2025 IL App (3d) 240604

Opinion filed November 4, 2025

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2025

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. JACOB M. BEAN, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County. Appeal No. 3-24-0604 Circuit No. 22-CF-854 Honorable Carmen Goodman, Judge, Presiding.

JUSTICE HETTEL delivered the judgment of the court, with opinion.
Presiding Justice Brennan and Justice Holdridge concurred in the judgment and opinion.

OPINION

¶ 1 The defendant, Jacob Bean, was convicted of two counts of aggravated battery (720 ILCS 5/12-3.05(a)(1), (c), (h) (West 2022)) and was sentenced to two years of imprisonment on count I. On appeal, the defendant argues, *inter alia*, that the circuit court misconstrued the "knowingly" standard in finding him guilty, which deprived him of a fair trial. We reverse and remand for a new trial.

¶ 2 I. BACKGROUND

¶ 3 On July 21, 2022, the then-24-year-old defendant was charged by indictment with two counts of aggravated battery (*id.* §§ 12-3(a)(1), 12-3.05(a)(1), (c), (h)) stemming from an incident

that occurred on May 29, 2022, in which he pushed Frank Stiso, causing him to fall and strike his head on the pavement. Count I alleged that the defendant "knowingly without legal justification by any means caused great bodily harm or permanent disability or disfigurement." Count II alleged that the defendant "knowingly and without legal justification by any means caused bodily harm" to Stiso while he was on a public way.

¶ 4 The circuit court held a bench trial in this case in July 2024. Among the State's witnesses was Maria Clavijo, who testified that she was a passenger in a vehicle that was driving on Brookside Glen Drive in Tinley Park when she saw two males standing chest-to-chest in the street. The men appeared to be arguing. She added, "I could only see the younger gentleman. He seemed very angry." She clarified that she could see the younger male's face. He was taller and heavier than the older male. She identified the younger male as the defendant.

¶ 5 Maria testified that, through the windshield, she saw the defendant forcefully shove the older male in the chest with both hands. She stated that the older male's hands were clenched and at his sides at the time of the shove. She did not see the older male fall, but her husband, who was driving, pulled over because "when we saw the shove we figured this was something serious." They called 911 and waited in their vehicle.

¶ 6 Gerardo Clavijo, Maria's husband, testified that he heard the males yelling at each other, despite the windows of the vehicle being up. He stated that "the young person was very angry and seemed like he had been done wrong and the other one was just standing up to him." Gerardo stated that the younger male pushed the older male "with a brute force and the man never got up." When asked to describe the push, Gerardo said, "[w]hen I was in high school we used to push somebody on the chest to see who was stronger. It was similar to that." He stated that he saw the older male fall and that "he fell so straight that he must have hit his head or something and he

looked like he was very still." Gerardo stated that the males were approximately the same height and both were "[o]n the heavy side." The older male's hands were at his sides at the time. Gerardo identified the younger male as the defendant.

¶ 7 On cross-examination, Gerardo stated that he was driving the speed limit—20 miles per hour—at the time he drove past. He also said that the males were less than 12 feet from his vehicle as he drove past. He further stated that he saw the push through the windshield and saw the older male fall through his sideview mirror.

¶ 8 Chase Arthur testified that he was driving to the gym on Brookside Glen Drive on the day of the incident. Through his windshield and from approximately one football field away, he saw the younger male push the older male in the chest. He stated that the younger male had "[a] little bigger build." As he drove past, he pulled over, looked in his rearview mirror, and saw the older male on the ground.

¶ 9 Jake Kelley testified that he was a police officer with the Tinley Park Police Department. He responded to the scene and saw medical personnel attending to a male in the street. He later learned that the male's name was Frank Stiso. Stiso was on his back and appeared to be unconscious with a pool of blood behind his head. Stiso's vehicle was parked approximately five feet from his body.

¶ 10 Kelley testified that he spoke to the defendant at the scene. The defendant lived at 8613 Brookside Glen Drive, which was approximately 150 feet from where Stiso was lying. He gathered information on the defendant's height (approximately six feet, four inches) and weight (approximately 300 pounds). He learned that Stiso had been in the neighborhood because he was delivering pizzas, although he did not know if Stiso was delivering pizzas to any nearby houses.

