

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Justin Tyler Gaff,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

May 5, 2023

Court of Appeals Case No.
23A-CR-4

Appeal from the St. Joseph
Superior Court

The Honorable Stephanie E.
Steele, Judge

Trial Court Cause No.
71D01-2207-F5-155

Memorandum Decision by Chief Judge Altice
Judges Riley and Pyle concur.

Altice, Chief Judge.

Case Summary

[1] Justin Tyler Gaff appeals his conviction for intimidation with a deadly weapon, a Level 5 felony, claiming that the State did not sufficiently negate his claim of self-defense. Gaff contends that the State failed to disprove beyond a reasonable doubt that he threatened the victim with a knife to protect his girlfriend from bodily harm.

[2] We affirm.

Facts and Procedural History

[3] On July 3, 2022, Rashonda Jackson and her friend, Brianna Greer, each drove to Greer's sister's apartment in South Bend to pick up several children on their way to a nearby park. After waiting in her car for Greer to get the children and their car seats, Jackson decided to leave, believing that Greer and the children would be following her. As Jackson approached the exit of the apartment complex, Gaff and his girlfriend, Sara Carr, entered the driveway in a Jeep driven by Gaff. Jackson honked her horn at Gaff, believing that their vehicles were going to collide.

[4] Jackson then turned around and went back to the area where Greer was waiting outside. While the two were conversing, Greer asked Jackson “[w]hy [that] person was staring at [her] like that,” referring to Gaff, who was standing nearby. *Transcript Vol. I* at 166. Jackson then turned and saw Gaff throw his sunglasses to the ground with a “heated expression” on his face. *Id.* at 168.

Jackson looked at Gaff and asked, “bro, what’s going on?” *Id.* Gaff responded, “[b]itch, do we have a problem?” *Id.* Jackson then stated, “[w]hy would we have a problem, I don’t even know you.” *Id.* at 169. In response, Gaff said, “[w]ell, you almost fu**ing hit me.” *Id.* Jackson apologized, but Gaff continued cursing at her. Gaff then ordered Carr to “get out [of the car] and beat [Jackson’s] ass.” *Id.* at 171-72, 205. As Carr was exiting the vehicle, Gaff shoved her toward Jackson. Gaff again told Carr to “beat [Jackson’s] ass right now.” *Id.* at 173. Gaff pulled a knife, pointed it at Jackson, and told Carr that if Jackson touched her, he would “slice [Jackson’s] ass up.” *Id.* at 175, 208, 229.

[5] Carr moved closer to Jackson and put her hands up in a fighting position. Jackson raised her hands and told Carr not to touch her because she did not want any trouble. Carr then pushed Jackson on the shoulder “extremely hard.” *Id.* at 175, 208. In response, Jackson smacked Carr in the face and knocked her glasses to the ground. Carr stumbled backwards and Gaff ran toward Jackson with the knife. Gaff was sweating, red-faced, and his “eyes were coming out,” and he told Jackson that he was “going to kill [her].” *Id.* at 181. Jackson began to run away and was able to get partially back inside her vehicle. When Jackson was close enough to be “face-to-face” with Gaff, she kicked him and grabbed her pistol from the glove compartment. *Id.* at 182. Jackson cocked the gun, pointed it “straight up in the air” and fired a “warning shot.” *Id.* at 183. Jackson then told Gaff to leave because she did not want to hurt him.

[6] Gaff ignored Jackson and “charg[ed]” her with the knife. *Id.* at 187. Jackson pointed the gun at Gaff’s forehead while Gaff was holding the knife over her

head. Gaff was “huffing and puffing,” and spitting at Jackson. *Id.* When Gaff pointed the knife closer to Jackson’s head, Jackson moved her hand toward the trigger and said, “I don’t want to do this to you.” *Id.* at 188. Although the scuffle continued for a few moments, Gaff ultimately backed away and returned to his vehicle. Someone had contacted the police, and when the officers arrived at the scene, Gaff was found in possession of the knife.

[7] On July 5, 2022, the State charged Gaff with intimidation with a deadly weapon, a Level 5 felony. Gaff subsequently provided the State with notice that he intended to pursue a self-defense claim at trial. During Gaff’s jury trial that commenced on November 7, 2022, Carr testified that Gaff drew the knife “only after” Jackson had slapped her. *Id.* at 50. Following the two-day trial, the jury found Gaff guilty as charged. Gaff was subsequently sentenced to four years of incarceration with two years executed and two years suspended to probation.

[8] Gaff now appeals.

