

NOTICE

Decision filed 09/28/23. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2023 IL App (5th) 220062-U

NO. 5-22-0062

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Champaign County.
	)	
v.	)	No. 21-CF-353
	)	
BOBBY L. FORD,	)	Honorable
	)	Randall B. Rosenbaum,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Justices Moore and McHaney concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's conviction is affirmed where sufficient evidence existed to support conviction of aggravated battery against a peace officer.

¶ 2 Following a jury trial, defendant, Bobby L. Ford, appearing *pro se*, was convicted of aggravated battery of a peace officer (720 ILCS 5/12-3.05(d)(4)(i) (West 2020)) and sentenced to seven years in prison with one year of mandatory supervised release. On appeal, defendant argues that the State failed to present sufficient evidence to sustain the conviction. We affirm.

¶ 3 I. Background

¶ 4 The following factual recitation was taken from the common law record on appeal and the report of proceedings. We recite only those facts relevant to the issues raised in the instant appeal.

¶ 5 On March 31, 2021, the State charged defendant by information with the offense of aggravated battery (*id.*), alleging that defendant, knowing Officer Dylan Bullard to be a peace officer engaged in his authorized duties, committed a battery (*id.* § 12-3(a)(2)), wherein defendant knowingly made physical contact of an insulting or provoking nature with Officer Bullard by grabbing Officer Bullard by the chest and pulling him around on March 30, 2021. The State also charged defendant with obstructing a peace officer (*id.* § 31-1(a-5)), alleging defendant knowingly obstructed the arrest of defendant by Officer Bullard, a peace officer engaged in his official duties, when defendant pulled his wrists away from Officer Bullard while Officer Bullard placed defendant under arrest.

¶ 6 On November 17, 2021, defendant's two-day jury trial commenced. Defendant appeared *pro se*. Following *voir dire*, the State presented the testimonies of Officers Bullard and Richard Keith Welch.

¶ 7 Officer Bullard, employed by the Champaign County Sheriff's Office, testified that he was on duty as a court security officer in traffic court on March 30, 2021. That day, an assistant public defender informed Officers Bullard and Welch that Judge Rhonda Holliman ordered defendant to return to the courtroom. When the officers contacted defendant, defendant followed instruction to return to the courtroom. Before entering the courtroom, Officer Welch asked defendant to remove his hat, but defendant refused to comply. Officer Welch removed defendant's hat and handed it to defendant. Once in the courtroom, defendant stood in the front row before Judge Holliman. Judge Holliman ordered Officer Bullard, standing approximately one foot behind defendant in the second row, and Officer Welch, standing near defendant's left side, to arrest defendant on contempt of court charges. After Judge Holliman ordered defendant's arrest, Officer Welch informed defendant that he was under arrest, and both officers instructed defendant to put his hands behind his back.

Attempting to handcuff defendant, Officer Bullard reached for defendant's right wrist, and Officer Welch reached for defendant's left wrist. Defendant resisted arrest.

¶ 8 Officer Bullard testified that defendant pulled his hands away from the officers, raising his elbow up. In effort to resist being placed in handcuffs, defendant turned his whole body away from the officers. While the officers struggled to gain control of defendant, one of defendant's arms hit Officer Bullard in the middle of the chest, knocking off Officer Bullard's nametags and radio on his vest carrier. Officer Bullard leaned over the second-row bench attempting to gain control of one of defendant's wrists while Officer Welch pushed defendant away from him to "gain distance between he and [defendant]." Defendant then grabbed Officer Bullard's vest carrier and strap and "attempt[ed] to pull [Officer Bullard] downward toward [defendant] while [defendant] was also down." Officer Bullard, who was leaning over the first-row bench, could not pull himself up or get away from defendant. Although Officer Bullard could not see defendant's hands during the "scuffle," defendant was the only person in front of Officer Bullard. Officer Welch then pulled out a taser, and defendant complied. Defendant put his hands up, faced away from Officer Bullard, and placed his hands behind his back. Neither officer was injured during the altercation. The State played the video recording of the incident in question, which the circuit court admitted into evidence.