¶ 11 Numerous stipulations were entered into evidence, including the testimony of Dr. Valerie Arangelovich, who was a forensic pathologist. Dr. Arangelovich would have testified that she performed a post-mortem examination of Stiso, who died on June 1, 2022. The examination, which was performed the next day, indicated that Stiso was five feet, seven inches, and weighed 177 pounds. His injuries included a "fracture of the right parietal bone of the skull which extends to involve the left frontal bone of the skull," as well as bruising and hemorrhaging in the brain. He died from "craniocerebral injuries due to a fall due to a physical altercation."

¶ 12 Surveillance videos, including several from the defendant's residence, were also introduced into evidence. The videos without audio showed the defendant getting into a vehicle in the driveway of his residence and backing up into the street to the defendant's right on the near side of the street. The defendant started to pull forward, but before he completely passed his driveway, he veered to the left, stopped, and began to back up into his driveway. At that time, Stiso's vehicle approached from the near side of the street and was forced to slow down before being able to pass the backing-up defendant. The defendant, whose vehicle was not fully back into the driveway, stopped suddenly and exited his vehicle. Stiso's vehicle can be seen beginning to pull over, although it is unclear from the videos how far past the defendant's residence Stiso stopped.

¶ 13 In one of the videos without audio (garage video, "Driveway - Left"), Stiso's legs can be seen in the upper right corner of the video as the defendant approached him for the first time. After coming within several feet of Stiso, the defendant can be seen pacing away from and toward Stiso before the video ended.

¶ 14 In the videos that contained audio, a voice can be heard saying, at minimum, "fuck you," as Stiso's vehicle passed. Then, the defendant exited his vehicle and screamed insults and profanity

toward Stiso's vehicle, including derogatory comments about Stiso's age, as it continued down the road. The defendant taunted Stiso, screaming at him to come back. As the defendant continued screaming, he walked down the street in the direction of Stiso. Stiso can be heard saying, "I'm not going to fight you." The two males can be heard continuing to trade insults and profanity as the defendant walked past the view of the camera. They continued to argue, and the defendant is seen walking backwards and into the camera's view, at one point making what sounded like a chicken squawking. Stiso is then heard taunting the defendant to "hit me." The defendant then walks back toward Stiso and out of view of the camera. Shortly thereafter, a loud cracking noise was heard, and the arguing ceased.

¶ 15 At the close of the State's case-in-chief, defense counsel moved for a directed verdict, arguing that the State failed to prove that the defendant knowingly caused great bodily harm under count I or bodily harm under count II. During his argument, defense counsel stated that "[a] person knows or acts knowingly when the result of his or her conduct described by the statute is practically certain to be caused by the conduct, practically certain." Then, defense counsel cited to several cases and attempted to analogize them to the instant case, at one point saying, "[a]gain, I'm not saying that there was not great bodily harm here. What I'm saying is they cannot prove that my client intended to do that." The circuit court interjected, stating that intent was different from knowledge. What transpired next was a lengthy, part argument, part discussion between the attorneys and the court. The court pushed back on defense counsel's attempt to analogize the cases he cited, including by pointing out that one of the cases involved second degree murder. The court stated that the *mens rea* for second degree murder was different. Ultimately, the motion for directed verdict was denied.

¶ 16 Rania Daifallah testified on behalf of the defense. She lived two houses down from the defendant and was his neighbor, although she had never spoken with him. On the day of the incident, she heard two people arguing outside. She walked outside and saw the defendant arguing with an older male, who she believed was in his mid to upper fifties, tall, not too thin, and muscular. Both males were mad and were "[t]alking bad language to each other, calling names and stuff like that." Amidst the profanities and name-calling, the defendant twice said to the older male, "come on, come on, hit me."

¶ 17 Daifallah added, "[t]hey standing [*sic*] close to each other, and the old man, he raised his hand and he make a fist and then Jacob, he pushed him. And he tripped and fall [*sic*] on the floor." She called 911.

¶ 18 On cross-examination, Daifallah claimed that she was five or six feet away from the defendant and the older male while they were arguing. She denied telling an officer at the scene that the older male never made any aggressive movement toward the defendant. However, she said that if the older male had raised his fist toward the defendant, she would have told the officer and the 911 operator.

¶ 19 The recording of Daifallah's call to 911 was played. At no point during the call did Daifallah say that the older male raised his fist toward the defendant or that the older male tripped. She also told the operator several times that the defendant hit the older male. When she described the incident for the 911 operator, Daifallah stated that the younger male pushed the older male hard. When asked about her call on the witness stand, Daifallah noted that she was in shock when she called.