Discussion and Decision

[9] In addressing Gaff’s argument that the State failed to disprove his contention that he acted in self-defense when he threatened Jackson with the knife, we note that a valid claim of self-defense is legal justification for an otherwise criminal act. Ind. Code § 35-41-3-2(a); *Wilson v. State*, 770 N.E.2d 799, 800 (Ind. 2002). “A person is justified in using reasonable force against any other person to protect the person . . . from what the person reasonably believes to be the

imminent use of unlawful force.” I.C. § 35-41-3-2(c). To prevail on a claim of self-defense, a defendant must show that he: (1) was in a place where he had a right to be; (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm. *Quinn v. State*, 126 N.E.3d 924, 927 (Ind. Ct. App. 2019). Also, when the defendant is the initial aggressor in a situation, he must withdraw from the encounter and communicate the intent to withdraw to the other party before he can make a valid claim of self-defense. *Kimbrough v. State*, 911 N.E.2d 621, 635 (Ind. Ct. App. 2009).

[10] Once a defendant produces evidence to support a claim of self-defense, the State has the burden of negating at least one of the necessary elements. *Miller v. State*, 720 N.E.2d 696, 700 (Ind. 1999). The State can satisfy its burden by rebutting the defense directly, affirmatively showing the defendant did not act in self-defense, or by relying on the sufficiency of the State’s evidence from their case-in-chief. *Quinn*, 126 N.E.3d at 927. Whether the State has met its burden is a question for the trier of fact. *Id.*

[11] We note that our standard of review for a challenge to the sufficiency of evidence to rebut a claim of self-defense is the same standard used for other sufficiency claims. *Hughes v. State*, 153 N.E.3d 354, 361 (Ind. Ct. App. 2020), *trans. denied*. We neither reweigh the evidence nor judge the credibility of witnesses. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We will reverse a conviction only if no reasonable person could say that the State negated the defendant’s self-defense claim beyond a reasonable doubt. *Quinn*, 126 N.E.3d

at 927. The evidence is sufficient if an inference may be reasonably drawn from it to support the verdict. *Id.*

[12] In this case, the evidence showed that Gaff initiated the altercation when he confronted Jackson in an angry manner, called her a “bitch,” and asked if there “was a problem.” *Transcript Vol. I* at 168. Gaff then cursed at Jackson, stating that she “almost fu**ing hit [him].” *Id.* at 169. Even though Jackson rendered an apology, Gaff continued to swear at her. Gaff then escalated the incident by ordering Carr to get “out [of his vehicle] and beat [Jackson’s] ass.” *Id.* at 171-72, 205. Gaff then pushed Carr toward Jackson, encouraged her to fight, and drew his knife and pointed it at Jackson, threatening to stab her if she touched Carr. Gaff’s conduct resulted in Carr putting up her hands to fight and ultimately shoving Jackson. This was evidence from which a jury could have concluded that Gaff was the initial aggressor and made no effort to stop the fight, thus rebutting any claim of self-defense. *See, e.g., Kimbrough*, 911 N.E.2d at 635-36 911 N.E.2d at 635-36 (rejecting a self-defense claim when the evidence established that the defendant was the initial aggressor and did not attempt to withdraw from the altercation).

[13] Also, while Gaff contends that the State failed to sufficiently rebut his self-defense claim because his need to draw the knife and threaten Jackson with it should be judged only from *his* standpoint and what *he* believed, *see Appellant’s Brief* at 7, 9, Gaff misconstrues our self-defense statute. Indeed, to employ self-defense, “a defendant must satisfy both an objective and subjective standard.” *Little v. State*, 871 N.E.2d 276, 279 (Ind. 2007). And the phrase “reasonably

believes,” as set forth in I.C. § 35-41-3-2(c), requires both a subjective belief that force was necessary to prevent serious bodily injury, and that such actual belief was one that a reasonable person would have under the circumstances. *Id.* In other words, the jury was not required to accept Graff’s assertion at trial—through Carr’s testimony—that he needed to threaten Jackson with a knife to protect Carr. The jury was free, based upon the evidence, to reject that argument and Carr’s testimony and find as it did. In short, Gaff’s argument amounts to an invitation for us to “invade the province of the jury by reweighing the evidence,” which we will not do. *Feyka v. State*, 972 N.E.2d 387, 394 (Ind. Ct. App. 2012), *trans. denied*. For all these reasons, we conclude that the State sufficiently rebutted Gaff’s self-defense claim, and the conviction stands.

[14] Judgment affirmed.

Riley, J. and Pyle, J., concur.