

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jawan Kendrell Cobbs,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 31, 2023

Court of Appeals Case No.
23A-CR-141

Appeal from the Lake Superior
Court

The Honorable Natalie Bokota,
Judge

The Honorable Kathleen A.
Sullivan, Magistrate

Trial Court Cause No.
45G02-2110-F3-188

Memorandum Decision by Chief Judge Altice
Judges May and Foley concur.

Altice, Chief Judge.

Case Summary

[1] Following a bench trial, Jawan Kendrell Cobbs was convicted of Level 3 felony aggravated battery, Level 5 felony domestic battery resulting in serious bodily injury, Level 5 felony kidnapping, Level 6 felony battery resulting in moderate bodily injury, and Level 6 felony auto theft. The trial court sentenced Cobbs to an aggregate term of twenty-six years. On appeal, Cobbs challenges only the sufficiency of the evidence supporting his conviction for aggravated battery.

[2] We affirm.

Facts & Procedural History

[3] Cobbs and Jhirmekia Hines had been in a relationship for four or five years and had two children together. Their relationship ended in October or November of 2019. On October 28, 2021, Hines took the children to visit Cobbs at his mother's home. When Hines was leaving with the children, Cobbs acted angry with her, saying "So you fixing to go see him?" *Transcript Vol. 2* at 198. Hines responded affirmatively and then left. Hines returned to her house. Over the next couple of hours, Cobbs continued to text Hines, stating in the last text message that she was "the only one that can get me like this." *Id.* at 203.

[4] Around 9:00 p.m. that night, Hines, her roommate, and another individual went to a nearby laundromat. While waiting for her laundry, Hines and the others went out to Hines's SUV. Hines was in the driver's seat when Cobbs

approached her vehicle, and they immediately began arguing. Hines got out of her vehicle, and Cobbs started hitting and kicking her. As Hines tried to get back in her car, Cobbs pushed her such that her roommate, who was in the passenger seat, was forced to get out of the vehicle. Cobbs had a hold of Hines's hair and continued punching her. Hines was in pain and bleeding from her head. She started screaming that Cobbs was trying to kill her and to call 911. Surveillance cameras at the laundromat recorded the entire incident. The recording showed that Hines's braids were ripped from her scalp and left lying on the ground.

[5] Cobbs got into the driver's seat as Hines was laying across the middle console. Cobbs then drove off in Hines's car. As Cobbs was driving away, he "bashed" Hines's face into the radio. *Transcript Vol. II* at 215. At some point, Hines reached for the passenger side door handle and jumped out of the moving vehicle. Hines could not remember much of what happened next other than Cobbs picked her up and put her back in the vehicle. She testified that she was "not awake" during this entire encounter. *Id.* at 216. The next thing Hines remembers is finding herself in the basement at Cobbs's mother's home.

[6] Hines testified that Cobbs kept throwing her head in and out of the sink next to the washing machine and telling her he was going to kill her. The next thing Hines remembers is that she was wrapped in a blanket under the pool table when Cobbs's brother came down to the basement to say that the police were there. Cobbs's brother pulled the blanket from Hines's face and then Hines followed him up the stairs to the kitchen. A police officer found Hines sitting

on the kitchen floor, wrapped in a blanket. Hines was very quiet. Her left eye was swollen, she had a laceration on her head and dried blood on her face. Police called for medics, but Hines declined medical attention.

[7] Police officers permitted Hines to drive her vehicle and they followed her home. An officer helped Hines get from her car to her house and then left. Once inside, Hines laid on the couch, was crying and yelling that she was in pain, so her roommate tried to get Hines back to her car so she could take her to the hospital. After she was unable to get Hines to the car, Hines's roommate called for an ambulance. Hines was at the hospital for several hours. When she returned home, she was still in pain, "sluggish," and in "slow motion." *Id.* at 169.

[8] A police officer arrived at Hines's home and took statements from Hines and her roommate. The officer also photographed Hines's injuries. Hines's face was swollen, including her lips, eyes, and nose, and there was still dried blood in places. She had a deep laceration that required a staple to close, as well as cuts and scrapes on her ankle, hand, and shoulder. Hines also had bruising on her hands, shoulder, and chest. The officer stated that Hines seemed "out of it" and "seemed to be in pain." *Id.* at 90. Hines struggled to sit up and talk to the officer.

[9] Hines followed up with her primary care provider regarding her injuries. During the examination, the primary care provider noted that Hines could not recall a lot of information about the incident. She also noted that Hines could

not move her left arm as it was too painful to raise and that she could not move her right leg from the knee down. Hines was complaining of left ear pain and the primary care provider noted that there was blood in her ear canal. She also noted bruising and slight swelling to Hines's sternum, which was likely the cause of Hines's pain when she took a deep breath. Finally, the primary care provider noted that Hines complained of cheek pain and could not open her mouth fully. This was combined with complaints about her eye, including swelling and bruising. Based on this examination, Hines's primary care provider made referrals for behavioral health, ear, nose, and throat, ortho maxillofacial, and neurology. While Hines followed up with her primary care provider several times, she did not follow up with any of the referrals.

