



ATTORNEYS FOR APPELLANT

Robert W. Hammerle
Hackman Hullet LLP
Indianapolis, Indiana

Victoria Bailey Casanova
Casanova Legal Services, LLC
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Courtney Staton
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

Joseph J. Stubbers III,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 15, 2022

Court of Appeals Case No.
21A-CR-2159

Appeal from the Dearborn
Superior Court

The Honorable Sally A.
McLaughlin, Judge

Trial Court Cause No.
15D02-1907-F6-309

Tavitas, Judge.

Case Summary

- [1] Following a jury trial, Joseph J. Stubbers III was convicted of two counts of torturing or mutilating a vertebrate animal, Class A misdemeanors. Stubbers

appeals and argues that the State failed to present evidence sufficient to support his convictions. Finding the evidence sufficient, we affirm.

Issues

- [2] Stubbers presents two issues, which we consolidate and restate as whether the State presented evidence sufficient to support his convictions.

Facts

- [3] Stubbers was the owner of a mastiff dog named Cooper. Cooper, a large dog weighing approximately 180 pounds, was generally a very friendly dog. Cooper would often leave Stubbers' yard even though Stubbers had installed an "invisible" electric fence and used other methods to keep him in the yard. When Cooper escaped, he would often go to the neighboring home of Adam and Tricia Collins. Cooper was not neutered and sometimes attempted to mount the Collinses' dog, Thunder, and even the Collinses' children. Still, the Collinses did not fear Cooper. Even when Cooper managed to enter the Collinses' home at 5:30 a.m., he simply gave Tricia "slobbery kisses." Ex. Vol. II, Defendant's Ex. B p. 87. Another of Stubbers' neighbors described Cooper as a "gentle giant." Tr. Vol. II p. 235.
- [4] On July 27, 2019, Cooper had again escaped from Stubbers' yard and was in the Collinses' garage. The Collinses' son, P.C., who was approximately ten years old at the time, heard his dog Thunder barking at the door leading to the garage. When P.C. opened the door, he saw Stubbers beating Cooper with a hammer. Cooper appeared to have vomited on the garage floor. P.C. quickly

shut the door and informed his father, Adam, about what he had seen. Adam then opened the door and saw Stubbers holding Cooper down with one hand and holding the hammer in the air. Stubbers made eye contact with Adam, which Adam described as “terrifying because I could see the violence in [Stubbers’] eyes.” Tr. Vol. III p. 189. This frightened Adam, who shut the door and leaned against it to prevent Stubbers from entering.

[5] Soon thereafter, Paul Ruhe, who also lived near Stubbers, was outside in his back yard when he saw Cooper leaving the Collinses’ garage. Stubbers followed close behind, carrying something in his hand. Ruhe heard Stubbers yell loudly at Cooper and hit Cooper in the hind legs with the object he had in his hand. A few minutes later, Ruhe heard a gunshot coming from the direction of Stubbers’ house. Ruhe looked toward Stubbers’ house and saw Stubbers point and fire a handgun at Cooper. Cooper “[h]unker[ed] down” and went behind Stubbers’ home, with Stubbers following him. *Id.* at 243. Approximately five minutes later, Ruhe saw Stubbers walk back toward the Collinses’ garage carrying a container of bleach and paper towels.

[6] When Tricia Collins came home, she saw Stubbers in her garage cleaning the floor with bleach. When Tricia asked Stubbers what he was doing, he claimed that Cooper had defecated on the floor and that he was cleaning it up. Stubbers also informed Tricia that Cooper had bitten him. Tricia then asked Stubbers where Cooper bit him; Stubbers pointed to his left hand and said that Cooper “didn’t bite me hard or anything[.] [T]here’s no mark[.]” Ex. Vol. II, Defendant’s Ex. B p. 140. Stubbers also claimed that he was “going to have to

put [Cooper] down because next time he could bite harder.” *Id.* Tricia asked Stubbers not to put Cooper down and went inside her house. Once inside, Tricia saw that her children were hysterically crying. Tricia then went to Ruhe’s house to speak with him and, after learning what Ruhe had seen, telephoned the police.