¶ 9 Officer Welch, employed by the Champaign County Sheriff's Office, testified that he was on duty as a court security officer on March 30, 2021. Officers Welch and Bullard escorted defendant, who "was clearly agitated," back into the courtroom. The officers asked defendant to remove his hat. When defendant failed to comply, Officer Welch removed defendant's hat and handed it to him. As Judge Holliman instructed the officers to take defendant into custody, Officer Welch reached for his handcuffs, informed defendant that he was under arrest, and ordered

defendant to place his hands behind his back. When Officer Welch attempted to take hold of defendant's wrist, defendant "ripped [his hand] out of [Officer Welch's] grasp, told [Officer Welch] to get off of him." Officer Welch "took a shot to the chest from [defendant's] arm" at that time. Officer Welch testified that he and Officer Bullard "reacted to [defendant's] reactions to get [defendant] under control." To prevent defendant from accessing a weapon on Officer Welch's person, Officer Welch created distance with defendant. Eventually, defendant fell. Defendant "got back up, [and] had a hold of Officer Bullard's outer vest and was pulling him forward." Officer Welch stepped back, drew his taser, and instructed defendant to put his hands behind his back. At that time, defendant complied. On cross-examination, Officer Welch admitted that he pushed defendant to create space from defendant to gain control of defendant. The State rested its case.

¶ 10 Defendant then presented the testimony of Judge Holliman and also testified on his own behalf. Judge Holliman testified that defendant interrupted traffic court on March 30, 2021, yelling and expressing frustrations. Defendant started to exit the courtroom, at which time Judge Holliman informed him that she would issue a warrant for his arrest if he left the courtroom without first speaking to his attorney. In response, defendant called Judge Holliman a "bitch" and stormed out of the courtroom. Judge Holliman requested court security officers to escort defendant back to the courtroom.

¶ 11 Judge Holliman then observed the officers vocalize to defendant that he was under arrest. When the officers initially attempted to handcuff defendant, defendant resisted arrest. Defendant flailed his arms, pulled away from the officers, and "either [defendant] pushed one of the officers or grabbed at him while they were trying to place the cuffs on [him]." Judge Holliman clarified that defendant made contact with Officer Bullard when defendant flailed his arms and reached for Officer Bullard. Judge Holliman observed defendant grab for Officer Bullard's vest and then

observed Officer Bullard's "head go down when he was trying to avoid [defendant] grabbing him." Judge Holliman was worried that Officer Bullard "had been hit" when she saw his "head go down." When asked if Judge Holliman observed the officers shove or push defendant, Judge Holliman testified that she "saw them responding back to [defendant] resisting them." Defendant then asked Judge Holliman if he touched Officer Bullard, to which she responded, "I don't know." Defendant then clarified his previous question stating the following: "But did you see me place my hands on Officer Bullock [sic] or Officer Welch at any time?" Judge Holliman answered: "At least Officer Bullock [sic], I don't know if you touched Officer Webster [sic]."

¶ 12 Defendant testified on his own behalf. Defendant testified consistently with prior testimony that he became upset in court, called Judge Holliman a "bitch," and stormed out of the courtroom. He testified, however, that Officer Welch "snatched" his hat from his head without first asking defendant to remove it. Defendant testified, "I felt then, right then and there, that there was gonna [sic] be a problem with those officers; okay?" Defendant proceeded to testify, "He snatched my hat off of my head, and I was angry about it, as I said." Defendant then testified that an officer abruptly pulled his left arm in an upward motion without first informing defendant that he was under arrest. Defendant believed he was "under attack" at that time, testifying that he felt "afraid of [the officer] doing harm to me." Defendant denied he was the aggressor or that he grabbed Officer Bullard.

¶ 13 Following defendant's trial, the jury found defendant guilty of aggravated battery and obstructing a peace officer. The circuit court subsequently sentenced defendant to seven years in prison with one year of mandatory supervised release. Defendant filed a timely *pro se* notice of appeal. The circuit court appointed appellate counsel to represent defendant.

¶ 14

I. Analysis

¶ 15 Defendant argues on appeal that the State failed to prove him guilty beyond a reasonable doubt of aggravated battery of a peace officer. Defendant contends that the State failed to prove that defendant made any physical contact with Officer Bullard that was knowing and insulting or provoking in nature. In essence, defendant argues that pulling on Officer Bullard's vest strap for only three seconds after he was pushed to the ground cannot sustain an aggravated battery conviction. We disagree.

