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IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs July 11, 2023

STATE OF TENNESSEE v. ARCHIE LEE MEEKS

Appeal from the Circuit Court for Fayette County
No. 21-CR-190 J. Weber McCraw, Judge

No. W2022-01327-CCA-R3-CD

A Fayette County jury convicted the Defendant, Archie Lee Meeks, of aggravated assault with a deadly weapon, assault by offensive touching, and aggravated criminal trespass, and the trial court sentenced him to an effective sentence of ten years. On appeal, the Defendant contends that the evidence is insufficient to sustain his convictions. After review, we affirm the trial court's judgments.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed

ROBERT W. WEDEMEYER, J., delivered the opinion of the Court, in which CAMILLE R. MCMULLEN P.J., and JILL BARTEE AYERS, J., joined.

Tipton B. Burk, District Public Defender; Shana Johnson, Senior Assistant Public Defender (on appeal), and Matthew C. Edwards (at trial), Assistant Public Defender, Somerville, Tennessee, for the appellant, Archie Lee Meeks.

Jonathan Skrmetti, Attorney General and Reporter; Caroline Weldon, Assistant Attorney General; Mark E. Davidson, District Attorney General; and Falen Marie Chandler, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

This case arises from the Defendant going to the home of Darlene Jordan armed with a box cutter or knife and assaulting her. Based on these allegations, the Fayette County grand jury indicted the Defendant for aggravated assault with a deadly weapon, assault by offensive touching, and aggravated criminal trespass.

I. Facts

At the Defendant's trial, the parties presented the following evidence: Darlene

Jordan testified that she was at her home in Fayette County on July 30, 2021, when the Defendant, who is her "[d]istant cousin," came to her house sometime after noon. He banged on her door and said, "You let this white boy cut your grass," referring to Shane Tunnel who was at her home cutting her grass. Ms. Jordan was scared that the Defendant was going to hurt her, so she asked the Defendant to leave, but he would not and instead sat down. She noted that the Defendant had in his hand a bottle of beer from which he was drinking. Ms. Jordan told the Defendant she was going to call the police, but she instead called his mother, Essie Lee Meeks.

Ms. Jordan could hear the Defendant talking to someone on the phone, and she assumed it was Ms. Meeks. The Defendant was "loud talking" and informed Ms. Jordan that if she called the police she would be "sorry." Ms. Jordan called the police anyway.

Ms. Jordan recalled that Mr. Tunnel parked the lawn mower in the yard next door, and the Defendant "walked up to [her], just talking to [her] loud[ly]," so Mr. Tunnel came and stood beside her. At that point the Defendant reached in his pocket and pulled out something that looked like a knife or box cutter. He pointed the weapon at Mr. Tunnel while saying "not nice" things to him. The Defendant began to chase Mr. Tunnel with the weapon around the yard. Ms. Jordan was "screaming" for the Defendant to stop. The Defendant's mother arrived at Ms. Jordan's home, she talked to him, and the Defendant gave his mother the weapon.

The Defendant then walked up to Ms. Jordan and used his finger to push her in the head, which she found offensive. He left on his bicycle before law enforcement arrived. The Defendant's mother, Ms. Meeks, still had the weapon in her possession at that time.

During cross-examination, Ms. Jordan testified that it appeared the Defendant thought that she was going to employ him to cut her grass rather than Mr. Tunnel, but she had no idea why he had this impression. Ms. Jordan agreed that, during the altercation between the Defendant and her, and while the Defendant was yelling at Ms. Jordan, Mr. Tunnel went and retrieved a bat from his vehicle. Ms. Jordan said that, when the Defendant had the blade in his hand, he was "slinging" it. When the Defendant's mother arrived, she said to the Defendant, "Give me that knife . . .," and he gave it to her. Ms. Jordan said that the Defendant also, at one point, grabbed a shovel from the side of her house and swung it at Mr. Tunnel.