[7] The first officer to respond, Dearborn County Sheriff’s Deputy Austin Jefferson, spoke with Tricia and Ruhe. Deputy Jefferson then went to Stubbers’ home to get his side of the story. As Deputy Jefferson approached Stubbers’ home, he saw the container of bleach sitting on a trash can, blood on the driveway, and a spent bullet casing near the patio. Deputy Jefferson also saw a large doghouse on the front porch; inside the doghouse was a seriously wounded Cooper. Deputy Jefferson requested an animal control officer to be dispatched to investigate Cooper’s injuries.

[8] Deputy Jefferson knocked on Stubbers’ front door, but there was no response. Deputy Jefferson learned that Stubbers was at a party, so he went to the party to speak with Stubbers. Stubbers told Deputy Jefferson that he had to “put the dog down” because Cooper had bitten him. Tr. Vol. III p. 61. Deputy Jefferson asked to see the bite wound, and Stubbers responded by holding out his right hand and stating that Cooper had bitten him on the wrist. Deputy Jefferson, however, saw no indication that Stubbers had been bitten. Deputy Jefferson also asked Stubbers if he had struck Cooper with a hammer. Stubbers initially denied having done so but eventually stated that he may have threatened Cooper with a hammer or tapped him on the bottom to get him to

move. The police obtained a warrant to search Stubbers' home. During the execution of the warrant, the police found a small sledgehammer located inside a sink in the garage. The hammer was wet and appeared to have been recently cleaned. The police also found a .40 caliber handgun behind the headboard of the bed in Stubbers' bedroom.

[9] Dearborn County Animal Control Officer Steven Hofstetter responded to Deputy Jefferson's request for assistance with Cooper. Officer Hofstetter observed that Cooper was seriously wounded. Cooper's breathing was labored, and he was bleeding from his face and body. Cooper attempted to walk to Officer Hofstetter but collapsed after a few steps. Officer Hofstetter used a blanket to carry Cooper to his vehicle. Even in his injured state, Cooper was still gentle; he wagged his tail and licked Officer Hofstetter's arm.

[10] Officer Hofstetter took Cooper to a non-profit animal shelter in Lawrenceburg, Indiana, where Cooper was treated by veterinarian Dr. Debra Kemper. Dr. Kemper observed that Cooper had been shot in the right eye and that the eye "wasn't there anymore." *Id.* at 137. Cooper also had a small wound in his left chest that appeared to be a bullet entrance wound. Dr. Kemper touched Cooper's head and felt an obvious skull fracture and observed severe bruising on the top of Cooper's head. Dr. Kemper also observed several pockets of air trapped under Cooper's skin due to trauma. Dr. Kemper discerned that Cooper was in serious pain. Still, Cooper was not aggressive toward Dr. Kemper or her staff. Cooper was then transported to a veterinary clinic for further treatment.

[11] At the clinic, Cooper was seen by a veterinarian, Dr. Albert Karster. An x-ray of Cooper's head indicated that Cooper had been shot by a bullet that went from his right eye to his lower jaw, where it became lodged. This caused Cooper's right eye to collapse, and the remaining portions of the eye had to be surgically removed. The bullet caused repeated infections in Cooper's jaw and was surgically removed. Cooper recuperated at the clinic and had to adjust to his now monocular vision and reduced depth perception. Again, Dr. Karster stated that Cooper was a happy, nice dog who was a "joy to be around." *Id.* at 161. An employee of the veterinary clinic adopted Cooper.

[12] On July 29, 2019, the State charged Stubbers with one count of torturing or mutilating a vertebrate animal. On June 29, 2020, the State amended the charging information to charge Stubbers as follows: Count I: torturing or mutilating a vertebrate animal by hitting Cooper in the head with a hammer, a Level 6 felony; Count II: torturing or mutilating a vertebrate animal by shooting Cooper in the shoulder, a Level 6 felony; and Count III, torturing or mutilating a vertebrate animal by shooting Cooper in the eye and/or head, a Level 6 felony.