¶ 16 Where a criminal conviction is challenged based on insufficient evidence, a reviewing court, considering all the evidence in the light most favorable to the prosecution, must determine whether any rational trier of fact could have found beyond a reasonable doubt the essential elements of the crime. *People v. Brown*, 2013 IL 114196, ¶ 46. In such cases, "a criminal conviction will be reversed where the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt." *Id.* ¶ 48. We allow all reasonable inferences from the record in favor of the prosecution, whether the evidence in the case is direct or circumstantial. *People v. Saxon*, 374 Ill. App. 3d 409, 416 (2007). A reviewing court, however, will not accept unreasonable inferences from the record. *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). "It is the function of the trier of fact to determine credibility of the witnesses, the weight to be given their testimony, and the inferences to be drawn from the evidence." *People v. Hillier*, 392 Ill. App. 3d 66, 69 (2009). Because the trier of fact saw and heard the witnesses, its credibility determinations are afforded great weight. *People v. Wheeler*, 226 Ill. 2d 92, 114-15 (2007).

¶ 17 A person commits aggravated battery when, in committing a battery, he "knowingly without legal justification by any means *** makes physical contact of an insulting or provoking

nature with an individual” (720 ILCS 5/12-3(a)(2) (West 2020)) and, in doing so, “knows the individual battered to be *** [a] peace officer *** performing his *** official duties” (*id.* § 12-3.05(d)(4)(i)). Defendant challenges that he knowingly made insulting and provoking contact with Officer Bullard, and that the contact was of an insulting or provoking nature.

¶ 18 Defendant first argues that the State failed to prove that he knowingly, rather than accidentally or recklessly, pulled on Officer Bullard’s vest strap. We disagree.

¶ 19 A person acts knowingly where he is “consciously aware” of the nature of his conduct and that his conduct is practically certain to cause a particular result. *Id.* § 4-5(a), (b). To support a conviction for an offense with the *mens rea* of knowledge, it is not enough that the defendant knowingly commits the alleged action. *People v. Hill*, 2020 IL App (1st) 162119, ¶ 21. Instead, the defendant must commit the action with knowledge that the particular result will follow. *Id.* Intent is rarely proved by direct evidence because it is a mental state, and thus, it may be proven by circumstantial evidence. *People v. Dorsey*, 2016 IL App (4th) 140734, ¶ 34. Thus, intent may be inferred from surrounding circumstances and the character of the defendant’s acts. *Id.* Whether a defendant acted with the requisite state of mind is a question for the trier of fact. *People v. Frazier*, 2019 IL App (1st) 172250, ¶ 33.

¶ 20 Viewing the evidence in the light most favorable to the State, a rational trier of fact could find beyond a reasonable doubt that defendant knowingly pulled down Officer Bullard. All witnesses, including defendant, testified that defendant was agitated, aggressive, and swore at Judge Holliman before abruptly leaving the courtroom. Officer Bullard, Officer Welch, and Judge Holliman consistently testified that, following Judge Holliman’s request, the officers escorted defendant back to the courtroom, where Judge Holliman ordered the officers to place defendant under arrest for contempt of court. Officer Bullard, Officer Welch, and Judge Holliman also

consistently testified that the officers both informed defendant that he was under arrest and asked him to place his hands behind his back. Their testimonies also demonstrated that defendant refused to comply.

¶ 21 Defendant's own testimony demonstrated that, prior to the altercation, he was angry at Officer Welch after Officer Welch "snatched" defendant's hat, testifying, "I felt then, right then and there, that there was gonna [sic] be a problem with those officers; okay?" While flailing his arms and pulling his hands away from both officers, defendant first made contact with Officer Welch's chest. As the officers continued to command defendant to put his hands behind his back, defendant refused to comply. To create distance between himself and defendant to ensure defendant did not obtain one of Officer Welch's weapons, Officer Welch pushed defendant down. While continuing to command defendant to place his hands behind his back, defendant proceeded to pull down on Officer Bullard's vest straps as defendant stood up. Even after defendant stood up, he continued to resist arrest. Defendant used his left arm to push on Officer Bullard's right arm until Officer Welch presented his taser to defendant. It was not until Officer Welch threatened to tase defendant that defendant put his hands behind his back.

