Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-22-00554-CR

Charles Anthony **GARRISON**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the County Court at Law No. 2, Guadalupe County, Texas
Trial Court No. 20-1161
Honorable Bill Squires, Judge Presiding

Opinion by: Patricia O. Alvarez, Justice

Sitting: Patricia O. Alvarez, Justice
Luz Elena D. Chapa, Justice
Irene Rios, Justice

Delivered and Filed: April 24, 2024

AFFIRMED

Appellant Charles Garrison challenges the sufficiency of the evidence supporting his assault conviction, especially considering his self-defense argument. For the reasons stated below, we affirm the trial court's judgment.

BACKGROUND

Garrison was convicted of assault for punching his son, Daniel, and/or for striking him with a pickaxe handle.

The two men worked together as contractors for their family business, installing communications infrastructure for AT&T and Time Warner. Daniel was one of Garrisons' four sons, and he was the only one who worked for Garrison. Daniel left school when he was fourteen years old and began working for Garrison full time. He worked with Garrison until he was twenty-four years old, and he decided that it was time for him to move on. Garrison testified that Daniel told him, "You're ruining my life, you're ruining my credit." Testimony from both men revealed financial tension between them. Daniel complained that he was not paid regularly. Garrison testified that their income depended on invoices being paid after the jobs were done. Garrison also complained that some of Daniel's personal and medical expenses cost their family business an inordinate amount of money.

Evidence showed that both men had a propensity for anger. Garrison testified (and Daniel admitted) that Daniel recently broke his hand when he punched a window. Daniel testified that Garrison regularly carried an axe handle in his truck because "he used to say it's softer to hit somebody with [it] than [with] his fists" and that he had previously grabbed Daniel's shirt out of anger.

On the day of the instant assault, Daniel was preparing for a party with his fiancée. Garrison began calling and angrily texting about equipment Daniel had that Garrison needed for work. Then, Garrison drove to Daniel's and his fiancée's home. He threatened to drive through the gate and shoot Daniel's truck.

Daniel testified that when Garrison arrived, Garrison was yelling from the driveway gate. Daniel admitted that he angrily yelled at his father to leave. Daniel stated that when he approached Garrison, Garrison grabbed the front of his shirt and punched him in the face multiple times. Daniel stated that he then slapped Garrison in the face. After that, Garrison retrieved the pickaxe handle from his truck and struck Daniel with it.

The State introduced a video of Garrison admitting that he struck first, stating, "He started shootin' his mouth off, and I punched him in his f–n face."

A responding officer testified that this admission was Garrison's initial statement, and that he was consistent in his statement that he was the first to swing a punch. But, according to the officer, Garrison changed his story to include an allegation that Daniel started the physical altercation by throwing a drink in his face. The officer stated that no evidence suggested that Garrison had been doused with a drink. He denied that Garrison appeared wet or that he smelled like an alcoholic beverage had been splashed on him.

Garrison indeed testified that he punched Daniel because Daniel threw a drink in his face. He also testified that his shirt was not wet when he talked to the responding officer because it had already dried due to the day's heat. When the State suggested to him that punching Daniel in response would be disproportionate, Garrison added that the drink burned his eyes. He also testified that Daniel swung the first punch, that Daniel was bigger than him, and that he, Garrison, suffered from declining health.

In closing arguments, Garrison argued self-defense. However, the jury returned a guilty verdict, rejecting his justification. Garrison now appeals his assault conviction.

STANDARD OF REVIEW

The standard for legal sufficiency in a criminal case is whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). We view the evidence in the light most favorable to the prosecution, and we defer to the factfinder's judgment regarding the weight and credibility of the evidence. *Queeman v. State*, 520 S.W.3d 616, 622 (Tex. Crim. App. 2017); *see also* TEX. CODE CRIM. PROC. ANN. art. 36.13 (naming the jury as "exclusive judge of the facts"); *Valverde v. State*, 490 S.W.3d 526, 528 (Tex. App.—San Antonio 2016, pet. ref'd) (citing *Brooks v. State*, 323

S.W.3d 893, 899 (Tex. Crim. App. 2010)). It is our duty to decide whether the necessary inferences are reasonable based on the cumulative force of all the evidence when viewed in the light most favorable to the verdict. *Braughton v. State*, 569 S.W.3d 592, 608 (Tex. Crim. App. 2018); *Hooper v. State*, 214 S.W.3d 9, 15 (Tex. Crim. App. 2007).

