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IN THE
COURT OF APPEALS OF INDIANA

EUGENE L. ROBINSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A03-1010-CR-547
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Thomas P. Stefaniak, Jr., Judge
Cause No. 45G04-1003-FA-15

July 19, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Judge

Appellant-defendant Eugene L. Robinson appeals his conviction for Criminal Confinement,[1] a class B felony, arguing that the evidence was insufficient. Finding sufficient evidence, we affirm.

FACTS

In March 2010, the Gary Police Department received information regarding illegal drug activity. Around March 16, 2010, Detective Christopher Stark conducted a controlled buy of narcotics using a confidential informant, Richard Shoback, but Detective Stark was unable to identify the men who sold narcotics to Shoback.

On March 23, 2010, Detective Stark attempted to make another controlled purchase at the same location using Shoback, who was equipped with an audio and video device. Shoback was also given purchase money that had been photocopied. Detective Stark drove Shoback to a point about a block away from the residence where he was to make the controlled purchase. Shoback exited Detective Stark's undercover vehicle and began walking towards the residence.

Right before reaching his destination, Shoback encountered a group of men, including Robinson, who inquired whether Shoback had drugs to purchase. Shoback explained to Robinson that he "wanted to get a 50," meaning that he wanted $50 worth of cocaine. Tr. p. 183. Robinson asked for Shoback's money, but he would not give it to him. Robinson said something to the effect of "we will go and get it." Id. at 184.

[1] Ind. Code § 35-42-3-3.

Robinson again tried to take Shoback's money, but he refused to give it to him because Robinson did not have any drugs to sell. Robinson punched Shoback in the face.

Shoback noticed other people approaching and tried to escape, but Robinson prevented it by holding onto his hooded sweater. Robinson held Shoback until the other people arrived from across the street. At Robinson's trial, Shoback testified, "I am six foot one and a half. I was three houses away from the corner. I would have made it to safety if somebody didn't hold me against my will." Tr. p. 223.

After the other individuals arrived, they attacked Shoback, who immediately fell to the ground. Robinson was still holding onto Shoback as he fell. Robinson started kicking Shoback and stomping on his head. The other men also kicked and stomped on Shoback, who was struck numerous times in the ribs, hips, head, and face.

Detective Sam Abegg was a block away and watching through binoculars when the individuals began to attack Shoback. Detective Abegg and the other officers drove to the scene where he saw Robinson continuing to stomp on Shoback's head. Detective Abegg ordered the men to stop and to lie on the ground. Three men obeyed immediately. A juvenile, C.W., fled the scene, but two officers caught him. Robinson started to walk away, but Detective Abegg ordered him to lie down a second time, and he complied. Detective Starks searched C.W. and found $80, including $40 of the $50 that Detective Starks had given to Shoback as purchase money.

Shoback was taken to the hospital for his injuries. Although he was not unconscious, he was confused, did not know what was happening, and was "staggering

around." Tr. p. 99, 187, 432. As the result of the attack, Shoback suffered lacerations to his right eyebrow and to the back of his head, which required six staples. Additionally, Shoback suffered bruising to three of his ribs and to the right side of his face. Shoback indicated to the medical personnel treating him that he was in "severe" pain. Id. at 330.

On March 25, 2010, the State charged Robinson with class A felony robbery, class B felony robbery, class B felony criminal confinement, class C felony criminal confinement, and class C felony battery. At the conclusion of Robinson's three-day jury trial, which commenced on September 7, 2010, the jury found him guilty on both counts of criminal confinement and battery, but not guilty on the two robbery counts.

On September 29, 2010, Robinson filed a motion to reconsider the judgment on the evidence, to enter a judgment notwithstanding the verdict, or for a new trial. The trial court denied this motion on October 12, 2010.

That same day, the trial court entered a judgment of conviction for class B felony criminal confinement and class C felony battery and a "verdict to stand" for class C felony criminal confinement. Appellant's App. p. 125. The trial court also held a sentencing hearing and sentenced Robinson to a ten-year term for class B felony criminal confinement to be served concurrently with a four-year term for class C felony battery. Robinson now appeals his conviction for class B felony criminal confinement.

DISCUSSION AND DECISION

Robinson's sole argument on appeal is that the State presented insufficient evidence to sustain his conviction for class B felony criminal confinement. More particularly, Robinson argues that the "trial court in essence inferred that Shoback must have been restrained merely from the fact that he was battered." Appellant's Br. p. 11. Robinson contends that this inference equates battery with criminal confinement.

When reviewing the sufficiency of the evidence, this Court neither reweighs the evidence nor judges the credibility of witnesses. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). Rather, we will consider only the evidence and the resulting reasonable inferences that are most favorable to the verdict, and we will affirm if a reasonable jury could have found the defendant guilty beyond a reasonable doubt. Garland v. State, 719 N.E.2d 1236, 1238 (Ind. 1999).

To convict Robinson of class B felony criminal confinement, the State was required to prove that he knowingly or intentionally confined another and that this confinement resulted in serious bodily injury. Ind. Code § 35-42-3-3(b)(2)(B). To "confine" someone means "to substantially interfere with the liberty of a person." I.C. § 35-42-3-1. Accordingly, criminal confinement requires proof of a substantial interference with a person's liberty without the person's consent. Cunningham v. State, 870 N.E.2d 552, 553 (Ind. Ct. App. 2007).

In this case, Shoback testified that he was prevented from running away from Robinson because Robinson held on to his hooded sweater until his accomplices arrived

and started beating Shoback. Tr. p. 185, 204, 223. As noted above, Shoback testified that he could have "made it to safety if somebody didn't hold me against my will." Id. at 223.

Similarly, Detective Abegg testified that he observed Robinson holding onto Shoback as he struggled to escape from Robinson. From this evidence, a reasonable jury could have found Robinson guilty of class B felony criminal confinement.

Nevertheless, Robinson highlights the fact that the encounter between him and Shoback only lasted a few seconds and claims that such a brief encounter cannot constitute a substantial interference with someone's liberty. While Robinson is correct that time is a factor when assessing whether the interference was substantial, it is the type and nature of the interference that are the most significant factors. Sammons v. State, 397 N.E.2d 289, 294 (Ind. Ct. App. 1979).

This case illustrates this principle. Although Robinson restrained Shoback for a brief period of time, as Shoback testified, it was sufficient to prevent him from escaping from Robinson and his accomplices. As a result, Shoback was battered and sustained severe injuries. Thus, the type and nature of the interference were substantial.

That said, we do not intend to imply that any time someone is grabbed, that person is criminally confined. Indeed, if that were the case, "holding," a common penalty in football—an offensive player grabbing the jersey or shoulder pads of a defensive player—would be sufficient to constitute criminal confinement. As discussed above, Robinson did more than merely grab the hood of Shoback's sweater. To be sure,

Robinson held onto Shoback until his accomplices arrived from across the street and prevented Shoback's escape from an attack that resulted in severe injuries. Consequently, we affirm the decision of the trial court.

The judgment of the trial court is affirmed.

MAY, J., and BRADFORD, J., concur.