[10] In the weeks and months following the incident, Hines was unable to work or care for her children. She could not turn her neck, she had decreased mobility in her shoulder, her foot and lower leg were in a boot, she could not chew for about a month, and it took about a month before she was able to open her eye fully. At the time of trial, Hines still had glares or blurs in her eye and she had trouble looking up if the lighting was too much. She also suffered from “stinging headaches” that she did not have prior to the incident. *Id.* at 226.

[11] On October 30, 2021, the State charged Cobbs with Level 3 felony aggravated battery; Level 5 felony domestic battery resulting in serious bodily injury; Level 5 felony criminal confinement; Level 5 felony domestic battery; Level 5 felony kidnapping; Level 5 felony domestic battery by means of a deadly weapon; Level 6 felony battery resulting in moderate bodily injury; Level 6 felony auto

theft; and Class A misdemeanor domestic battery. The State subsequently added a habitual offender enhancement. Following a bench trial held October 31 through November 2, 2022, the trial court found Cobbs guilty of all charges except domestic battery by means of a deadly weapon. The court also found him to be a habitual offender. On December 20, 2022, the trial court sentenced Cobbs to an aggregate term of twenty-six years. Cobbs now appeals.

Additional facts will be provided as necessary.

Discussion & Decision

- [12] On appeal, Cobbs argues that the evidence is insufficient to support his conviction for Level 3 felony aggravated battery. In reviewing challenges to the sufficiency of the evidence, this court does not reweigh evidence or judge witness credibility. *Mann v. State*, 895 N.E.2d 119, 121 (Ind. Ct. App. 2008). We consider only the evidence most favorable to the verdict and the reasonable inferences drawn therefrom. *Woodcock v. State*, 163 N.E.3d 863, 876 (Ind. Ct. App. 2021), *trans. denied*. We will affirm the conviction if the probative evidence and reasonable inferences could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *Mann*, 895 N.E.2d at 121.
- [13] In relevant part, aggravated battery occurs when a person “knowingly or intentionally inflicts injury on a person that creates substantial risk of death or causes . . . protracted loss or impairment of the function of a bodily member or organ.” Ind. Code § 35-42-2-1.5. Cobbs challenges the trial court’s determination that Hines suffered “a protracted loss or impairment to a bodily

member or organ.” *Appellant’s Brief* at 11. He points out that Hines refused to go to the hospital when police first found her at Cobbs’s mother’s home and that she drove herself home the night of the incident. He claims that there is no medical testimony or other evidence in the record that proves that Hines suffered “a significant injury.” *Id.*

[14] This court has defined “protracted” for purposes of the aggravated battery statute as “to draw out or lengthen in time.” *Mann*, 895 N.E.2d at 122 (quoting *Neville v. State*, 802 N.E.2d 5169, 518 (Ind. Ct. App. 2004), *trans. denied*). Further, “impairment” means the “fact or state of being damaged, weakened, or diminished.” *Id.* (quoting *Fleming v. State*, 833 N.E.2d 84, 89 (Ind. Ct. App. 2005)). And, contrary to Cobbs’s suggestion, we have held that expert testimony is not required to prove the victim suffered a protracted impairment. *Id.* In reviewing a sufficiency claim, we will look to observable facts, including the nature and location of the injury, and the treatment provided. *Alexander v. State*, 13 N.E.3d 917, 921 (Ind. Ct. App. 2014).

[15] Here, Hines testified, and her primary care provider confirmed through her testimony, that Hines could not raise her arm due to pain and that she suffered from decreased range of motion in her shoulder for weeks following the incident. Hines also could not fully open her eye for a month after the incident and a year later, at the time of trial, she still complained of pain in her eye when she looked up. Hines clearly suffered an injury to her ear as confirmed by the primary care provider who testified that Hines had bleeding in her ear canal. Symptoms related to her ear injury persisted at the time of trial. The trial court

found these injuries sufficient to establish that Hines suffered a protracted loss or impairment to a bodily member or organ. We will not second-guess the trial court's determination in this regard. *See Young v. State*, 725 N.E.2d 78, 82 (Ind. 2000) (explaining that “[w]hether a bodily injury is ‘serious’ has been held to be a matter of degree and therefore a question reserved for the factfinder”). The State presented sufficient evidence from which the trial court, as the trier of fact, could conclude beyond a reasonable doubt that Hines suffered protracted loss or impairment to a bodily member or organ.

[16] Judgment affirmed.

May, J. and Foley, J., concur.