[13] A three-day jury trial commenced on July 20, 2021. Stubbers claimed the following at trial: that Cooper repeatedly escaped and went to the Collinses' home. On July 27, 2019, Cooper again went to the Collinses' garage. When Stubbers tried to get Cooper to leave, the dog refused and bit him. Stubbers hit Cooper to make him release his bite, and he decided to put Cooper down to protect his neighbors and their dog. He then shot Cooper in the head, but

Cooper did not go down and instead ran off. He then attempted to shoot Cooper in the head again but missed and hit Cooper in the chest. Cooper ran off into the woods and, despite searching for five to ten minutes, Stubbers could not find Cooper. He believed Cooper must have died after having been shot. At the conclusion of the trial, the jury found Stubbers guilty as charged.

[14] At a sentencing hearing held on September 14, 2021, the trial court “merged” Count II with Count III. The trial court then entered judgments of conviction on Counts I and III as Class A misdemeanors.¹ The trial court sentenced Stubbers on Count I to 180 days executed in community corrections home detention and 180 days suspended. On Count III, the trial court sentenced Stubbers to 365 days, all suspended. The trial court also ordered Stubbers to serve 545 days of probation and ordered him to pay \$4,145 in restitution to the clinic that cared for Cooper. Stubbers now appeals.

Analysis

[15] Stubbers attacks the sufficiency of the evidence supporting his convictions. Claims of insufficient evidence “warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility.” *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020) (citing *Perry v. State*, 638 N.E.2d 1236, 1242 (Ind. 1994)). We consider only the evidence supporting the judgment and any

¹ Subject to certain exceptions not applicable here, if a defendant is found guilty of committing a Level 6 felony, the trial court may enter judgment of conviction as a Class A misdemeanor and sentence accordingly. Ind. Code § 35-50-2-7(c).

reasonable inferences drawn from that evidence. *Id.* (citing *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). “We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt.” *Id.* We affirm the conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (quoting *Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007)).

[16] Stubbers argues that the State failed to rebut his defense of justification under Count I. He also argues that the State presented insufficient evidence to prove that he committed the offense of torturing or mutilating a vertebrate animal under Counts II and III. We address each of these claims separately.

A. Sufficient Evidence to Rebut Justification Defense on Count I

[17] To convict Stubbers under Count I, the State was required to prove beyond a reasonable doubt that he “did knowingly or intentionally torture and/or mutilate a vertebrate animal, to-wit: Hit his dog, Cooper[,] in the head with a hammer.” Appellant’s App. Vol. II p. 63. Stubbers does not claim that the State failed to prove these elements. He instead claims that the State failed to rebut his statutory affirmative defense. Pursuant to the animal cruelty statute:

It is a defense to a prosecution under this section that the accused person:

- (1) reasonably believes the conduct was necessary to:
 - (A) prevent injury to the accused person or another person;**
 - (B) protect the property of the accused person from destruction or substantial damage; or
 - (C) prevent a seriously injured vertebrate animal from prolonged suffering; or
- (2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

Ind. Code § 35-46-3-12(e) (emphasis added).

[18] This statutory defense is in many ways similar to the defense of self-defense. *Cf.* Ind. Code § 35-41-3-2(c) (“A person is justified in using reasonable force against any other person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force.”). Both self-defense and the necessity defense under the animal cruelty statute are affirmative defenses of justification. *See Moon v. State*, 823 N.E.2d 710, 716 (Ind. Ct. App. 2005) (observing that affirmative defenses of justification, such as self-defense, “admit[] that the facts of the crime occurred but contending that the acts were justified.”), *trans. denied*. Such affirmative defenses “negate no element of the crime.” *Id.* “Indiana has allocated the burden as to these defenses in two steps. First, the defendant must produce evidence raising the defense. Second, the State must negate at least one element of the defense beyond a reasonable doubt.” *Id.* (citations omitted). The State may meet its burden by rebutting the defense directly or by simply relying on the sufficiency

of its evidence in chief. *Stewart v. State*, 167 N.E.3d 367, 376 (Ind. Ct. App. 2021), *trans. denied*.

[19] Here, Stubbers argues that he reasonably believed that his conduct was necessary to prevent injury to himself and his neighbors given Cooper's allegedly aggressive behavior. In support of his argument, however, Stubbers refers almost exclusively to evidence that does not support the jury's verdict—evidence that we may not consider on appellate review of a sufficiency-of-the-evidence claim. *Stewart*, 167 N.E.3d at 376 (holding that, on review of a claim that the State failed to rebut self-defense claim, we must consider only the probative evidence and reasonable inferences supporting the verdict).