Mr. Tunnel testified, and his testimony largely comported with that of Ms. Jordan. He added that, when the Defendant first arrived at the home on his bicycle, he approached Mr. Tunnel and told him that he was taking all of his work. The Defendant had said something of this nature on a previous occasion, but the two agreed that there was nothing the Defendant could do to prevent Mr. Tunnel from mowing the yards in dispute.

Mr. Tunnel said that, when Ms. Jordan and the Defendant started arguing, Mr.

Tunnel came to the front of the house. The Defendant, at that point, "came at [him] with a knife," saying that he was going to cut Mr. Tunnel. Mr. Tunnel described the knife as a box cutter that had a two inch blade. Mr. Tunnel said that he was concerned that the Defendant, who had obviously been drinking, was going to cut him with the knife.

The Defendant's mother arrived, and the Defendant turned his attention toward her, so Mr. Tunnel went to his car and retrieved a baseball bat. Mr. Tunnel thought that the altercation had diffused, so he went back to his mower, and the Defendant "c[a]me at" him with a metal shovel. The Defendant's mother calmed him down and told the Defendant that the police had been called. Mr. Tunnel loaded his mower on his trailer and went home.

James Michael Tillman, Jr., a deputy with the Fayette County Sheriff's Department, testified that he arrested the Defendant the following day on the charges in this case.

The Defendant called his mother, Ms. Meeks, to testify, and she gave her account of this incident. She said that the Defendant told her that he was going to ride his bicycle for ten or fifteen minutes. While he was gone, Ms. Jordan called her and said that the Defendant was there "cutting up" and would not leave when Ms. Jordan asked him to leave. Ms. Jordan told her that she was going to call the police, and Ms. Meeks asked her to wait until she got there.

When Ms. Meeks arrived, she observed Ms. Jordan, the Defendant, and Mr. Tunnel in a "huddle." Mr. Tunnel had a "stick" in his hand, and the Defendant had his fist balled. The three were "fussing and cussing" at each other. The Defendant picked up a shovel and immediately turned the shovel loose.

Ms. Meeks said that she never saw the Defendant with a knife. She said that the Defendant left before she left, and, while she was at Ms. Jordan's house, she never saw anyone touch anyone else. Ms. Meeks alleged that all three of them were "[f]ull of alcohol or beer or drugs . . . ."

During cross-examination, Ms. Meeks testified that the Defendant helped to take care of her, and she did not want anything bad to happen to him.

Based upon this evidence, the jury convicted the Defendant for aggravated assault with a deadly weapon, assault, and aggravated criminal trespass. The trial court sentenced him to an effective sentence of ten years. It is from these judgments that the Defendant now appeals.

II. Analysis

On appeal, the Defendant contends the evidence is insufficient to sustain his convictions. With regard to his aggravated assault conviction, he contends that there was

conflicting testimony about whether he brandished a knife and whether Mr. Tunnel was in fear for his own safety. With regard to the assault conviction, he contends that there is conflicting testimony about whether he actually poked Ms. Jordan in the face, and, if he did, such action may be "annoying" but is not "extremely offensive." About the criminal trespass conviction, the Defendant contends that he did not stay long after being asked to leave, that he was asked to leave during an argument, and that his presence did not cause Ms. Jordan to fear for her safety. The State responds that there is sufficient evidence to support the Defendant's convictions. We agree with the State.

