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2019 IL App (3d) 160628-U

Order filed July 22, 2019

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 14th Judicial Circuit, Henry County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-16-0628
SHILOE L. BEASLEY,)	Circuit No. 14-CF-268
Defendant-Appellant.)	Honorable Jeffery W. O'Connor, Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Presiding Justice Schmidt and Justice Holdridge concurred in the judgment.

ORDER

¶ 1 *Held:* The State presented sufficient evidence to prove defendant's guilt beyond a reasonable doubt. This court lacks jurisdiction to address defendant's claim as to the application of presentence custody credit, but we remand the matter so that defendant can raise the issue in the circuit court.

¶ 2 Defendant, Shiloe L. Beasley, appeals his convictions and sentence arguing the State failed to prove his guilt beyond a reasonable doubt. Defendant also challenges the circuit court's application of his \$5-per-day presentence custody credit. We affirm and remand.

¶ 3

I. BACKGROUND

¶ 4

The State charged defendant with two counts of aggravated battery (720 ILCS 5/12-3.05(d)(4) (West 2014)) and two counts of misdemeanor resisting or obstructing a correctional institution employee (*id.* § 31-1(a)). The State also charged defendant with one count of felony resisting or obstructing a correctional institution employee (*id.* § 31-1(a-7)) based on the allegation that a correctional institution employee was injured while defendant committed the offense. The cause proceeded to a bench trial.

¶ 5

At trial, the evidence established that defendant, an inmate at Henry County jail, became angry over a dispute with correctional officers. Defendant ignored the officers' commands and the officers physically removed defendant from the dayroom and returned him to his cell. Officer Ben Schnerre testified that once defendant was in his cell, he charged the door with his arm raised and his hand clenched in a fist. As a result, the officers "wrestle[d]" defendant to the ground, handcuffed him, and escorted him to a holding cell. Later, Schnerre and other officers attempted to escort defendant to a different cell. However, defendant again resisted the officers' orders, and the officers had to take defendant to the ground and handcuff him. During both incidents, Schnerre testified that defendant was "pulling" away from and resisting the officers' commands and that the officers had to manipulate defendant's arms in order to place him in handcuffs.

¶ 6

Schnerre testified that he was injured during the process of moving defendant through the prison. The injury ultimately required Schnerre to have surgery. Regarding this injury, Schnerre testified as follows:

"Q. Now, as a result of you taking the defendant to the ground, did anything happen to you?"

A. In one of the two incidents, I received an injury to my shoulder.

Q. Which—Which of the two incidents are we talking about?

A. Oh, if you want to call Incident 1 where we basically wrestled or manipulated [defendant] to the concrete floor, or Incident 2, there was no way of knowing for sure.

Q. So, are you referring to Incident 1 or Incident 2?

A. Well, I think the question that you're asking is can I definitively say when I was injured, whether it was wrestling the inmate or manipulating the inmate to the floor the first time or the second time, and I guess my answer to you is there's no way to be sure if it was the first time or the second time.

Like I've testified before, the inmate the first time was pulling away from us. It could have occurred during that, not going to the floor on the first occasion. We were trying to manipulate the inmate to the ground; he's trying to pull away from us. It could have happened there. It could have been happened when my shoulder struck the concrete floor trying to assist the inmate to the floor.

My—My guess would be—And there's no definitive way for me to say, but I would say I incurred the shoulder injury during the first incident, but there's no definitive way to say.

Q. When you reported to work that day, were you injured in any way?

A. No.

Q. When you reported to work that day, did you have any injuries, pain?

A. No.

Q. And did you have any other incidents or issues with any other inmates between when you reported and the incidents you described with the defendant?

A. No other physical altercations with any other inmate.

Q. What shoulder was it?

A. My left shoulder.

Q. And what was it about your shoulder that made you believe it had been injured?

A. When I woke up the next day, I woke up in severe pain.

Q. And had you done anything else during the remainder of your shift or after you'd left work?

A. I went home and went to bed, slept, woke up."

¶ 7 Ultimately, the court found defendant guilty of two counts of misdemeanor resisting or obstructing a correctional institution employee and one count of felony resisting or obstructing a correctional institution employee. The court acquitted defendant of the remaining charges. The court sentenced defendant to 18 months' imprisonment for felony resisting or obstructing a correctional institution employee. The court merged the two misdemeanor counts with the felony sentence. The court also awarded defendant 470 days of presentence custody credit.

