

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT

Elizabeth A. Flynn
Braje, Nelson, & Janes, LLP
Michigan City, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Nicole D. Wiggins
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Shaun Walton,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 12, 2022

Court of Appeals Case No.
21A-CR-2459

Appeal from the LaPorte
Superior Court

The Honorable Richard R.
Stalbrink Jr., Judge

Trial Court Case No.
46D02-2008-F1-1076

Friedlander, Senior Judge.

[1] While being transferred to the recreation room at the Indiana State Prison, Shaun Walton slipped his handcuffs, attacked Corrections Officer Jimmie Lewis, and beat him with his closed fists, one of which had the cuff still attached, in the head and face until Lewis lost consciousness. Walton appeals from his conviction of Level 3 felony aggravated battery,¹ contending that the evidence is insufficient to support his conviction. We affirm.

[2] Walton was incarcerated in the Indiana State Prison on September 13, 2019 and had received a pass to the recreation room. Procedure calls for the officer to place the inmate in hand restraints while in the cell, and the officer checks the inmate's hands and waistline for weapons or contraband before opening the cell door and then escorting the offender. After he was placed in restraints, checked for weapons or contraband, and the cell door was unlocked and opened, Walton asked Officer Lewis "if he could go talk to his friend," because he said, "I need to go holler at my friend right quick." Tr. Vol. 2, pp. 173, 217. Lewis said, "no, we're going down the back." *Id.* at 217. Lewis explained that Walton's "cell was closer to the back stairwell versus walking him all the way up to the front of the cell – of the range." *Id.* at 173. Thus, the direction Walton wanted to go would take longer to get to the recreation area.

[3] After hearing that instruction, Walton "darted" the other direction to another cell. *Id.* at 174. Walton then stood in front of that cell, he and the other inmate

¹ Ind. Code § 35-42-2-1.5 (2014).

“had a conversation, and, at that time, [Lewis] heard the handcuffs come loose. [He] heard a clicking sound.” *Id.* “[T]he back of [Walton’s] hands were towards the cell.” *Id.* at 175.

[4] Lewis, who was “still down at Walton’s cell,” secured his cell keys, “pushed the cell door closed and approached [Walton].” *Id.* Officer Lewis went to “grab his arm, and [] looked and . . . looked down at his hands.” *Id.* After slipping his handcuffs, Walton turned toward Lewis and said, “You see that. I’m about to kill your ass.” *Id.* Officer Lewis took a step back and attempted to activate his emergency button to radio dispatch for help. Lewis testified that Walton was “rushing towards me swinging his arms. Closed fists.” *Id.* at 177. He described the state of the handcuffs at that time as, “[o]ne cuff is still attached to his hand, his wrist, and the other one is - - the other one is open, but one of his hands is free.” *Id.* He said that he remembered “being hit with closed fists and a handcuff.” *Id.* at 217.

[5] Although it is difficult to visualize how the handcuffs were slipped from the descriptions given in the transcript, the following is how the officers described it.² Lewis said that “[p]aperclips, things that are taken from shelving unit[s] or the bed that’s been filed down, things of that nature” are used to open handcuffs. *Id.* at 211. He further explained that the items are “not necessarily

² One can find numerous videos and photographs showing various means by which handcuffs can be slipped. We do not include references to those extra-record sources for obvious reasons.

[used to] pick the lock, but at the locking mechanism, the housing of the handcuffs, on the opposite end where the - - where the mechanism locks into the housing you can take something and slip it up under that part and jiggle it a little to where it will actually go into the teeth of the lock and depress that lock, and the handcuffs will come open. . . and [i]t becomes unlocked.” *Id.*

[6] Sergeant Scott Batsel, a correctional officer in the same cell house as Officer Lewis, testified that offenders sometimes used “a handmade object known as a cuff key that would destroy the teeth. It’s not meant to be put into the keyhole. It’s used in a different area.” *Id.* at 236. He further testified that “you have this piece of copper and you slip it in the same channel that the handcuffs slide into.” *Id.* at 237. He said that it only took “a few seconds” “to get that tiny little piece of metal in that tiny little shaft with their hands behind their back.” *Id.* at 238-39.

