming at officers for being on his property and people 100 feet away observing the screaming.

¶ 47 We further note defendant, in his reply brief, states "there is zero evidence that [defendant] played loud noises directly into the employees' ears and faces." Defendant is incorrect. Even defendant acknowledged in his testimony the bullhorn could have been perceived as pointed at the employees' heads.

¶ 48 Last, we note defendant's request this court put an end to the political prosecutions by reversing his convictions in this case. The first amendment protects the content of a defendant's speech but not every means by which to project that speech. As the trial court noted at sentencing, defendant is a citizen of the city and state and "should be able to protest as he deems appropriate but that protest cannot break the law."

¶ 49 III. CONCLUSION

¶ 50 We affirm the trial court's judgment.

¶ 51 Affirmed.