

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs September 24, 2024

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STATE OF TENNESSEE v. JOHNATHAN JAMES GILLEY

Appeal from the Criminal Court for Hawkins County
No. 21CR161 Alex E. Pearson, Judge

No. E2023-01795-CCA-R3-CD

A Hawkins County jury convicted the Defendant, Johnathan James Gilley, of aggravated assault for which he received a fifteen-year sentence of imprisonment. In this direct appeal, the sole issue presented for our review is whether the evidence is sufficient to support the element of serious bodily injury to sustain an aggravated assault conviction. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

CAMILLE R. MCMULLEN, P.J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR. and JILL BARTEE AYERS, JJ., joined.

Clifton D. Barnes, Talbott, Tennessee, for the appellant, Johnathan James Gilley.

Jonathan Skrmetti, Attorney General and Reporter; G. Kirby May, Assistant Attorney General; Dan E. Armstrong, District Attorney General; and Paul Hornick, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

On June 28, 2022, the Defendant, an inmate at the Hawkins County Detention Facility, repeatedly punched and stomped another inmate, Zayland Moles, the victim, causing the victim to suffer a fractured rib, punctured lung, and multiple severe bruises. Based on the Defendant's conduct, on June 1, 2023, the Hawkins County Grand Jury returned a superseding indictment charging him with one count of aggravated assault, a Class C felony.

Video surveillance from the detention facility captured the encounter between the Defendant and the victim which was admitted at the Defendant's August 2023 trial and

played for the jury. At approximately 9:07 p.m. on the night of the offense, the Defendant initiated an argument with the victim, who was sitting on the stairs on the second level of the jail pod. The Defendant called the victim a “b***h” and told him to come downstairs. After the victim refused, the Defendant threw a communication device at the victim and spit at him. The victim eventually went down the stairs, and the Defendant hid under the stairs in a dark corner out of view of the security camera. The Defendant continued to call the victim in an attempt to lure him behind the stairs away from the camera, but the victim remained at the side of the stairs in view of the camera.

The Defendant emerged from the dark corner with his shirt off, charged at the victim, and knocked the victim to the ground. While the victim was on the ground, the Defendant punched him six times and stomped him twice on his head and torso area, knocking the victim unconscious. The victim regained consciousness, and the Defendant walked away to get his shirt. The Defendant returned and continued beating the victim. The Defendant then punched the victim nine times and stomped the victim four times in the head and torso area. Deputies entered the jail pod at 9:11 p.m., stopped the attack, detained the Defendant, and pulled the victim from the floor. During the one-minute-five-second beating, the victim remained on the ground and never struck the Defendant.

The victim was transported to the Hawkins County Memorial Hospital emergency room and was treated by Dr. Aaron Wilson, a physician with experience in trauma-related injuries. Throughout Dr. Wilson’s testimony at trial, he referred to the victim’s medical records, a certified copy of which was previously admitted without objection. Dr. Wilson initially observed the victim “was in pain” and had a subjective pain level of “10 out of 10.” Although the victim’s vital signs and blood pressure were within normal limits, Dr. Wilson explained that the victim had been taking medication for a prior condition, which caused the victim to “feel more pain – a little differently than the average person does.” Dr. Wilson further agreed that the victim had a “heightened sense of pain” and was in “extreme physical pain.” The victim had hematomas on his face, bruising on his elbows and neck, and significant tenderness in his chest. A computed tomography or CT scan¹ revealed the victim “had a rib fracture as well as a hemothorax from the rib fracture.”² Dr. Wilson said, “a radiologist reviewed [the CT scan]” and confirmed there was an injury to the victim’s rib. Asked if the victim was behaving consistently with a person who had a punctured lung and a cracked rib, Dr. Wilson said, “Absolutely.” Dr. Wilson compared the victim’s injuries to patients who had been in car accidents.

¹ A computed tomography (CT) scan is an imaging test that helps healthcare providers detect diseases and injuries. It uses a series of x-rays and a computer to create detailed images of the patient’s bones and soft tissues.

² A hemothorax is an accumulation of blood within the pleural cavity. The symptoms of a hemothorax may include chest pain and difficulty breathing.