When an accused challenges the sufficiency of the evidence, this Court's standard of review is whether, after considering the evidence in the light most favorable to the State, "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see* Tenn. R. App. P. 13(e); *State v. Goodwin*, 143 S.W.3d 771, 775 (Tenn. 2004) (citing *State v. Reid*, 91 S.W.3d 247, 276 (Tenn. 2002)). This standard applies to findings of guilt based upon direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *State v. Pendergrass*, 13 S.W.3d 389, 392-93 (Tenn. Crim. App. 1999) (citing *State v. Dykes*, 803 S.W.2d 250, 253 (Tenn. Crim. App. 1990)). In the absence of direct evidence, a criminal offense may be established exclusively by circumstantial evidence. *Duchac v. State*, 505 S.W.2d 237, 241 (Tenn. 1973). "The jury decides the weight to be given to circumstantial evidence, and '[t]he inferences to be drawn from such evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence, are questions primarily for the jury.'" *State v. Rice*, 184 S.W.3d 646, 662 (Tenn. 2006) (quoting *Marable v. State*, 313 S.W.2d 451, 457 (Tenn. 1958)). "The standard of review [for sufficiency of the evidence] 'is the same whether the conviction is based upon direct or circumstantial evidence.'" *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011) (quoting *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009)).

In determining the sufficiency of the evidence, this Court should not re-weigh or reevaluate the evidence. *State v. Matthews*, 805 S.W.2d 776, 779 (Tenn. Crim. App. 1990). Nor may this Court substitute its inferences for those drawn by the trier of fact from the evidence. *State v. Buggs*, 995 S.W.2d 102, 105 (Tenn. 1999) (citing *Liakas v. State*, 286 S.W.2d 856, 859 (Tenn. 1956)). "Questions concerning the credibility of witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact." *State v. Bland,* 958 S.W.2d 651, 659 (Tenn. 1997). "A guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of the State." *State v. Grace*, 493 S.W.2d 474, 476 (Tenn. 1973). The Tennessee Supreme Court stated the rationale for this rule:

> This well-settled rule rests on a sound foundation. The trial judge and the jury see the witnesses face to face, hear their testimony and observe their demeanor on the stand. Thus the trial judge and jury are the primary

> instrumentality of justice to determine the weight and credibility to be given to the testimony of witnesses. In the trial forum alone is there human atmosphere and the totality of the evidence cannot be reproduced with a written record in this Court.

Bolin v. State, 405 S.W.2d 768, 771 (Tenn. 1966) (citing *Carroll v. State*, 370 S.W.2d 523, 527 (Tenn. 1963)). This Court must afford the State of Tennessee the "'strongest legitimate view of the evidence'" contained in the record, as well as "'all reasonable and legitimate inferences'" that may be drawn from the evidence. *Goodwin*, 143 S.W.3d at 775 (quoting *State v. Smith*, 24 S.W.3d 274, 279 (Tenn. 2000)). Because a verdict of guilt against a defendant removes the presumption of innocence and raises a presumption of guilt, the convicted criminal defendant bears the burden of showing that the evidence was legally insufficient to sustain a guilty verdict. *State v. Carruthers*, 35 S.W.3d 516, 557-58 (Tenn. 2000) (citations omitted).

A. Aggravated Assault

The jury convicted the Defendant of aggravated assault for his actions toward Mr. Tunnel. Aggravated assault is defined as intentionally or knowingly causing a victim to reasonably fear imminent bodily injury through the use or display of a deadly weapon. *See* T.C.A. § 39-13-101(a)(2) (2018); T.C.A. § 102(a)(1)(A)(iii) (2018). Aggravated assault based on fear requires the victim to have a "well-grounded apprehension of personal injury or violence." *State v. Jones*, 789 S.W.2d 545, 550-51 (Tenn. 1990). Circumstantial evidence is sufficient to establish a victim's fear of imminent bodily injury. *State v. Jessie James Austin*, No. W2001-00120-CCA-R3-CD, 2002 WL 32755555, at *5 (Tenn. Crim. App., at Jackson, Jan. 25, 2002), *no Tenn. R. App. P. 11 application filed.* "The element of 'fear' is satisfied if the circumstances of the incident, within reason and common experience, are of such a nature as to cause a person to reasonably fear imminent bodily injury." *State v. Gregory Whitfield*, No. 02C01-9706-CR-00226, 1998 WL 227776, at *2 (Tenn. Crim. App., at Jackson, May 8, 1998) (citing *State v. Jamie Lee Pittman*, No. 03C01-9701-CR-00013, 1998 WL 128801, at *5 (Tenn. Crim. App., at Knoxville, Mar. 24, 1998), *no Tenn. R. App. P. 11 application filed*), *perm. app. denied* (Tenn. Dec. 7, 1998).

