

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jammy Stacy,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 5, 2021

Court of Appeals Case No.
20A-CR-1753

Appeal from the Kosciusko
Superior Court

The Honorable David C. Cates,
Judge

Trial Court Cause No.
43D01-1803-F3-293

Riley, Judge.

STATEMENT OF THE CASE

[1] Appellant-Defendant, Jammy Stacy (Stacy), appeals her conviction for neglect of a dependent, a Level 3 felony, Ind. Code § 35-46-1-4(b)(2).

[2] We affirm.

ISSUE

[3] Stacy presents the court with one issue, which we restate as: Whether the State proved beyond a reasonable doubt that she knowingly failed to procure medical care for her victim, causing the child serious bodily injury.

FACTS AND PROCEDURAL HISTORY

[4] A.A. was born in July 2015 to biological mother Rune Springer (Springer). From his birth until October 2017, Springer placed A.A. in the care of others, including relatives and neighbors. In October 2017, Springer left A.A. in the care of Stacy, and he lived with her in her mobile home in Kosciusko County. Stacy was A.A.'s primary caretaker from October 2017 until early March 2018. During the time that A.A. was in Stacy's care, Springer would periodically inquire about A.A.'s well-being and was informed by Stacy that he was fine. However, by late February or early March, Stacy contacted Springer to arrange for A.A.'s return to Springer's home in Nappanee, Indiana. Stacy warned Springer to prepare herself because A.A.'s appearance would be "really bad." (Transcript Vol. II, p. 200).

[5] A.A. was returned to Springer's care on or about March 2, 2018.

Approximately one day after A.A. was returned to her, Springer contacted law enforcement to report A.A.'s condition. To an officer responding to Springer's home that day, it was apparent that A.A. was in distress. The Department of Child Services was alerted, and A.A. was detained and taken for medical care.

[6] A.A. was received by Parkview Hospital in Warsaw, but the decision was made to transport him to Parkview Regional Medical Center in Fort Wayne, where he was treated from March 3, 2018, to March 9, 2018. Dr. Jayesh Patel (Dr. Patel) directed A.A.'s care. Dr. Patel found A.A. to be injured "from head to toe," with a concentration of injuries on his face and scalp. (Tr. Vol. II, p. 57). The portion of the tip of A.A.'s nose which divides the nostrils, the septum, had been severed and was "destroyed." (Tr. Vol. II, p. 63). As a result, the bottom of A.A.'s nose was unanchored to his face, and tissue was missing from the tip of his nose. The tissue between A.A.'s upper lip and nose had also been severed, and he had a variety of smaller wounds to his nose and face. Some of A.A.'s teeth were missing, and most of his remaining teeth had cavities. On the back of his head, A.A. had multiple open wounds in various stages of healing, the largest of which was approximately the size of a silver dollar and exposed part of his skull. A.A. had a subdural hematoma which had been sustained as a result of multiple traumas to the same area of his head. The upper humerus bones in A.A.'s shoulder area had been fractured multiple times on both his right and left sides. He had two broken ribs, broken bones in his hands and feet, and a broken pelvis bone. In addition, A.A., who was nearly three years

old, was malnourished to the extent that he was in the ninety-fifth percentile for weight and weighed only as much as a healthy one-year-old. The skin around his legs was baggy and had no muscle tissue, his ribcage was visible, the hair on his head had thinned, and he had developed abnormal hair growth on his face, a body's response to severe lack of nourishment. A.A. suffered from severe anemia such that his treatment team considered giving him a blood transfusion. A.A. was apathetic and withdrawn, he was unable to sit up of his own volition or walk, and he was unable to lift his head or arms.