¶ 8 II. ANALYSIS

¶ 9 On appeal, defendant challenges the sufficiency of the evidence. Defendant also challenges the court's application of his presentence custody credit toward defendant's eligible fines.

¶ 10 A. Sufficiency of the Evidence

¶ 11 To prove defendant guilty of resisting or obstructing a correctional institution employee, the State must establish that defendant knowingly resisted or obstructed the performance by one known to defendant to be a correctional institution employee of any authorized act within his or her official capacity. 720 ILCS 5/31-1(a) (West 2014). This offense is a Class A misdemeanor. *Id.* However, the offense is enhanced to a Class 4 felony if the person convicted of this offense was the proximate cause of an injury to a correctional institution employee. *Id.* § 31-1(a-7).

¶ 12 Initially, we note that defendant does not contend that the State presented insufficient evidence to prove him guilty of physically resisting or obstructing Schnerre. Rather, defendant only challenges the sufficiency of the enhancing evidence that his conduct proximately caused Schnerre's injury. Viewing the evidence in the light most favorable to the State, we find that a rational trier of fact could have found the trial evidence established that defendant's conduct proximately caused Schnerre's shoulder injury.

¶ 13 In a challenge to the sufficiency of the evidence, we will not retry the defendant. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). Rather, “ ‘the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ ” (Emphasis in original.) *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). “[I]n a bench trial, it is for the trial judge, sitting as the trier of fact, to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence.” *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009).

¶ 14 Here, Schnerre testified that he arrived at work on the day in question without any pain. During the day, Schnerre was involved in two incidents with defendant. Although Schnerre could not say with certainty when he suffered his shoulder injury, he specifically stated that his

injury occurred during one of the two altercations with defendant. Schnerre testified that the next morning he awoke with severe shoulder pain which later required surgery. Schnerre's testimony alone, when taken in the light most favorable to the State, is sufficient for a rational trier of fact to conclude that defendant's conduct was the cause of Schnerre's shoulder injury.

¶ 15 Despite the above evidence, defendant argues that the State failed to prove his guilt beyond a reasonable doubt because Schnerre could not positively identify the exact moment his shoulder injury occurred. According to defendant, it is possible that Schnerre was injured before the incident with his symptoms manifesting after the incident. Defendant also speculates that Schnerre's injury could have been caused by something unrelated to his job. However, defendant's argument ignores Schnerre's specific testimony that he was not injured or in pain prior to the altercations with defendant. Defendant's argument also ignores Schnerre's testimony in which he identified one of the two altercations with defendant as the source of his injury.

¶ 16 B. Presentence Custody Credit

¶ 17 For the first time on appeal, defendant argues that the circuit court failed to offset his applicable fines by his \$5-*per-diem* presentence custody credit. Pursuant to Illinois Supreme Court Rule 472 (eff. Mar. 1, 2019), we lack jurisdiction to address defendant's argument. Rule 472 provides that the circuit court retains jurisdiction to correct certain sentencing errors, including errors in the imposition of monetary assessments or in the application of *per diem* credits, at any time following judgment. Ill. S. Ct. R. 472(a)(1),(a)(2) (eff. Mar. 1, 2019) Rule 472(e) provides that where, as here, a criminal case was pending on appeal as of March 1, 2019, and a party raised sentencing errors covered by Rule 472 for the first time on appeal, "the reviewing court shall remand to the circuit court to allow the party to file a motion pursuant to this rule." Ill. S. Ct. R. 472(e) (eff. May 17, 2019). Thus, pursuant to Rule 472(e), defendant

must first file a motion in the circuit court requesting the correction of the errors alleged here. *People v. Whittenburg*, 2019 IL App (1st) 163267, ¶ 4. We remand to the circuit court for that limited purpose.

¶ 18

III. CONCLUSION

¶ 19

The judgment of the circuit court of Henry County is affirmed and remanded to the circuit court to allow defendant to file a motion pursuant to Rule 472 challenging the application of his *per diem* credit.

¶ 20

Affirmed and remanded.