The evidence viewed in the light most favorable to the State proves that the Defendant, after engaging in an altercation with Ms. Jordan, brandished a knife or box cutter and swung it at Mr. Tunnel. Mr. Tunnel was concerned that the Defendant, who had been drinking, was going to cut him with the knife. This evidence is sufficient to establish the elements of aggravated assault. As to the Defendant's contention that there was conflicting testimony about whether he had a knife, "[q]uestions concerning the credibility of witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact." *Bland,* 958 S.W.2d at 659. The jury resolved that question in favor of the State's witnesses' testimony. We conclude that

the evidence is sufficient to sustain the Defendant's conviction for aggravated assault.

B. Assault

The jury convicted the Defendant of assault for his actions against Ms. Jordan. A person commits assault who intentionally or knowingly causes physical contact with another that a reasonable person would regard as extremely offensive or provocative. T.C.A. § 39-13-101(a)(3). "Offensive" and "provocative" contact are not defined by the provisions of our code. *See State v. Smiley*, 38 S.W.3d 521, 525 (Tenn. 2001). The *Smiley* court expounded:

> In the law of torts where the concept of offensive contact originated, offensive contact is generally defined as contact that "offends a reasonable sense of personal dignity." STUART M. SPEISER ET AL., THE AMERICAN LAW OF TORTS, § 26:15. Cited examples include: kissing without one's consent, cutting one's hair without consent, or spitting in one's face. *Id.* We find such examples indicative of what is meant by extremely offensive or provocative contact. The sentencing committee comments show that Tenn. Code Ann. § 39-13-101(a)(3) applies only to that physical contact which does not involve physical bodily injury.

Id.

The evidence, viewed in the light most favorable to the State, proves that the Defendant arrived at Ms. Jordan's house and was upset she was having someone else mow her yard. He yelled at Mr. Tunnel and Ms. Jordan. He brandished a knife and chased Mr. Tunnel. His mother arrived, and she demanded that he give her his knife, which he did. He then went up to Ms. Jordan, yelled and cussed at her, and poked her in the head. Under the circumstances, she found the touching extremely offensive. The jury did not err when it determined that a reasonable person would regard this touching as extremely offensive or provocative. We conclude that this evidence is sufficient for a rational jury to conclude that the Defendant committed the offense of assault.

C. Criminal Trespass

The jury convicted the Defendant of aggravated criminal trespass. The crime of aggravated criminal trespass is committed when a person enters or remains on property when the person: (1) knows the person does not have the property owner's effective consent to do so; and (2) intends, knows, or is reckless about whether such person's presence will cause fear for the safety of another. T.C.A. § 39-14-406 (2018); *see State v. Terry*, 118 S.W.3d 355, 359 (Tenn. 2003).

The Defendant came to Ms. Jordan's home while Mr. Tunnel was mowing her yard.

He became incensed that she had employed Mr. Tunnel to mow the yard rather than the Defendant. The Defendant banged on her door, and yelled at her. Ms. Jordan asked the Defendant repeatedly to leave, told him that she was calling both his mother and law enforcement, and the Defendant sat on her steps and would not leave. Ms. Jordan asked the Defendant to leave because, based on his demeanor and history, she was scared he was going to hurt her. He did not leave until his mother arrived, disarmed him, and informed him that law enforcement was on the way to the house. We conclude that this evidence sufficiently supports the elements of aggravated criminal trespass. The Defendant is not entitled to relief.

III. Conclusion

After a thorough review of the record and the applicable law, we affirm the trial court's judgments.

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ROBERT W. WEDEMEYER, JUDGE