¶ 20 Daifallah confirmed that when she was before the grand jury, she stated that the older male raised his hand to make a fist. Additionally, she stated that the older male was about five feet, nine

inches, and that the defendant was shorter than the older male. She further stated that the older male's vehicle was parked closer to her house than the defendant's house. Regarding the push, she agreed that it was a significant push.

¶ 21 The State recalled Kelley to the stand in rebuttal. Kelley confirmed that when he spoke to Daifallah at the scene, she said she had not seen any aggressive movement toward the defendant by the older male. She also did not say that the older male had made a fist and raised it.

¶ 22 During defense counsel's closing argument, the following exchange occurred:

"[DEFENSE COUNSEL]: *** But the standard is, they have to show that the push would be practically certain to do great bodily harm for Count 1 or bodily harm for Count 2. The fact is, is when you're standing face to face with somebody, stationary—

THE COURT: You're describing what sounds more like intent, actually certain. Knowingly has a different definition. But go ahead, counsel.

[DEFENSE COUNSEL]: My understanding is that knowingly means that you're consciously aware that the action is practically certain to bring about the result.

But when you're pushing somebody, especially—there's no evidence here, nobody testified that Jake charged towards him. They were two stationary people and he pushed. Some people said strong push. Some people said it was a push. For instance, Chase Arthur said a chest push, he can't really tell from a football field away. The Clavijos said forceful push. Mr. Clavijo gave the example of high school strength contest when you try to push somebody and see who's stronger. None of those kind of pushes are intending to harm somebody.

If you're standing two feet, three feet away from somebody and you are trying to knowingly cause bodily harm, a push isn't the choice that you would make. You might do

a punch. You might do a kick. You might do a tackle, but a push is not an action that is, I'll say, intentionally, but certainly an action that you would be consciously aware could hurt somebody."

When the circuit court announced its oral ruling, it stated, in part, that

"When we look at knowingly—and I know there was a lot of discussion and argument—there are three different, very different, *mens rea*. But the ones that we are most familiar with is recklessness; intent; and knowledge, not particularly certain something would happen.

This is how the law reads what is knowledge. A person acts knowingly with regard to—not with knowledge of a certain type of material fact. That's not the key here—the nature or attendant circumstances of his conduct when he's consciously aware that his conduct is of such nature or that such circumstances exist."

The court found that the defendant's self-defense argument failed in part because he was the aggressor. Ultimately, the court found the defendant guilty on both counts.

¶ 23 Defense counsel filed a motion for new trial. During arguments on that motion, defense counsel alleged that the circuit court misapplied the law regarding the knowledge element. During defense counsel's argument, the court questioned whether "practically certain" was the applicable standard. Defense counsel pointed out that in its ruling, the court cited the first subsection of the statute defining knowledge (*id.* § 4-5(a)). However, the applicable subsection was the second one (*id.* § 4-5(b)) because the charged statutes were results-oriented. The court stated at one point that "I read it as consciously aware, but okay." The court eventually denied the motion.

¶ 24 The defendant was sentenced to two years of imprisonment. After his motion to reconsider his sentence was denied, he appealed.

¶ 25 II. ANALYSIS

¶ 26 The defendant raises four arguments on appeal, all of which contain overlapping aspects. The argument we choose to address first is that the circuit court misconstrued the "knowingly" standard in finding the defendant guilty, which deprived him of a fair trial.

¶ 27 "In a bench trial, although the court is presumed to know the law and apply it properly, this presumption is rebutted when the record affirmatively shows otherwise." *People v. Hernandez*, 2012 IL App (1st) 092841, ¶ 41. We review *de novo* the question of whether the circuit court applied the correct legal standard. *People v. Cameron*, 2012 IL App (3d) 110020, ¶ 26.

¶ 28 In this case, count I charged the defendant with aggravated battery in that he committed a battery and, in doing so, knowingly caused great bodily harm. 720 ILCS 5/12-3.05(a)(1) (West 2022). Count II charged the defendant with aggravated battery in that he committed a battery against Stiso while Stiso was on a public way. *Id.* § 12-3.05(c). The predicate battery statute for both counts states, in relevant part, that "[a] person commits battery if he or she knowingly without legal justification by any means *** causes bodily harm to an individual." *Id.* § 12-3(a). These statutes are defined in terms of *results*. Section 4-5 of the Criminal Code of 2012 (Code) defines knowledge as follows:

> "A person knows, or acts knowingly or with knowledge of:
>
> > (a) The nature or attendant circumstances of his or her conduct, described by the statute defining the offense, when he or she is consciously aware that his or her conduct is of that nature or that those circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that the fact exists.