- [7] Four hours after coming into contact with A.A., officers went to Stacy's trailer to speak to her. When the officers knocked on her door, Stacy did not answer even though she was at home and knew they were there. On March 5, 2018, Stacy was interviewed by law enforcement. Stacy acknowledged that she had been A.A.'s primary caretaker since October 2017, and she stated that she ought to have taken A.A. for treatment. Stacy's cell phone records indicated that, prior to returning A.A. to Springer's care, Stacy had researched Indiana's Safe Haven law. An image retrieved from Stacy's cell phone that was taken with her phone on December 2, 2017, showed the extensive injuries to A.A.'s nose and lip. An image taken with Stacy's cell phone camera on February 12, 2018, showed that two Band-Aids had been placed over A.A.'s nose and upper lip. Texts retrieved from Springer's cell phone showed that, after Springer had inquired about A.A. in mid-February 2018, Stacy had sent her an image of A.A. that had been taken in December 2017, prior to A.A. sustaining the injuries to his nose and lip. Also found on Stacy's cell phone were videos taken

by Stacy from December 14, 2017, to February 21, 2018, which showed the significant trauma to A.A.'s nose and lip. In one video, Stacy is heard repeatedly ordering a whimpering A.A. to remove his coat, which he was unable to do because he could not lift his arms. In a video taken by Stacy on January 30, 2018, she noted on camera that A.A. resembled a zombie and was disoriented. Stacy proclaimed "gotcha!" when A.A., who was unable to walk properly, stumbled and fell. (Exh. 38).

- [8] On March 29, 2018, the State filed an Information, charging Stacy with Level 3 felony neglect of a dependent. On August 4, 2020, the trial court convened Stacy's three-day jury trial. Dr. Patel testified that the injuries to A.A.'s face and head, the subdural hematoma, and the broken bones in his shoulders, pelvis, hands, and feet all predated March 2, 2018. Dr. Patel opined that any of these injuries would have caused A.A. extreme pain which could have been alleviated had A.A. been taken for medical care. Dr. Patel also opined that the injuries to A.A.'s nose and lip would result in permanent disfigurement, the chance of which could have been lowered if he had received timely medical care. Dr. Patel testified that the hair growth on A.A.'s face and his lethargy were the result of long-term malnutrition occurring over a period of months and were not the result of a few missed meals. According to the doctor, A.A.'s malnutrition impeded his body's ability to heal. Dr. Patel, who had been treating children for over twenty years, testified that A.A. was one of the most gravely injured children he had ever seen who had survived.

[9] Dr. Shannon Thompson, a specialist in child abuse pediatrics at Riley Hospital who had assessed A.A., testified that A.A.'s upper humerus bones were permanently damaged on both sides as a result of having been repeatedly broken over time. A.A. was unable to extend his arms above his head, and it was unlikely that he would ever have a normal range of motion with his right arm. As a result of his broken pelvis bone, A.A. walked with a limp. Dr. Thompson also opined that any of A.A.'s injuries would have caused him extreme pain and that all of his pain and loss of function could have been alleviated if he had received timely medical care.

[10] The jury found Stacy guilty as charged. On August 31, 2020, the trial court sentenced Stacy to sixteen years.

[11] Stacy now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

[12] Stacy challenges the evidence supporting her conviction. Our standard of review for such challenges is well-established: We consider only the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). It is not our role as an appellate court to assess witness credibility or to weigh the evidence. *Id.* We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*

[13] The State charged Stacy with Level 3 felony neglect of a dependent in relevant part as follows:

[B]etween October of 2017 through and including March 1st 2018 . . . Stacy, having the care of a dependent, namely [A.A.], did knowingly or intentionally place [A.A.] in a situation that endangered the life or health of [A.A.], resulting in serious bodily injury to [A.A.].

(Appellant's App. Vol. II, p. 2). The State's theory of the case was that Stacy had knowingly placed A.A. in a situation that endangered his life or health by failing to procure necessary medical care for A.A., not that she had inflicted his multiple injuries. A person acts 'knowingly' if, "when [s]he engages in the conduct, [s]he is aware of a high probability that [s]he is doing so." I.C. § 35-41-2-2(b). In a neglect case, the requisite knowing intent exists where the defendant was subjectively aware of a high probability that [s]he placed the dependent in a dangerous situation. *Patel v. State*, 60 N.E.3d 1041, 1049 (Ind. Ct. App. 2016). The State may prove Stacy's actual knowledge by resort to circumstantial evidence. *Sample v. State*, 601 N.E.2d 457, 459 (Ind. Ct. App. 1992). In cases where neglect is alleged as a result of a failure to procure medical care, "[w]hen there are symptoms from which the average layperson would have detected a serious problem necessitating medical attention, it is reasonable for the jury to infer that the defendant knowingly neglected the dependent." *Mitchell v. State*, 726 N.E.2d 1228, 1240 (Ind. 2000), *abrogated on other grounds*. 'Serious bodily injury' exists where a bodily injury causes extreme pain and/or serious permanent disfigurement, among other things. *See* I.C. § 35-31.5-2-292.