[7] As for the charged incident, Sergeant Batsel testified that he heard the dispatch and the noise from the altercation. When he arrived at the location, he saw Lewis on the ground with his hands in a defensive position, “trying to protect his face.” *Id.* at 229. Sergeant Batsel, who had prior experience as an EMT, said Lewis “was in severe condition. He had traumatic injury.” *Id.* at 232. Batsel saw that Lewis had “[s]welling to the face. Bleeding. Different size pupils. Physically, if you hold his face, it was almost like a sponge cake. It was very spongy.” *Id.* Batsel said that in terms of coherence, Lewis “was kind of mumbling and gurgling. He was going in and out of consciousness.” *Id.* Lewis

remembered hearing Sergeant Ryan Statham saying, “keep your eyes open, stay with me.” *Id.* at 179.

[8] Batsel used what he called a “c spine,” to “control[] the head and the spine of the neck” “to prevent any further injury.” *Id.* at 231. Two nurses in the prison placed Lewis on a back board and placed a neck brace around his neck to prepare him to be transported for medical care.

[9] One of those nurses was Charge Nurse Jacqueline Monaco. Nurse Monaco had forty-seven years of experience as a nurse, including years she spent as head nurse in general surgery and trauma at Michael Reese Hospital on the south side of Chicago. Monaco said that when she arrived at the scene of the emergency, she saw that Officer Lewis “had been beaten severely.” Tr. Vol. 3, p. 5. She said she knew that there was little she could do for Lewis because he needed to get to an emergency room. She testified that “[t]his was one of the worst things I’ve seen.” *Id.* at 8. She further testified over objection that she “was concerned for his survival.” *Id.* at 7.

[10] Officer Lewis was airlifted to South Bend Memorial Hospital and was hospitalized for twenty-three days. Twelve of those days were spent in the ICU. The rest of the time was spent receiving rehabilitative care. When Lewis first regained consciousness, he was able to recognize his mother, but not his wife. His speech was slurred, and he now has a small stutter. He has difficulty hearing anything out of his right ear. He had suffered two seizures on the way to the hospital and had “vertigo, dizziness, headaches, memory loss, and

fatigue.” Tr. Vol. 2, p. 183. He has permanent nerve damage to his right eye due to a cut he received under that eye during the altercation and had a fractured nose. Lewis used a walker for three months as he learned to walk again and had to have surgery to repair a torn MCL. He suffered damage to his back, including having vertebrae that were fractured or misaligned. He receives an epidural shot once a year for pain management for his back. Officer Lewis also underwent psychological counseling for the sleeplessness and paranoia that ensued after the attack.

[11] Almost all of the attack was captured on surveillance video. The officers from the intelligence investigation department, who were monitoring the video, testified that they left the surveillance room once they saw that Officer Lewis “was not able to really defend himself. He looked like he was about to fall to the ground.” Tr. Vol. 3, p. 69. They preserved the video and testified about their observations and investigation at trial. Officers delayed speaking with Lewis because they “had heard that he was in a coma, but we really- -we really weren’t sure if he was awake, if it was medically induced.” *Id.* at 89.

[12] Sergeant Batsel also testified that it was a “one-sided fight” with Lewis trying to defend himself from Walton’s attack. Tr. Vol. 2, p. 229. Batsel kned Walton in the head to get him off of Officer Lewis. He was then able to securely handcuff Walton who was taken to a holding cell by Lieutenant Redden while Batsel attended to Lewis’ injuries.

