

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Joshua L. Harter,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

December 29, 2022
Court of Appeals Case No.
22A-CR-1318

Appeal from the
Jay Superior Court

The Honorable
Gail M. Dues, Judge

Trial Court Cause No.
38D01-2204-CM-50

Vaidik, Judge.

Case Summary

- [1] Joshua L. Harter appeals his conviction for Class A misdemeanor battery, arguing that surveillance video of the incident at issue proves he was acting in self-defense. We disagree and affirm.

Facts and Procedural History

- [2] The facts that follow are taken from the victim’s testimony and the surveillance video of the incident. On April 7, 2022, Harter rode a bicycle onto the parking lot of the Hoosier Inn in Portland. The hotel’s general manager, W.G., was standing at the “far end” of the hotel near “a little area . . . with tables and stuff set up[.]” Tr. p. 75. Harter stepped off the bicycle and lifted it onto the elevated sidewalk in front of the hotel, then walked toward W.G. There had been “issues with people loitering around the hotel,” so W.G. asked, “Can I help you?” *Id.* at 75-76. Harter looked at W.G. and said, “Who the f*** are you?” *Id.* at 75. W.G. answered, “I’m the manager[.] I need to let you know this is private property. You can’t be here. You need to leave.” *Id.* Harter stepped down off the sidewalk with the bicycle, as if to continue past W.G. toward the end of the hotel. W.G. stepped down off the sidewalk to block his way and said, “You’re not understanding. This is private property; you need to leave. I need you to leave now.” *Id.* at 76. Harter responded, “It’s not private property. It’s a hotel.” *Id.* Harter put the bicycle on the ground and then hit or pushed W.G.’s chest, knocking him backward. As W.G. picked up the bicycle, Harter started punching him. After Harter punched W.G. in the head “multiple times,” W.G.

fell to the ground and Harter walked away, leaving the bicycle behind. *Id.* at 77. W.G.’s face was left swollen and bleeding. The surveillance camera, which was at the opposite end of the hotel, captured some but not all of the incident, without audio. *See* Ex. 2, 5:33-7:00.

[3] The State charged Harter with Class A misdemeanor battery resulting in bodily injury and Class A misdemeanor criminal trespass. The case proceeded to a jury trial, where Harter represented himself and claimed self-defense. He didn’t testify. Instead, he argued to the jury that the surveillance video shows he acted in self-defense. The jury found Harter guilty as charged, and the trial court sentenced him to 300 days in jail on each count, to be served concurrently.

[4] Harter now appeals the battery conviction. He does not challenge the trespass conviction.

Discussion and Decision

[5] Harter renews his argument that the surveillance video clearly establishes he was acting in self-defense when he hit W.G. Specifically, he asserts the video shows he “was not the initial aggressor in the confrontation” and that he “had cause to fear an attack by the alleged victim.” Appellant’s Br. p. 9. He contends the video “is the best evidence about what actually occurred” and contradicts W.G.’s testimony that Harter “was the initial aggressor” and “was not aggressively approached.” *Id.*

[6] Our Supreme Court has held that an appellate court must defer to the trier of fact's weighing of video evidence unless the video "indisputably contradicts" the trier of fact's finding of guilt. *Love v. State*, 73 N.E.3d 693, 699 (Ind. 2017). For a video to indisputably contradict the trier of fact's finding, "it must be such that no reasonable person could view the video" and conclude the defendant is guilty. *Id.*

[7] Here, the surveillance video does not indisputably contradict the jury's verdict. The video shows that as Harter attempted to walk around W.G., W.G. stepped in front of Harter, blocking his way. Harter contends this was an act of aggression by W.G., but the other reasonable interpretation is that W.G. was simply trying to keep Harter from staying on the property or going farther onto the property after W.G. told Harter to leave. The latter interpretation is consistent with W.G.'s testimony about the incident, including the words the men exchanged (which cannot be heard on the video). Because the video doesn't conclusively show Harter was acting in self-defense, we will not disturb the jury's verdict.

[8] Affirmed.

Riley, J., and Bailey, J., concur.