NO. COA01-1186

NORTH CAROLINA COURT OF APPEALS

Filed: 4 June 2002

STATE OF NORTH CAROLINA

v. Gaston County
No. 00CRS56888

MICHELLE LEE NORRIS

Appeal by defendant from judgment entered 26 April 2001 by Judge Claude S. Sitton in Gaston County Superior Court. Heard in the Court of Appeals 28 May 2002.

Attorney General Roy A. Cooper, III, by Assistant Attorney General R. Kirk Randleman, for the State.

Appellate Defender Staples Hughes, by Assistant Appellate Defender Beth S. Posner, for defendant-appellant.

HUNTER, Judge.

Michelle Lee Norris ("defendant") was convicted of felonious child abuse and was sentenced to twenty-four to thirty-eight months' imprisonment. We find no error in defendant's trial.

The State presented evidence tending to show that on 20 May 2000, defendant was residing with a male friend, Danny Wike, and her three-year-old son ("the child") at a motel in Belmont. Defendant brought the child into the motel office and showed the motel manager "pretty bad" bruises on the child's bottom. Defendant stated, "[t]his is just what happens when he does something wrong." After defendant departed the manager's office,

the manager contacted the Gaston County Department of Social Services ("DSS") regarding her concern that the child was being abused.

That evening at 11:00 p.m., a social worker with DSS, along with Corporal R. B. Abernathy of the Belmont Police Department, arrived at defendant's motel room to investigate the matter. Wike allowed them to enter the room. They saw the child sleeping naked on a bed. The child had multiple bruises and welts on his body. Wike told them that he had whipped the child with a belt. Defendant subsequently arrived and told Corporal Abernathy that she had inflicted some of the bruises on the child because the child would not obey her.

Roger Best, a physician's assistant at Gaston Memorial Hospital who examined the child, testified that the child had multiple bruises on his body that were not accidentally inflicted. Best testified that the bruises were of varying ages, and that they were some of the most serious he had ever seen. Dotty Scher, a child protective services case manager for DSS, testified that the child's injuries were among the top third in severity of the 500 cases she had investigated. Wike testified on behalf of defendant that he inflicted the bruises on the child. Defendant testified and denied inflicting the bruises.

The sole assignment of error brought forward by defendant is to the denial of her motion to dismiss the charge for insufficient evidence. The standard for ruling on a motion to dismiss "is whether there is substantial evidence (1) of each essential element

of the offense charged and (2) that defendant is the perpetrator of the offense." *State v. Lynch*, 327 N.C. 210, 215, 393 S.E.2d 811, 814 (1990). Substantial evidence is that relevant evidence which a reasonable mind might accept as adequate to support a conclusion. *Id.* In ruling on a motion to dismiss, the trial court must consider all of the evidence in the light most favorable to the State, and the State is entitled to all reasonable inferences which may be drawn from the evidence. *Id.* at 215-16, 393 S.E.2d at 814. Any contradictions or discrepancies arising from the evidence are properly left for the jury to resolve and do not warrant dismissal. *Id.* at 216, 393 S.E.2d at 814.

To withstand a motion to dismiss a charge of felonious child abuse, the State must present substantial evidence that the defendant is a parent of the child, that the child is under the age of sixteen, and that the defendant intentionally inflicted serious physical injury upon the child or intentionally committed an assault upon the child which resulted in serious physical injury to the child. N.C. Gen. Stat. § 14-318.4(a) (1999); *State v. Phillips*, 328 N.C. 1, 20, 399 S.E.2d 293, 302-03, *cert. denied*, 501 U.S. 1208, 115 L. Ed. 2d 977 (1991). A "serious physical injury" is defined as an injury that causes great pain and suffering. *Phillips*, 328 N.C. at 20, 399 S.E.2d at 303.

Defendant contends that the evidence was insufficient (1) to show she perpetrated the offense and (2) to establish the element of serious personal injury. We disagree. Defendant told Corporal Abernathy that she inflicted some of the bruises on her three-year-

old child. The motel manager described the bruises as "pretty bad." The protective services case manager characterized the bruises as among the most severe she had seen in eight years of investigating child abuse cases. In addition to his testimony describing the severity of the bruises, the physician's assistant testified that the infliction of the bruises would cause a great deal of pain. Based upon the foregoing evidence, a jury could reasonably find that defendant intentionally inflicted serious personal injury upon the child. This assignment of error is overruled.

We hold defendant received a fair trial, free of prejudicial error.

No error.

Judges MARTIN and BRYANT concur.

Report per Rule 30(e).