[20] The evidence favorable to the jury's verdict reveals that Cooper was a gentle dog. Even after suffering the severe injuries inflicted by Stubbers, Cooper did not act aggressively toward the police, the animal control officer, or veterinary staff. The jury was not required to believe Stubbers' claim that Cooper aggressively bit him and injured Stubbers or that Cooper bit him at all. Shortly after the shooting, Stubbers told Tricia Collins that Cooper "didn't bite me hard," and that the bite did not leave a mark, as he pointed to his left hand. Ex. Vol. II, Defendant's Ex. B p. 140. Yet when Stubbers told Deputy Jefferson that Cooper had bitten him, Stubbers held out his right arm. Neither Tricia Collins nor Deputy Jefferson saw any marks or injuries on Stubbers' hand or arms that supported Stubbers' claim that Cooper bit him.

[21] We acknowledge that Stubbers presented medical evidence that there was severe swelling of the muscle in his arm, but the jury was not required to credit the testimony of Stubbers' medical expert. *See Galloway v. State*, 938 N.E.2d 699, 709 (Ind. 2010) (noting that the trier of fact may disregard the testimony of expert witnesses). Moreover, Stubbers' medical expert admitted that Stubbers' injuries could have been caused by overuse.

[22] Under these facts and circumstances, the jury could reasonably reject Stubbers' claim that Cooper was acting in a vicious, aggressive manner and could instead conclude that Cooper did not pose a threat to Stubbers or others to justify Stubbers beating Cooper's head with a hammer. The State presented evidence sufficient to rebut Stubbers' justification defense under Count I.

B. Sufficient Evidence to Support Count II

[23] Stubbers also claims that the State failed to present sufficient evidence to support his "conviction" on Count II. Although the jury found Stubbers guilty on Count II, the trial court did not enter a judgment of conviction on the jury's verdict on this count. Instead, the trial court determined that Count II "merged" with Count III.² Tr. Vol. V p. 14. Because Stubbers was not

² Use of the word "merge" in the context of sentencing can be confusing. *See, e.g., Gregory v. State*, 885 N.E.2d 697, 703 (Ind. Ct. App. 2008) (trial court improperly "merged" offenses after entering judgment of conviction). The better practice is for a trial court to simply not enter judgment of conviction on a count that would implicate double jeopardy, which is what the trial court here did. If a trial court does not enter judgment of conviction on a count that would implicate double jeopardy, there is no need to vacate, or even merge, that count. *Green v. State*, 856 N.E.2d 703, 704 (Ind. 2006); *Kovats v. State*, 982 N.E.2d 409, 414 (Ind. Ct. App. 2013) (citing *Townsend v. State*, 860 N.E.2d 1268, 1270 (Ind. Ct. App. 2007)). If, however, a trial

convicted on Count II, we need not address the sufficiency of the evidence to support that count.

[24] In his reply brief, Stubbers claims that the trial court did not vacate his conviction under Count II. A trial court need only vacate a conviction under a specific count to remedy a double jeopardy concern if a judgment of conviction has been entered on the jury's verdict on that count. *See Green v. State*, 856 N.E.2d 703, 704 (Ind. 2006) (“[A] merged offense for which a defendant is found guilty, but on which there is neither a judgment nor a sentence, is ‘unproblematic’ as far as double jeopardy is concerned.”) (quoting *Carter v. State*, 750 N.E.2d 778, 781 (Ind. 2001)). Here, the trial court did not enter a judgment of conviction on Count II, and the trial court, therefore, did not need to vacate any conviction under that count.³

C. Sufficient Evidence to Support Count III

[25] Lastly, we address Stubbers' claim that the State failed to present evidence sufficient to support his conviction under Count III. In Count III, the State alleged that: “On or about the 27th day of July, 2019, in Dearborn County,

court does enter judgment of conviction on a count that implicates double jeopardy, “merger” is then insufficient and the court must instead vacate the conviction. *Green*, 856 N.E.2d at 704; *Kovats*, 982 N.E.2d at 414-15 (citing *Townsend*, 860 at 1270).

