

STATEMENT OF THE CASE

Nasheed S. Waqia appeals his conviction for aggravated battery, a class B felony.¹

We affirm.

ISSUE

Whether there is sufficient evidence to support the conviction.

FACTS

In the evening of July 14, 2007, Waqia and his then-wife, Angela Young, went to an Evansville-area American Legion hall. They both had some brandy before leaving for the nightclub; Waqia also had some schnapps. They arrived at the hall at approximately 11:30 p.m. and shared another drink in the parking lot. They then spent the next two hours dancing and talking.

At some point in the evening, Angela danced one of the line dances while Waqia remained at their table. After the dance, “a guy grabbed [Angela’s] arm and started asking [her] about [her] sister” (Tr. 25). He asked whether her sister would be “coming into the club” (Tr. 25). When Angela told the man that she did not know, “he said okay and he let go of [her] arm” (Tr. 25). When Angela returned to the table, Waqia “was a little upset ” because she had been talking to another man. (Tr. 26). After Angela explained to him what the man wanted, Waqia went to the restroom.

¹ Ind. Code § 35-42-2-1.5.

After Waqia left, the man from the dance floor again approached Angela. Waqia returned, and seeing the man at the table, became upset “[b]ecause this guy was talking to” Angela. (Tr. 30). Waqia and Angela then left the hall.

Once in their vehicle, Waqia began “driving extremely fast.” (Tr. 31). When he stopped at a stop sign, the “car cut off.” (Tr. 32). Angela exited the vehicle, telling Waqia that she was going to “sit on the curb and let [him] calm down.” (Tr. 32). Waqia also exited the vehicle and began yelling at Angela to not “turn [her] back on [him] or don’t walk away from [him]” (Tr. 32). He then grabbed Angela and “started dragging [her] back to the car.” (Tr. 32).

Angela tried to run and scream for help. Waqia, however, “grabbed” her arms and hit her in the face with his fist, so hard that it caused her to slide across the hood of his car and rendered her unconscious. (Tr. 33). Subsequently, she felt Waqia pick her up, only to drop her, allowing her head to strike the ground; Angela again lost consciousness.

When Angela regained consciousness, she was in the back seat of Waqia’s vehicle. Waqia was holding a knife and “talking to himself [sic] in the front seat” (Tr. 38). Once he realized Angela was awake, Waqia began yelling and threatening to kill her if she told anybody what had happened. Eventually, Waqia calmed down enough to allow Angela to convince him to take her home.

When they arrived home, Angela realized that “something wasn’t right” (Tr. 45). She could not see; her head “felt like to was going to just blow up”; she felt hot; and she “was extremely sleepy.” (Tr. 45). She also was confused, not “know[ing] exactly

what was going on” and “none of it was registering with [her], what had happened” (Tr. 46). She attempted to telephone 911 but became frightened when Waqia came into the room.

Two days later, Angela went to an ophthalmologist because she still “couldn’t see and [her] head was hurting so bad” (Tr. 51). The doctor diagnosed her with “a severe hemorrhage,” an injury often caused by blunt force trauma. (Tr. 52).

The next night, Angela went to the emergency room, where she was diagnosed with “a severe concussion[.]” (Tr. 55). Angela remained hospitalized for three days, during which time Waqia threatened to kill her if she said “anything” (Tr. 57).

After the hospital released Angela, her brother visited her at home. At that time, Waqia admitted that he had hit Angela “in her mouth,” causing her to “slide across the hood of the car” and fall to the ground. (Tr. 118; 119).

On August 2, 2007, Angela reported the incident to a caseworker for the Department of Child Services, who was investigating reports that Angela’s children were in an “unsafe environment” due to Waqia’s abuse toward Angela. (Tr. 104). The caseworker reported the incident to the Evansville Police Department.

On August 14, 2007, the State charged Waqia with Count I, strangulation, a class D felony. On August 19, 2007, the State filed an amended information, charging Waqia with Count II, battery as a class C felony; and Count III, intimidation as a class D felony.

In October of 2007, Angela underwent surgery for a detached retina. She subsequently underwent another surgery “for a cataract that had developed because of the

. . . first surgery.” (Tr. 63). As a result of her injuries, Angela lost vision in her right eye and requires “injections near the eye of a steroid to keep the inflammation inside the eye to a level where it does [not] cause pain.” (Tr. 155).

On May 1, 2008, the State moved to amend Count II to aggravated battery, a class B felony. The trial court granted the State’s motion on May 5, 2008.

The trial court commenced a jury trial on June 16, 2009. During the trial, Angela testified that she was five feet, two inches tall and weighed less than 135 pounds at the time of the offense. Waqia testified that he was an amateur middle-weight boxer and had trained “[o]n and off” for twenty years. (Tr. 282). He also testified that he was five feet, ten inches tall and weighed approximately 165 pounds.

Waqia further testified that he only “lightly tapped” Angela on the face after she grabbed his hair. (Tr. 243-44). According to Waqia, Angela then tripped and fell. As he tried to lift her, she slipped. When she slipped, he heard “a loud thud, because her head bounced off the concrete.” (Tr. 247). Waqia testified that Angela did not respond when asked if she was alright.

The jury found Waqia guilty of aggravated battery, a class B felony. Following a sentencing hearing on July 20, 2009, the trial court sentenced Waqia to eighteen years.

DECISION

Waqia asserts that the evidence is insufficient to support his conviction. He argues that the State failed to prove that he “knowingly or intentionally caused protracted loss or impairment” of Angela’s eye when he struck her. Waqia’s Br. at 5.

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations and citations omitted).

Indiana Code section 35-42-2-1.5 provides that “[a] person who knowingly or intentionally inflicts injury on a person that creates . . . protracted loss or impairment of the function of a bodily member or organ” commits aggravated battery. “A person engages in conduct ‘intentionally’ if, when he engages in the conduct, it is his conscious objective to do so.” I.C. § 35-41-2-2(a). “A person engages in conduct ‘knowingly’ if, when he engages in the conduct, he is aware of a high probability that he is doing so.” I.C. § 35-41-2-2(b).

Intent is a mental function. Absent an admission by the defendant, it must be determined from a consideration of the defendant's conduct and the natural and usual consequences thereof. The trier of fact must resort to reasonable inferences based upon an examination of the surrounding circumstances to determine whether, from the person's conduct and the natural consequences of what might be expected from that conduct, a showing or inference of the intent to commit that conduct exists.

Lush v. State, 783 N.E.2d 1191, 1196 (Ind. Ct. App. 2003) (internal citations omitted).

Here, the State presented evidence that Waqia had trained for approximately twenty years as a boxer, outweighed Angela and stood eight inches taller than Angela. During the early morning of July 15, 2007, he became enraged with Angela and struck her head with enough violent force to hurl her across the hood of his vehicle and render her unconscious. Angela sustained significant and permanent injuries to her eye, requiring two surgeries and injections of medication near her eye to reduce inflammation.

Given the evidence, particularly Waqia's training as a boxer and size in comparison to Angela, we conclude that a reasonable jury could have found beyond a reasonable doubt that he was aware of the high probability that he would cause Angela to suffer the protracted loss or impairment of an organ when he violently struck her in the head with his fist. Furthermore, any assertion that Waqia did not "strike his wife with the force she described" during trial is an invitation to reweigh the evidence and assess the credibility of the witnesses. Waqia's Br. at 6. We decline to do so. We therefore find the evidence sufficient to sustain Waqia's conviction for aggravated battery.

Affirmed.

MAY, J., and KIRSCH, J., concur.