Dr. Wilson explained that the victim suffered a pneumothorax or a puncture to the lung causing air to leak out of the lung into the chest wall. If a lung puncture grows large enough, it can cause a fatal injury to the patient. Though the victim's pneumothorax was small initially, it was "a trauma," and Dr. Wilson transferred the victim to a trauma facility for further evaluation. Dr. Wilson confirmed, as reflected in the victim's medical records, that the victim arrived at the emergency room at 9:33 p.m. on June 28, 2022, began receiving treatment at 9:40 p.m., and was considered an "urgent case." He further explained the medical term "closed fracture" as used in the records meant "no breaking in the skin." The records also reflect the victim self-reported at intake that he was "punched in the face, stomped in the left chest, and [] lost consciousness."

The victim received another set of x-rays at the trauma facility on June 29 and June 30, 2023, and was discharged on the same day. He returned to the jail and spent a week in the infirmary. While in the infirmary, the victim did not receive any pain medication or additional treatment.

On cross-examination, Dr. Wilson agreed the victim was treated with pain medication and given Toradol, a non-narcotic medication. Upon being shown x-rays from the second facility, Dr. Wilson agreed that the x-ray showed the victim "might have a [pneumothorax], but then another [x-ray] said he did not." Dr. Wilson explained the x-ray was taken at a later time and advised pneumothoraxes "can resolve on their own."

The victim testified that he continued to suffer pain, discomfort, and difficulty when breathing a year later and that his ribs did not fully heal for five to six months.

Based on the above evidence, the Defendant was convicted as charged. Following a sentencing hearing, the trial court determined that the Defendant was a Range III, persistent offender and ordered him to serve fifteen years in confinement. The Defendant filed a motion for new trial, alleging in pertinent part that there was insufficient evidence to support the aggravated assault conviction. The trial court denied the motion for new trial, and the Defendant timely filed a notice of appeal.

ANALYSIS

The Defendant challenges the evidence supporting his conviction of aggravated assault and argues the State failed to establish the element of serious bodily injury. We review this issue under the following well-established legal framework. A guilty verdict removes a defendant's presumption of innocence and instead raises a presumption of guilt, shifting the burden onto the defendant to show that the evidence was legally insufficient to sustain a guilty verdict. State v. Hanson, 279 S.W.3d 265, 275 (Tenn. 2009) (citing State

v. Evans, 838 S.W.2d 185, 191 (Tenn. 1992)). When reviewing whether the evidence was sufficient to uphold a conviction, an appellate court must view the evidence in the light most favorable to the State in determining whether “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” State v. Thomas, 687 S.W.3d 223, 249 (Tenn. 2024) (citations omitted) (internal quotations omitted); see Tenn. R. App. P. 13(e). When making that determination, the prosecution is entitled to the “the strongest legitimate view of the evidence as well as all reasonable and legitimate inferences which may be drawn therefrom.” State v. Majors, 318 S.W.3d 850, 857 (Tenn. 2010) (citing State v. Bland, 958 S.W.2d 651, 659 (Tenn. 1997)).

Any questions concerning the credibility of witnesses, the weight of the evidence, the value given to the evidence, and the factual issues raised by the evidence are resolved by the trier of fact. Thomas, 687 S.W.3d at 249 (citing Bland, 958 S.W.2d at 659). “A guilty verdict by the jury, approved by the trial court, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the prosecution’s theory.” State v. Reid, 91 S.W.3d 247, 277 (Tenn. 2002) (quoting Bland, 958 S.W.2d at 659) (internal quotations omitted). The standard of review for sufficiency of the evidence remains the same whether the conviction was based on direct evidence, circumstantial evidence, or a combination of the two. State v. Miller, 638 S.W.3d 136 (Tenn. 2021); State v. Dorantes, 331 S.W.3d 370, 379 (Tenn. 2011). Thus, it is not the role of this court to attempt to reweigh the evidence or substitute its inferences for those drawn by the trier of fact. Thomas, 687 S.W.3d at 249 (citing Reid, 91 S.W.3d at 277); State v. Wagner, 382 S.W.3d 289, 297 (Tenn. 2012) (citing Bland, 958 S.W.2d at 659).