¶ 22 Based on the evidence, we are unpersuaded that defendant's actions were reckless or accidental, intending only to hoist or pull himself up to avoid injury. Defendant's anger towards the officers and his continued actions of pulling or grabbing onto Officer Bullard, even though the officers attempted to restrain him several times, suggests that defendant, as the aggressor, intended to place Officer Bullard in a compromised position. The record demonstrates that defendant intended to place Officer Bullard in a compromised position in which he was unable to pull himself up or get away from defendant, as Officer Bullard testified. Accordingly, a rational jury could

determine that defendant intended to pull down on Officer Bullard’s vest straps and for the contact to be insulting or provoking.

¶ 23 Defendant next argues that, although defendant resisted arrest, the State did not prove that his contact with Officer Bullard was insulting or provoking in nature. To support his contention, defendant argues that his actions were not undertaken as an act of aggression but “merely to retrieve his balance and get himself out of a vulnerable position.” We disagree.

¶ 24 Our supreme court recently determined that the question of whether a defendant made physical conduct of an insulting or provoking nature is an objective inquiry. *People v. Davidson*, 2023 IL 127538, ¶ 16. The use of the noun “ ‘nature’ ” shows “it is the nature of the contact, not the actual impact on the victim, that must be established.” *Id.* Thus, the trier of fact must determine whether a reasonable person under the circumstances would find the physical conduct insulting or provoking in nature. *Id.* (citing *People v. Williams*, 2020 IL App (4th) 180554, ¶ 54). Under the reasonable person standard, “[d]etermining the ‘essential characteristics’ of the physical contact requires a consideration of the surrounding context” when determining if the contact was insulting or provoking in nature. *Id.* ¶ 19.

¶ 25 The language of the battery statute clearly provides that a battery can be committed if the accused has contact with the victim “by any means” (720 ILCS 5/12-3(a) (West 2020)). Considering the surrounding context of the altercation, we are unpersuaded that defendant’s physical act of pulling on Officer Bullard’s vest strap was simply a means to regain his balance to protect himself. While defendant contends this act was not an intended act of aggression, the jury was not required to accept this interpretation of events. *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”). An equally possible

inference is that defendant was angered when Officers Bullard and Welch requested defendant to return to the courtroom, Officer Welch removed defendant's hat for him prior to entering the courtroom, and Judge Holliman informed defendant of his arrest for contempt of court.

¶ 26 As stated above in detail, the record indicates defendant displayed a pattern of disruptive and aggressive behavior. The evidence demonstrates that defendant was the aggressor, which caused Officers Bullard and Welch to “react[] to [defendant's] reactions to get [defendant] under control.” Defendant testified that he believed he was “under attack” when Officer Welch attempted to arrest him, testifying that he felt “afraid of [the officer] doing harm to me.” Although it is possible defendant experienced fear at that moment, we are unpersuaded by defendant's argument given the setting in which defendant's actions occurred. See *People v. d'Avis*, 250 Ill. App. 3d 649, 651 (1993) (“physical contact may be deemed insulting or provoking based upon the factual context in which it occurs”). The record demonstrates that defendant understood that Officers Bullard and Welch were court security officers. Additionally, the officers attempted to arrest defendant in a courtroom in front of Judge Holliman, who not only verbally ordered the officers to arrest defendant in front of him but also informed defendant of his arrest. Viewing the evidence in the light most favorable to the State, a rational trier of fact could have determined that a reasonable person under the circumstances would find defendant's physical conduct insulting or provoking in nature.

¶ 27 For these reasons, the evidence supporting defendant's conviction for aggravated battery of a peace officer is not so unreasonable or improbable as to create a reasonable doubt of his guilt. Accordingly, we affirm the judgment of the circuit court of Champaign County.

¶ 28 III. Conclusion

¶ 29 For the foregoing reasons, we affirm defendant's conviction and sentence.

¶ 30 Affirmed.