

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

James S. Snapp,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

May 17, 2022

Court of Appeals Case No.
21A-CR-2265

Appeal from the Vanderburgh
Circuit Court

The Honorable Ryan C. Reed,
Magistrate

Trial Court Cause No.
82C01-2009-F1-4952

Weissmann, Judge.

- [1] James Snapp savagely beat his girlfriend, K.C., during a two-day methamphetamine-fueled rampage. While confining K.C., naked, in their trailer, Snapp repeatedly punched and kicked her, doused her with water, and attempted to rape her. A jury found Snapp guilty of attempted rape, criminal confinement, and battery. Snapp appeals, claiming only that the evidence is insufficient to prove he caused K.C. serious bodily injury from the attempted rape. As the record disproves Snapp's claim, we affirm.

Facts

- [2] Snapp became enraged at K.C. while driving home from an errand. He punched K.C. repeatedly in the face as he drove. He also pulled over, removed K.C. from the vehicle, and pushed her, causing her to hit her head on the asphalt.
- [3] Snapp's attack increased in ferocity once they arrived at their trailer. Snapp ordered K.C. to sit in a bedroom corner, where he angrily beat and kicked her over much of her body. Snapp then instructed K.C. to undress and lay on the bed. He tried to have intercourse with K.C. but proved physically unable to do so. He demanded oral sex instead, but K.C. kept losing consciousness. He threw a large container of water on her to force her to awaken. Snapp ultimately masturbated above K.C.'s head and ejaculated on her cheek. He doused her with water or another liquid several other times during the two-day ordeal.

- [4] Eventually, Snapp allowed K.C. to move to the living room couch, where she passed out. When she woke up, K.C. told Snapp she needed to go to the hospital, but he insisted she was fine. She lost consciousness again and discovered Snapp was gone when she awoke. She dressed and went to her neighbor's home to call 911.
- [5] Police found K.C. injured from head to toe. Her nose was fractured in four places, and her eyes were swollen shut. A forensic examination showed no injuries to her genitals, although the forensic nurse suggested that is not uncommon. When Snapp was interviewed by police soon after, he had a swollen right hand, and his jeans were stained with K.C.'s blood. Snapp told police that he had not slept for five days due to methamphetamine use and that he did not remember most of the two-day attack.
- [6] The State charged Snapp with five Level 1 felonies: two counts of rape and one count each of attempted rape resulting in serious bodily injury, criminal confinement resulting in serious bodily injury, and battery resulting in serious bodily injury. The jury returned guilty verdicts only as to the latter three counts. The trial court entered judgment of conviction on those three counts and sentenced Snapp to an aggregate 30 years imprisonment.

Decision and Discussion

- [7] Snapp does not contest that the State proved he attempted to rape K.C. Instead, he merely contends he could not be convicted of attempted rape as a Level 1 felony as charged. Attempted rape charged as a Level 3 felony does not require

any proof of physical injury. Ind. Code § 35-42-4-1(a). By contrast, attempted rape as a Level 1 felony requires proof beyond a reasonable doubt that the attempted rape resulted in “serious bodily injury.” Ind. Code § 35-41-4-1(b)(3). In this context, “serious bodily injury” is “bodily injury that creates a substantial risk of death or that causes: (1) serious permanent disfigurement; (2) unconsciousness; (3) extreme pain; (4) permanent or protracted loss or impairment of the function of a bodily member or organ; or (5) loss of a fetus.” Ind. Code § 35-31.5-2-292.

[8] When reviewing the sufficiency of the evidence of serious bodily injury, we will neither reweigh the evidence nor judge the credibility of witnesses but will consider the evidence and reasonable inferences most favorable to the judgment. *Hurst v. State*, 890 N.E.2d 88, 96 (Ind. Ct. App. 2008). Whether an injury is “serious” is a matter of degree and thus a question reserved for the jury, whose decision we accord considerable deference. *Id.* We will affirm if the probative evidence and reasonable inferences could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *Id.*

[9] Snapp acknowledges that K.C. suffered serious bodily injury from the confinement and battery, but he disputes whether serious bodily injury resulted from the attempted rape. In essence, Snapp claims that his act of attempted penetration did not cause serious bodily injury.

[10] Snapp’s narrow view ignores the multiple elements of attempted rape. Attempted rape occurs when a person knowingly or intentionally engages in

conduct constituting a substantial step toward sexual intercourse with another person when that other person is compelled by force or imminent threat of force. Ind. Code § 35-42-4-1(a) (rape statute); Ind. Code § 35-41-5-1 (attempt statute). The evidence showed Snapp tried to compel K.C., by force and by imminent threat of force, to submit to intercourse. He beat her in the bedroom and threw water on her naked body to keep her on the bed during the period when he also tried to penetrate her. Tr. Vol. II, pp. 30-36.

[11] Snapp does not dispute that these beatings resulted in serious bodily injury. As the beatings were part of the evidence of the material elements of attempted rape, the evidence was sufficient to prove that Snapp committed attempted rape resulting in serious bodily injury. *See Ott v. State*, 648 N.E.2d 671, 673 (Ind. Ct. App. 1995) (finding evidence of attempted rape sufficient when defendant ordered victim to undress and prevented her escape).

[12] The judgment is affirmed.

Robb, J., and Pyle, J., concur.