(b) The *result* of his or her conduct, described by the statute defining the offense, when he or she is consciously aware that that result is practically certain to be caused by his conduct." (Emphasis added.) *Id.* § 4-5.

At issue throughout this case was whether the defendant knowingly caused the *results* as charged in the indictment; accordingly, the applicable definition of knowledge was section 4-5(b) of the Code. *People v. Psichalinos*, 229 Ill. App. 3d 1058, 1067 (1992) (holding that "in the context of the aggravated battery statute, *** when a statute is defined in terms of a particular result, a person is said to act knowingly when he is consciously aware that his conduct is practically certain to cause the result").

¶ 29 The record reflects that the circuit court applied section 4-5(a) of the Code, rather than section 4-5(b). First, during closing argument, defense counsel mentioned that the State must "show that the push would be practically certain to do great bodily harm for Count 1 or bodily harm for Count 2." The court interjected, "[y]ou're describing what sounds more like intent, actually certain. Knowingly has a different definition." Defense counsel responded again with the language of section 4-5(b) of the Code.

¶ 30 Second, when it issued its oral ruling, the court referenced section 4-5(a) of the Code:

"When we look at knowingly—and I know there was a lot of discussion and argument—there are three different, very different, *mens rea*. But the ones that we are most familiar with is recklessness; intent; and knowledge, not particularly certain something would happen.

This is how the law reads what is knowledge. A person acts knowingly with regard to—not with knowledge of a certain type of material fact. That's not the key here—the

nature or attendant circumstances of his conduct when he's consciously aware that his conduct is of such nature or that such circumstances exist."

The court subsequently found the defendant guilty on both counts.

¶ 31 Third, during arguments on the defendant's motion for a new trial, the court questioned defense counsel's claim that "practically certain" was the applicable standard. Defense counsel pointed out that the court cited the first subsection of the statute defining knowledge (720 ILCS 5/4-5(a) (West 2022)) in its oral ruling, but the applicable subsection was the second subsection (*id.* § 4-5(b)) because the charged statutes were results-oriented. The court also stated, "I read it as consciously aware, but okay."

¶ 32 These three instances demonstrate that the circuit court applied the incorrect legal standard to the aggravated battery statute. See *Hernandez*, 2012 IL App (1st) 092841, ¶ 41. The impact of this error is potentially profound: "[c]onstitutional due process rights require that a person may not be convicted in state court unless the State meets its burden of proving all of the elements of the offense beyond a reasonable doubt." *Id.* ¶ 64. We must now determine the appropriate remedy for such an error.

¶ 33 We find *Hernandez* to be instructive. The knowledge element at issue in *Hernandez* was from section 16G-15(a)(1) of the Identity Theft Law (720 ILCS 5/16G-15(a)(1) (West 2008)), which required the State to prove, in relevant part, that the defendant knowingly used any personal identification information of another person to fraudulently obtain credit. *Hernandez*, 2012 IL App (1st) 092841, ¶ 29. Evidence presented at trial established that the defendant used two Social Security Numbers on a credit application at a car dealership. *Id.* ¶ 5. The first number belonged to a different woman with the same first name (*id.*), while the second number allegedly belonged to the defendant (*id.* ¶ 10). The defendant was allowed to purchase a vehicle based on the first

number. *Id.* ¶ 7. When asked by the police how she obtained the first number, the defendant claimed that she " 'made it up.' " *Id.* ¶ 10.

¶ 34 As a matter of first impression, the *Hernandez* court disagreed with the circuit court's interpretation of section 16G-15(a)(1), the result of which was a holding by the *Hernandez* court that the State obtained a conviction without having to prove an essential element of the crime. *Id.* ¶¶ 39-41. In determining the remedy for the error, the *Hernandez* court noted a dearth of case law addressing this issue and found a federal case instructive. *Id.* ¶ 65. That case, *Wilson v. United States*, 250 F.2d 312, 324 (9th Cir. 1957), analogized the situation to jury trials, asking,

> "[i]s there any difference between a trial judge formally instructing the jury as to what he thinks the applicable law to be and in effect instructing himself similarly in a non-jury case? We think not. In each instance a conviction has resulted from the application of improper standards of law to the facts by the trier of fact."