³ Stubbers also argues in his reply brief that, if we determine that there is insufficient evidence to support his conviction for Count III, we should order the trial court on remand to enter a judgment of conviction on Count II. He claims we should address the sufficiency of the evidence supporting Count II. As set forth below, we conclude that Stubbers' conviction on Count III is supported by sufficient evidence. Consequently, we need not address Stubbers' claims regarding the sufficiency of the evidence supporting Count II, a count for which he was not convicted.

State of Indiana, Dr. Joseph J. Stubbers III, did knowingly or intentionally torture and/or mutilate a vertebrate animal, to-wit: Shot his dog, Cooper[,] in the eye and/or head.” Appellant’s App. Vol. II p. 65. This tracks the language of Indiana Code Section 35-46-3-12(c), which states that “[a] person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Level 6 felony.” Stubbers claims that the State presented no evidence that he either tortured or mutilated his dog.

[26] For purposes of Indiana Code Chapter 35-46-3, the term “mutilate” is defined as follows:

“Mutilate” means to wound, injure, maim, or disfigure an animal by damaging the animal’s body parts or to render any part of the animal’s body useless. The term includes bodily injury involving:

- (A) serious permanent disfigurement;
- (B) serious temporary disfigurement;
- (C) permanent or protracted loss or impairment of the function of a bodily part or organ; or**
- (D) a fracture.

I.C. § 35-46-3-0.5(4) (emphasis added).⁴

⁴ The same statute also defines the word “torture.” See I.C. § 35-46-3-0.5(6). Because the State presented evidence sufficient to prove that Stubbers mutilated Cooper, we need not address whether the State proved that Stubbers also tortured Cooper. The statute is written in the disjunctive, and the State need only show that Stubbers tortured **or** mutilated a vertebrate animal to obtain a conviction. See I.C. § 35-46-3-12(c).

[27] The State presented evidence that Stubbers shot his dog, Cooper, in the eye after he became angry that Cooper was disobeying him. The bullet destroyed the dog's eye. This falls within several of the statutory definitions of mutilate; the gunshot: (1) injured a party of Cooper's body and rendered part of his body—his eye—useless, (2) caused serious permanent disfigurement by destroying his eye; and (3) caused permanent loss of the function of a bodily part or organ by destroying his eye.

[28] Stubbers claims that his intent was not to mutilate or torture his dog, but to put him down. *See* Appellant's Br. p. 20 ("The State presented no evidence and there are no reasonable inferences that could be drawn by a jury that [Stubbers] knew when he shot Cooper in the head and chest that Cooper would not die."). The State had to prove that Stubbers acted "knowingly" or "intentionally." I.C. § 35-46-3-12(c). "A person engages in conduct 'knowingly' if, when he engages in the conduct, he is aware of a high probability that he is doing so." I.C. § 35-41-2-2(b). "A person engages in conduct 'intentionally' if, when he engages in the conduct, it is his conscious objective to do so." *Id.* § 2(a). Knowledge and intent are both mental states and, absent an admission by the defendant, the jury must resort to the reasonable inferences from both the direct and circumstantial evidence to determine whether the defendant has the requisite knowledge or intent to commit the offense in question. *Stokes v. State*, 922 N.E.2d 758, 764 (Ind. Ct. App. 2010) (citing *Johnson v. State*, 837 N.E.2d 209, 214 (Ind. Ct. App. 2005)), *trans. denied*. Knowledge or intent may be proven by the defendant's conduct and the natural and usual sequence to which

such conduct logically and reasonably points. *Stokes*, 922 N.E.2d at 764 (citing *Long v. State*, 867 N.E.2d 606, 614 (Ind. Ct. App. 2007)).

[29] In the present case, Stubbers fired a .40 caliber handgun at Cooper's head. From this evidence, the jury could reasonably conclude that when Stubbers shot Cooper's head, he was aware of a high probability that the resulting wound would cause injury that meets the definition of mutilate, i.e., permanent loss of a bodily member or organ or permanent disfigurement. Stubbers' argument that he was trying to put Cooper down is simply a request that we reweigh the evidence, which we cannot do.