[14] Here, while A.A. was in Stacy's care, he sustained obvious and severe injuries to his nose, a severe head injury that left part of his skull exposed, and malnutrition that left his ribcage exposed, his legs wasted, his head hair thinned, and abnormal hair growth on his face. The jury could have readily and reasonably concluded from these conditions alone that a layperson would have known A.A. was in serious need of medical attention. *See Mitchell*, 726 N.E.2d at 1240. However, rather than procuring that treatment, Stacy put Band-Aids on A.A.'s grave facial injuries and took pictures and videos. The jury's conclusion that Stacy had the requisite knowledge was buttressed by evidence that she hid A.A.'s true condition from Springer, her documentation of A.A.'s condition through images and video, and from Stacy's admissions during her March 5, 2018, police interview that she should have taken A.A. for treatment. A.A.'s injuries and malnourishment caused him extreme pain, and in the case of the injuries to his nose, permanent disfigurement. A.A.'s extreme pain and risk of permanent disfigurement could have been alleviated had Stacy taken him for medical care, which was sufficient evidence for the jury to conclude that Stacy caused A.A. serious bodily injury by failing to procure him care. *See Lush v. State*, 783 N.E.2d 1191, 1198 (Ind. Ct. App. 2003) (finding sufficient evidence of causing serious bodily injury for failure to procure medical care where medical testimony was presented that, the sooner treatment for a patient with the dependent's injuries, the better the outcome). Although A.A. sustained other injuries for which Stacy also failed to procure treatment, we conclude that her failure to take A.A. for treatment for his obvious nose injury, the large, open wound on the back of his head, and for his

malnourishment alone was sufficient to sustain her conviction for Level 3 felony neglect of a dependent.

[15] Nevertheless, Stacy asserts that the State was required to prove that she was subjectively aware that her failure to take A.A. for medical care would result in a risk of death, extreme pain, permanent disfigurement, or protracted loss of a bodily function. However, we have previously held that, where an offense is elevated for having caused ‘serious bodily injury’, the knowing or intentional *mens rea* applicable to the conduct element of the offense does not extend to the element of the injury. *See Markley v. State*, 421 N.E.2d 20, 21-22 (Ind. Ct. App. 1981) (holding that the State was not required to prove that Markley intended to inflict serious bodily injury to make its case for Class C felony battery). Therefore, the State was not required to prove that Stacy intended to inflict serious bodily injury on A.A., only that she did.

[16] Stacy also points out that some of A.A.’s injuries were not visible to the naked eye and/or required no treatment, such as his subdural hematoma and his broken bones. As a result, Stacy argues, the State failed to show that she was subjectively aware of those injuries or that she had placed A.A.’s life or health in danger by failing to procure treatment for them. However, we find these arguments unavailing in light of her failure to procure medical treatment for A.A.’s nose injury, his scalp wound, and his malnutrition, which we have found, in and of itself, to be sufficient to sustain her conviction.

[17] Stacy acknowledges that the evidence established that she was subjectively aware of the injury to A.A.'s nose, the wound on the back of his head, and his malnourishment, and she acknowledges that those conditions placed A.A.'s health in danger. However, she contends there was a lack of evidence that her failure to procure treatment for them resulted in serious bodily injury to A.A. In light of the treating physicians' testimony that those injuries would have caused A.A. extreme pain and the evidence that A.A.'s nose injury is a permanent disfigurement, both of which could have been alleviated if she had taken A.A. for treatment, Stacy's argument is essentially an invitation for us to reweigh the evidence, which is contrary to our standard of review. *Drane*, 867 N.E.2d at 146. Finding sufficient evidence of Stacy's knowing conduct and her infliction of serious bodily injury, we will not disturb the jury's verdict.

CONCLUSION

[18] Based on the foregoing, we conclude that the State proved beyond a reasonable doubt that Stacy knowingly neglected A.A. by failing to procure him medical treatment, and that failure resulted in serious bodily injury to A.A.

[19] Affirmed.

Najam, J. and Crone, J. concur