To sustain a conviction of aggravated assault, the State is required to prove that the defendant “[i]ntentionally or knowingly commit[ed] an assault as defined in Tenn. Code Ann. § 39-13-101, and the assault . . . result[ed] in serious bodily injury to another.” Tenn. Code Ann. § 39-13-102(a)(1)(A). As pertinent to this case, a defendant commits “assault” if he causes bodily injury to another. Id. § 39-13-101(a)(1). “Serious bodily injury” includes, in pertinent part, injury that involves “extreme physical pain.” Id. § 39-11-106(a)(37). “While the phrase ‘serious bodily injury,’ an essential element of the offense of aggravated assault, is not susceptible to precise legal definition, it must describe an injury of a greater and more serious character than that involved in a simple assault.” State v. Barnes, 954 S.W.2d 760, 765 (Tenn. Crim. App. 1997)). “Bodily injury” includes “a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty.” Id. § 39-11-106(a)(3). Generally, the distinction between “bodily injury” and “serious bodily injury” is a question of fact for the jury and not one of law. Barnes, 954 S.W.2d at 765-66; see State v. Dedmon, No. M2005-00762-CCA-R3-CD, 2006 WL 448653, at *5 (Tenn. Crim. App. Feb. 23, 2006) (“The difference between ‘physical pain’ and ‘extreme physical pain’

is analogous to the difference between ‘bodily injury’ and ‘serious bodily injury,’ and as such, determining the severity of pain suffered is within the province of the jury.”).

Viewing the evidence in the light most favorable to the State, we conclude that the State established the essential element of serious bodily injury based on extreme physical pain suffered by the victim. The record shows the Defendant engaged in a savage, two-part beating of the victim during which the Defendant initially punched the victim six times and stomped him twice on his head and torso area, knocking the victim unconscious. Each time the victim began to regain consciousness, the Defendant resumed beating the victim. The Defendant punched the victim an additional nine times and stomped him an additional four times in the head and torso area. The victim was subsequently transported to the Hawkins County emergency room and treated by Dr. Aaron Wilson, who explained the victim’s medical records at trial. Upon admission to the hospital, the victim “was in pain” and had a subjective pain level of “10 out of 10.” Although the victim’s vital signs and blood pressure were within normal limits, the victim had been taking medication for a prior condition and “[felt] more pain – a little differently than the average person does.” Because of the victim’s prior condition, the victim had a “heightened sense of pain” and was in “extreme physical pain.” The victim had hematomas on his face, bruising on his elbows and neck, and significant tenderness in his chest. A CT scan, confirmed by a radiologist, revealed the victim “had a rib fracture as well as a hemothorax from the rib fracture.” The victim also suffered a punctured lung, which caused air to leak into the chest wall and was potentially fatal. The victim testified regarding the severity of his injuries from the attack by the Defendant and explained that he continued to experience pain over a year later and that his lungs had not healed after six months. Based on this evidence, a reasonable jury could conclude that the victim suffered from “extreme physical pain” and thus satisfied the essential element of serious bodily injury. See e.g., State v. Lee, No. M1999-01625-CCA-R3-CD, 2000 WL 804674, at *4 (Tenn. Crim. App. June 23, 2000) (holding serious bodily injury occurred where the victim was kicked “repeatedly” in the face, resulting in two black eyes, severe facial swelling and a torn lip, was unable to work for a week, suffered headaches for three to four weeks, and suffered “extreme physical pain”); State v. Gibson, No. M2005-01422-CCA-R3-CD, 2006 WL 770460, at *11 (Tenn. Crim. App. Mar. 24, 2006) (finding the victim suffered serious bodily injury after experiencing repeated blows to the face causing fractures to the nasal and eye area, two black eyes, a bruise to the right temple, a bruised lip and swollen and bloody nose, and was in “extreme physical pain”), perm. to app. denied (Tenn. Aug. 28, 2006). Accordingly, the Defendant is not entitled to relief.

CONCLUSION

Based on the above reasoning and authority, we affirm the judgment of the trial court.

CAMILLE R. MCMULLEN, PRESIDING JUDGE