[13] At trial, Walton asserted a self-defense in response to the charges. Officer Lewis was asked if he “ever had an issue” with Walton prior to the incident leading to the charges. *Id.* at 190. Lewis testified, “It wasn’t an issue on my part.” *Id.* He then testified to a prior verbal exchange between him and Walton. The court asked Officer Lewis a jury question concerning “what was the friction with Mr. Walton three weeks prior” to the charged incident. *Id.* at 217. Officer Lewis responded that Walton had made a similar request to see a friend, but he made his request that time when he was returning from the recreation area. When Lewis told him he could not visit his friend, Walton said, “that’s how you [motherf***ers] get [f***ed] up because, you know, you messing with somebody’s manhood, his livelihood, pretty much. Something to that effect, yes.” *Id.* at 218. Lewis testified that he had never been aggressive toward Walton.

[14] The State asked Lewis on re-direct examination if “that [is] something they’re permitted to do, is have you walk them down or talk to somebody, or do the rules say you have to do something different?” *Id.* at 219. After first stating that “[i]t’s pretty much at the officer’s discretion,” Officer Lewis clarified that “the rules are you’re [to] escort them to and from, to rec, or to wherever you’re taking them to pretty much without stopping, unless it’s someone of a higher rank than you needs to talk to that person.” *Id.* He also provided various situations to demonstrate the rationale for no stops while prisoners are being escorted and the need for hand restraints.

[15] The State charged Walton with Level 1 felony attempted murder, and Level 3 felony aggravated battery. After a jury trial, the jury acquitted Walton of attempted murder, but found him guilty of the aggravated battery charge and Level 5 battery. The court merged the battery convictions and sentenced Walton to sixteen years with four years suspended to probation for the Level 3 aggravated battery conviction.

[16] Walton argues that there is insufficient evidence to support his conviction. Our standard of review for challenges to the sufficiency of evidence is well settled.

When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder's exclusive province to weigh conflicting evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict, and “must affirm ‘if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.’” *Id.* at 126 (quoting *Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)). The uncorroborated testimony of one witness may be sufficient by itself to sustain a conviction on appeal.

Gleaves v. State, 859 N.E.2d 766, 769 (Ind. Ct. App. 2007).

[17] To establish that Walton had committed Level 3 aggravated battery, the State was required to prove beyond a reasonable doubt that (1) Walton (2) knowingly or intentionally (3) inflicted an injury upon Officer Lewis (4) that created a substantial risk of death or caused serious permanent disfigurement. Ind. Code

§ 35-42-2-1.5; Appellant’s App. Conf. Vol. 2, p. 15, 105. Walton challenges the sufficiency of the evidence, contending that “there is no evidence that any of the injuries created a substantial risk of death to Lewis,” and “the State did not introduce any of Lewis’s medical records.” *Id.* at 20-21.

[18] We observe that expert medical testimony is not required for the State to prove that the injuries created a substantial risk of death. *See Oeth v. State*, 775 N.E.2d 696 (Ind. Ct. App. 2002) (citing *Wilcher v. State*, 771 N.E.2d 113 (Ind. Ct. App. 2002), *trans. denied*). Furthermore, the testimony of a single witness is enough to sustain a conviction even when that witness is the victim. *Smith v. State*, 163 N.E.3d 925 (Ind. Ct. App. 2021).

[19] Here, not only do we have Officer Lewis’ testimony, but that of others who observed him after the attack. Lewis testified to his numerous injuries, including that he lost consciousness, has issues with memory loss, had to learn to walk again, was in the ICU for twelve of the twenty-three days he was hospitalized, has permanent nerve damage to his right eye, talks with a stutter, has back issues, had to have surgery to repair his torn MCL, and suffers from paranoia for which he is receiving counseling. Nurse Monaco testified that she was concerned about Lewis’ survival, and that as a former trauma nurse in a Chicago hospital, this was one of the worst things she had seen. Sergeant Batsel, a former EMT, testified that Lewis was drifting in and out of consciousness, was in severe condition, and had a traumatic head injury. We conclude that there was sufficient evidence that Lewis suffered injuries creating a substantial risk of death.

[20] In light of the foregoing, we affirm the trial court's judgment.

[21] Judgment affirmed.

Riley, J., and Robb, J., concur.