When an appellant specifically challenges the jury's rejection of self-defense, we examine whether a rational jury could have rejected the defense beyond a reasonable doubt. *Dudzik v. State*, 276 S.W.3d 554, 557 (Tex. App.—Waco 2008, pet. ref'd) (citing *Saxton v. State*, 804 S.W.2d 910, 914 (Tex. Crim. App. 1991)). As stated, this review does not entail reevaluating the weight or credibility of the evidence. *Id*. (citing *Muniz v. State*, 851 S.W.2d 238, 246 (Tex. Crim. App. 1993). The "issue of self-defense is a fact issue to be determined by the jury, which is free to accept or reject the defensive issue." *Dudzik*, 276 S.W.3d at 557 (citing *Saxton*, 804 S.W.2d at 912 n.5). We ensure only that the jury reached a rational decision based on the evidence as a whole. *See id*. (citing *Zuliani v. State*, 97 S.W.3d 589, 594–95 (Tex. Crim. App. 2003)).

LEGAL SUFFICIENCY

A. Parties' Arguments

Garrison argues that the State failed to prove its assault case, considering the evidence of self-defense. The State argues that the evidence supported the jury's verdict and its rejection of his self-defense argument.

B. Law

The Texas Penal Code's definition of self-defense states that "a person is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to protect the actor against the other's use or attempted use of unlawful force." TEX. PEN. CODE ANN. § 9.31; *Lee v. State*, 259 S.W.3d 785, 789 (Tex. App.—Houston [1st Dist.] 2007, pet. ref'd). "The amount of force used must be in proportion to the force encountered." *Kelley v.*

State, 968 S.W.2d 395, 399 (Tex. App.—Tyler 1998, no pet.). Verbal provocation alone is insufficient to justify self-defense. *See* TEX. PENAL CODE ANN. § 9.31(b)(1); *Walters v. State*, 247 S.W.3d 204, 213 (Tex. Crim. App. 2007).

C. Analysis

In viewing the evidence in the light most favorable to the verdict, we consider that a rational juror could have rejected Garrison's claim of self-defense. *See Lee*, 259 S.W.3d at 789. His testimony was his only direct evidence of self-defense, and it was inconsistent at times. The jury could have rationally disbelieved his account of the assault. *See id*. (citing *Saxton*, 804 S.W.2d at 914).

The jury could also have believed that Garrison's response to Daniel was unreasonable. *See Kelley*, 968 S.W.2d at 399. Even if the jury believed that Daniel instigated the assault, it could nevertheless have believed that the beating that followed was not immediately necessary. *See* TEX. PEN. CODE ANN. § 9.31.

In support of his argument for self-defense, Garrison places considerable emphasis on the size and health differences between Daniel and him. He also repeatedly cites examples of Daniel's past outbursts, though his examples include no instances of assault on his father. But considering the evidence as a whole, the jury could have rationally discounted the probative force of Garrison's extraneous evidence in favor of other evidence suggesting that Garrison was the main aggressor, including the video of him stating, "He started shootin' his mouth off, and I punched him in his f–n face." *See Dudzik*, 276 S.W.3d at 557.

Based on the standard of review and the record before us, we overrule Garrison's complaint on appeal.

CONCLUSION

Although Garrison challenged the sufficiency of the evidence against him in light of his self-defense claim, we conclude that the evidence was legally sufficient to support Garrison's conviction for assault. We affirm the trial court's judgment.

Patricia O. Alvarez, Justice

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