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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Kane County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 16-CM-2537
	)	
ALARICE RAMISCAL,	)	Honorable
	)	John A. Barsanti,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE HUTCHINSON delivered the judgment of the court.  
Justices Burke and Schostok concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The State proved defendant guilty beyond a reasonable doubt of domestic battery, as the jury was entitled to credit the victim's written statement over his testimony, especially in light of the other evidence.
- ¶ 2 Following a jury trial, defendant, Alarice Ramiscal, was convicted of two counts of domestic battery (720 ILCS 5/12-3.2(a)(1), (a)(2) (West 2016)) and sentenced to a 12-month term of conditional discharge. On appeal, defendant argues that the State failed to prove her guilty beyond a reasonable doubt, where the victim testified that no battery occurred and disavowed his prior written statement. We affirm.

¶ 3

## I. BACKGROUND

¶ 4 Defendant was charged with two counts of domestic battery (*id.*) based on allegations that, on July 14, 2016, she “bit and/or slapped and/or struck” the victim, Joseph A. Jakubowski, a family or household member. The matter proceeded to a jury trial.

¶ 5 The relevant testimony established the following. Elgin police officer Shawn Sproles testified that he arrived on the scene of the incident at 2 a.m. on July 14, 2016. Upon his arrival, Jakubowski told him that his girlfriend (later identified as defendant) had hit him. According to Sproles, Jakubowski was excited, but he spoke clearly in a regular tone of voice. In addition, Jakubowski’s eyes appeared normal and his pupils were not dilated. Sproles did not see any signs of drug use by Jakubowski. Sproles observed that Jakubowski had a laceration on one of his ears and an injury on his back. Jakubowski told Sproles that the injury on his back was a bite mark. Sproles identified People’s exhibit Nos. 1 through 13 as photographs of Jakubowski that had been taken at the scene. The photographs included pictures of the laceration on Jakubowski’s ear and two bite marks on his back. Sproles testified that the injuries appeared to be “recent,” because “[i]t seemed like the blood had not clotted over yet or discolored.”

¶ 6 Sproles testified that Jakubowski agreed to provide a written statement. Jakubowski wrote the statement while Sproles stood two to three feet away. Sproles did not tell Jakubowski what to write and did not say anything to him while he was writing. Sproles identified Jakubowski’s written statement and the trial court allowed the following portion of the statement to be read to the jury: “She bit me on my ear and back and was hitting me[.] I only got the keys to keep her from endangering my son[;] we have a child in common[.]” Jakubowski did not sign the written statement. According to Sproles, he might have “missed” asking Jakubowski to sign the statement, because “there was a lot going on.”

¶ 7 Jakubowski testified that he was currently in custody at the Du Page County jail on charges of domestic battery and other offenses, with defendant as the complaining witness. According to Jakubowski, at 2:20 a.m. on the day of the present incident, he was living with his father in Elgin and using heroin. He was outside of his apartment when he saw defendant arrive with a female friend. Jakubowski and defendant had a 10-year-old son and their son was in the backseat of the car, but Jakubowski did not see his son at that time. Jakubowski argued with defendant, but he could not remember what the argument was about. Jakubowski testified that he “was being irrational,” as he “normally” was when he was “on drugs.” Jakubowski denied having any physical contact with defendant on the day of the incident. He testified that, when defendant tried to leave, he attempted to stop her. She drove around the parking lot, almost hit him, and then swerved into a parking spot.

¶ 8 Jakubowski testified that he “[v]aguely” remembered speaking with the police on the scene. He stated: “I was nodding in and out at that point, and I just remember them being there.” When shown the written statement, Jakubowski testified that he recognized his handwriting and agreed that it was his. He stated: “I remember talking to them. I remember them having me sign stuff and asking me questions.” He later stated that he remembered the officer “that was helping [him] write things down.” According to Jakubowski, he and defendant had “engaged in intimate relations” on July 13, 2016, during which defendant had bitten him about his body. He did not tell the police that defendant had bitten him when he reached into the car to take the keys. He also testified that he was on probation at the time of the incident and that heroin use was a probation violation that would send him back to prison.

¶ 9 The jury found defendant guilty of both counts of domestic battery, which were merged for sentencing. Following the denial of defendant's motion for a new trial, the court sentenced her to 12 months' conditional discharge. Defendant timely appealed.

¶ 10 II. ANALYSIS

¶ 11 Defendant argues that the State did not prove her guilty beyond a reasonable doubt of domestic battery, because Jakubowski testified at trial that no battery occurred and because Jakubowski's prior written statement was not only disavowed by him but also lacking in credibility.

¶ 12 A person commits domestic battery if she "knowingly without legal justification by any means: (1) [c]auses bodily harm to any family or household member; [or] (2) [m]akes physical contact of an insulting or provoking nature with any family or household member." *Id.*

¶ 13 We review claims of insufficient evidence to determine " '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.) *People v. Collins*, 106 Ill. 2d 237, 261 (1985) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). A conviction will not be set aside unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *Id.* It is not the function of this court to retry the defendant. *Id.* The trier of fact must assess the credibility of the witnesses and the weight of their testimony, resolve conflicts in the evidence, and draw reasonable inferences from that evidence, and this court will not substitute its judgment for that of the trier of fact on these matters. *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001).

¶ 14 Here, viewing the evidence in the light most favorable to the State, we find that the evidence was sufficient to prove defendant guilty beyond a reasonable doubt of domestic battery.

To be sure, at trial, Jakubowski denied that the battery occurred, instead claiming that his injuries were caused by defendant a day earlier during an “intimate” encounter. However, as the trier of fact, the jury was charged with determining which account was more credible—Jakubowski’s testimony or his written statement. After hearing the evidence and watching Jakubowski testify, the jury could have reasonably concluded that Jakubowski’s written statement was more believable than his testimony.

¶ 15 First, as the State points out, the jury could have reasonably concluded that Jakubowski was testifying falsely to “cull favor” with defendant, given that, at the time of trial, Jakubowski was facing charges in which defendant was the complainant. Defendant maintains that this same argument could apply to Jakubowski’s written statement, *i.e.* that Jakubowski made a false claim to “deflect attention” from the fact that he was violating probation by using heroin. However, the jury could have easily rejected defendant’s theory as Sproles testified that he did not see any signs of drug use by Jakubowski.

¶ 16 In addition, Sproles’ testimony and the photographic evidence of Jakubowski’s injuries corroborated Jakubowski’s written statement. Sproles testified that Jakubowski told him at the scene that defendant had hit and bitten him. Sproles testified that Jakubowski pointed to the injury on his back and told him that it was a bite mark. Sproles testified that Jakubowski’s injuries appeared to be recent. The jury was shown pictures of those injuries and could have reasonably concluded the same. Although defendant contends that the locations of the injuries were more consistent with Jakubowski’s testimony concerning how they occurred, the jury viewed the evidence and was entitled to find otherwise. We note too that Jakubowski’s own testimony confirmed that defendant had driven to his residence, that an argument took place, that she almost hit him with her car, and that he had attempted to prevent her from leaving.

¶ 17 Based on the foregoing, we cannot say that the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of defendant's guilt. The jury's conclusion was reasonably based on Jakubowski's written statement, Sproles' testimony, and the photographic evidence.

¶ 18

### III. CONCLUSION

¶ 19 For the reasons stated, the judgment of the circuit court of Kane County is affirmed.

¶ 20 Affirmed.