The *Hernandez* court then looked to a United States Supreme Court case for updated guidance, noting its holding that " 'the omission of an element is an error that is subject to harmless-error analysis.' " *Hernandez*, 2012 IL App (1st) 092841, ¶ 67 (quoting *Neder v. United States*, 527 U.S. 1, 15 (1999)). In *Neder*, the trial court decided an element rather than submitting it to the jury. *Neder*, 527 U.S. at 6-7. The *Neder* Court found the error to be harmless, though, because the element was uncontested and was supported by overwhelming evidence. *Id.* at 17.

¶ 35 The *Hernandez* court found that the error in its case was not harmless. *Hernandez*, 2012 IL App (1st) 092841, ¶ 71. In assessing the evidence, the court stated:

> "In the instant case, the State introduced evidence at trial that, according to defendant, she made up the number. Defendant introduced evidence from Maria Nodarse that she had never met defendant and did not know anyone by the name of Maria

> Hernandez. There was no direct evidence that defendant knew that the number, in fact, belonged to another person. On the other hand, the State argues that the circumstantial evidence, and the reasonable inferences drawn therefrom, 'was more than sufficient to show that defendant knew that the number belonged to some person.' The State notes the trial court questioned defense counsel: 'What if the statement she gave to the police that it was a made-up number is viewed as a self-serving statement and not to be believed whether it was somebody's number?' The State also notes that 'defendant fraudulently furnished the car salesmen with two [social security numbers] to ensure that she hit a "good number"—*i.e.*, a number belonging to someone who had good enough credit to enable her [to] buy the Mitsubishi that day.' The State additionally notes that although there are '1,000,000,000 (one billion) possible combinations of nine-digit numbers, [d]efendant nonetheless claims that she pulled Maria Nodarse's peculiar nine-digit number out of the ether.' The State further argues that 'the notion that defendant just happened to make up the peculiar number of a woman (and not a man) in the greater Chicago area, who was not only alive, but old enough to have good credit, defies common sense and reasonable belief.' " *Id.* ¶ 70.

The court ruled that "[d]espite the circumstantial evidence of defendant's knowledge, we conclude that the evidence proving defendant's guilt was not so clear and convincing that the error was harmless beyond a reasonable doubt." *Id.* ¶ 71. Thus, the *Hernandez* court vacated the defendant's conviction and remanded the case for a new trial. *Id.* ¶ 74.

¶ 36 We agree with and adopt the analysis used by the *Hernandez* court. While there was circumstantial evidence of the defendant's knowledge in this case, given the age and size differences between him and Stiso, as well as the fact that the shove occurred on a paved street,

we cannot say that the evidence was so overwhelming that the circuit court's error was harmless beyond a reasonable doubt. Had the court assessed the evidence under the proper legal standard, it is entirely possible that the court could have arrived at a different conclusion. The appropriate remedy under these circumstances is to reverse the court's judgment and remand for a new trial. *Id.*

¶ 37 Because we are reversing and remanding for a new trial, we must consider whether the double jeopardy clause would preclude another trial. "If the totality of the evidence presented at defendant's first trial was sufficient for a rational trier of fact to find that the essential elements of the crime had been proven beyond a reasonable doubt, no double jeopardy violation is created on retrial." *People v. Ward*, 2011 IL 108690, ¶ 50. In this case, the State's evidence indicated that the 24-year-old defendant—who was six feet, four inches, and approximately 300 pounds—forcefully shoved the balding, gray-haired 59-year-old Stiso—who was five feet, seven inches, and 177 pounds. The shove caused Stiso to sustain severe head injuries. While the defense presented evidence contesting some of the facts surrounding the shove, assuming the court believed the State's evidence, it was sufficient to establish the defendant's guilt beyond a reasonable doubt. Thus, we hold that the double jeopardy clause does not preclude retrial. *Id.*

¶ 38 III. CONCLUSION

¶ 39 The judgment of the circuit court of Will County is reversed and the cause is remanded for a new trial.

¶ 40 Reversed and remanded.

***People v. Bean*, 2025 IL App (3d) 240604**

Decision Under Review:	Appeal from the Circuit Court of Will County, No. 22-CF-854; the Hon. Carman Goodman, Judge, presiding.
Attorneys for Appellant:	Jordan M. Kielian, of Wharrie Kielian, P.C., of Coal City, for appellant.
Attorneys for Appellee:	James W. Glasgow, State's Attorney, of Joliet (Patrick Delfino, Thomas D. Arado, Jessica A. Theodoratos, and Nicholas A. Atwood (Shmuel Wyckoff, law student), of State's Attorneys Appellate Prosecutor's Office), for the People.