[30] We find Stubbers' citation to *A.J.R. v. State*, 3 N.E.3d 1000 (Ind. Ct. App. 2014), to be unavailing. In that case, the seventeen-year-old defendant fired a rifle from a car into a herd of cattle. His fourteen-year-old companion then fired one shot at the cattle, striking one of the animals in the head. The owner of the cattle heard the gunshots and went to investigate. He found two of his cattle had been shot. One cow had a visible wound to the head. The other cow had no visible wound but was unresponsive. Both animals were dead within thirty minutes. The State subsequently alleged that A.J.R. was a delinquent juvenile for committing what would be torturing or mutilating a vertebrate animal if committed by an adult. The trial court found that the State had proven the allegations, and A.J.R. appealed.

[31] On appeal, A.J.R. claimed that the State failed to prove that he mutilated or tortured the cattle. After discussing the relevant statutes and definitions, the

A.J.R. court held that the “wound or injury” contemplated by the animal cruelty statute must be the sort that irreparably damages the animal’s body or renders any part of the animal’s body useless. *Id.* at 1006 (citing I.C. § 35-46-3-0.5(3)). The court clarified that the statute defining “mutilate” cannot be interpreted so as to include any injury that results in the death of an animal:

An interpretation of the cruelty to animals provision that would automatically qualify any injury resulting in the death of an animal as ‘mutilation’ would forsake other provisions of the Indiana Code to a position of meaninglessness. This is because other portions of our statutory scheme already deal with the killing of animals. Subsection (d) of the very statute under which *A.J.R.* was charged provides it is a Class D felony if a person “knowingly or intentionally kills a domestic animal without the consent of the owner. . . .” Ind. Code § 35-46-3-12(d). And statutory penalties are also provided for those who harass, hunt, capture, or kill a wild animal in violation of the article regulating fish and wildlife in Indiana. *See generally* Ind. Code §§ 14-22-1-1 through 14-22-41-12; *see also* Ind. Code § 14-22-34-5; Ind. Code § 14-22-38-1 to -5 (specifically dealing with violations).

A.J.R., 3 N.E.3d at 1006-07. This does not mean that a fatal injury cannot qualify as mutilation. *Id.* at 1007. But it is the type of injury that is the “key component of and necessary condition to making a determination of mutilation.” *Id.*

[32] The *A.J.R.* court concluded that there was no evidence that *A.J.R.* targeted either cow in a way that would result in serious disfigurement, protracted impairment of a body part or organ, or a fracture. *Id.* at 1007. That is, “[h]e did not purposely shoot its legs, gouge out its eyes, sever a limb or tail, or

perform any other act resulting in damage to the animal that could reasonably fall within the definition of mutilation.” *Id.* Instead, one cow had a small bullet wound to the head and the other had an injury that was not even identifiable. Accordingly, the court concluded that the State presented no evidence that A.J.R. mutilated the cattle. *Id.*

[33] We find *A.J.R.* to be readily distinguishable from the facts of the case at bar. Here, Stubbers did not randomly shoot at a group of animals at a distance. He shot his own dog at a close range, destroying the animal’s eye. Nor were the injuries to Cooper small or unidentifiable as in *A.J.R.* To the contrary, the photos of Cooper’s injuries that were admitted at trial, and included in the record on appeal, vividly depict the horrific nature of the injury inflicted by Stubbers.

[34] We conclude that the State presented evidence sufficient to support the jury’s conclusion that Stubbers knowingly or intentionally mutilated a vertebrate animal—Stubbers’ dog, Cooper—by shooting Cooper at close range, thereby destroying the animal’s eye. We, therefore, affirm Stubbers’ conviction on Count III.

Conclusion

[35] The State presented evidence sufficient to prove beyond a reasonable doubt that Stubbers mutilated his dog by shooting the dog in the head at close range, thereby destroying the dog’s eye. We also conclude that the State presented evidence sufficient to rebut Stubbers’ claim that he was justified in beating his

dog in the head with a hammer so as to prevent injury to himself or others.

Accordingly, we affirm the judgment of the trial court.

[36] Affirmed.

Riley, J., and May, J., concur.