NO. 12-16-00131-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

CAMERON CHATMAN, APPELLANT	***§***	***APPEAL FROM THE 3RD***
V.	***§***	***JUDICIAL DISTRICT COURT***
THE STATE OF TEXAS, APPELLEE	***§***	***HOUSTON COUNTY, TEXAS***

MEMORANDUM OPINION

Cameron Chatman appeals his conviction for felony assault involving family violence. In his sole issue, Appellant claims the evidence is insufficient to support his conviction. We affirm.

BACKGROUND

Appellant was charged by indictment with felony assault involving family violence against Norris Jean McKnight on March 24, 2015 in Houston County, Texas. The indictment alleged that Appellant intentionally, knowingly, or recklessly struck McKnight with his fist causing bodily injury. Appellant pleaded "not guilty" and the matter proceeded to a jury trial.

At trial, the evidence showed that on the evening in question, McKnight called 9-1-1 and reported that Appellant struck her in the mouth causing her teeth to be knocked out. The 9-1-1 call was played for the jury. McKnight told two City of Crockett Police Officers, Johnny Romo and Austin Roberts, that Appellant struck her in the mouth with his fist. Officer Romo took photographs of her injuries. Both officers testified they saw swelling on McKnight's lip and observed her missing tooth. McKnight gave the officers a written statement, which was admitted into evidence. The photos of McKnight's injuries were also published to the jury.

McKnight testified that she was engaged in an on and off relationship with Appellant, and that they share a daughter. McKnight testified that she was the aggressor on the night of the offense, and that she jumped on Appellant's back because he took her telephone. She stated that Appellant slung her off his back, which caused her to hit the wall and knocked out her tooth. She stated that her tooth was already rotten and loose before the incident. When confronted with her prior statements that Appellant struck her and knocked her tooth out, McKnight stated that she lied because she was angry with Appellant for cheating on her. She denied writing a portion of the written statement, but acknowledged that it was her signature on the statement. She denied reading the statement before she signed it.

Teneisha Simon, McKnight's sister, testified that McKnight was at her apartment on the evening of March 24, 2015. During the night, Simon awoke to hear McKnight crying. When Simon went to investigate, she found McKnight crying and holding her tooth. Simon asked Appellant what happened. Appellant told Simon that he discovered McKnight had been texting another man. He believed the man had been with McKnight earlier in the evening and had smoked marijuana around McKnight and Appellant's daughter. Simon testified that Appellant admitted pushing McKnight down and hitting her in the mouth, which knocked out her tooth. She testified that McKnight was the victim in Appellant's previous assault case. Simon explained that she refused to give a written statement to the police because she did not want to get involved and because of the on and off nature of McKnight's relationship with Appellant.

Officer Roberts testified that when he went to Appellant's home to place him under arrest, Appellant's mother gave him permission to enter the home to look for Appellant. Roberts found Appellant standing with his arms crossed in the dark laundry room with the door closed. Officer Roberts arrested Appellant and read Appellant his rights. When Roberts asked Appellant about the assault, he denied being at Simon's apartment that evening. Officer Romo later interviewed Appellant at the jail, and Appellant maintains he had not been at the apartment that evening.

During his testimony, Appellant described a version of events similar to that testified to by McKnight. He stated that McKnight accused him of being unfaithful, and he grabbed her telephone to look through it. Appellant testified that McKnight jumped on his back, and he slung her off of him causing her to fall to the ground. He claimed that he immediately left and did not know McKnight was injured until the next day. He denied intentionally harming McKnight or

striking her in the face with his fist. He testified that he was merely defending himself from her attack. Appellant further stated that Simon was lying about his statements to her on the evening of the offense. He also admitted lying to officers about being at Simon's home with McKnight earlier in the evening, but explained that he did so because he mistrusted the police.

The jury ultimately found Appellant guilty of felony assault involving family violence. The trial court sentenced Appellant to imprisonment for ten years. This appeal followed.

EVIDENTIARY SUFFICIENCY

In his sole issue, Appellant challenges the sufficiency of the evidence to support his conviction for felony assault involving family violence. Specifically, Appellant argues that no rational jury could have found proof of all the elements of the offense based on McKnight's testimony at trial.

Standard of Review

When determining if evidence is sufficient to sustain a conviction, we apply the ***Jackson v. Virginia*** standard. *See* ***Brooks v. State***, 323 S.W.3d 893, 902, 912 (Tex. Crim. App. 2010). This standard requires the appellate court to determine whether, considering all the evidence in the light most favorable to the verdict, the jury was rationally justified in finding guilt beyond a reasonable doubt. ***Jackson v. Virginia***, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789, 61 L. Ed. 2d 560 (1979); ***Brooks***, 323 S.W.3d at 899. In doing so, we defer to the jury's credibility and weight determinations, because the jury is the sole judge of the witnesses' credibility and the weight to be given to their testimony. ***Brooks***, 323 S.W.3d at 899; *see* ***Jackson***, 443 U.S. at 319, 99 S. Ct. at 2789. This standard recognizes "the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts." ***Jackson***, 443 U.S. at 319, 99 S. Ct. at 2789; *see also* ***Adames v. State***, 353 S.W.3d 854, 860 (Tex. Crim. App. 2011).

Accordingly, the fact finder is entitled to judge the credibility of the witnesses, and can choose to believe all, some, or none of the testimony. ***Chambers v. State***, 805 S.W.2d 459, 461 (Tex. Crim. App. 1991); *see also* ***Wise v. State***, 364 S.W.3d 900, 903 (Tex. Crim. App. 2012). When conflicting evidence is presented, we must resolve those conflicts in favor of the verdict and defer to the fact finder's resolution of those conflicts. ***Jackson***, 443 U.S. at 326, 99 S. Ct. at 2793. We may not substitute our own judgment for that of the fact finder. *See* ***id.***, 443 U.S. at

319, 99 S. Ct. at 2789; ***Thornton v. State***, 425 S.W.3d 289, 303 (Tex. Crim. App. 2014); ***King v. State***, 29 S.W.3d 556, 562 (Tex. Crim. App. 2000). Circumstantial evidence is as probative as direct evidence in establishing the guilt of an actor and can be alone sufficient to establish guilt. ***Hooper v. State***, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007).

Analysis

In this case, the State had to prove that Appellant intentionally, knowingly, or recklessly caused bodily injury to Norris Jean McKnight, a member of the Appellant's family,[1] by striking her mouth with his fist, and that Appellant had a previous conviction.[2] *See* TEX. PENAL CODE ANN. § 22.01(a)(1)(b)(2)(A) (West Supp. 2016). Appellant argues that the evidence is insufficient to support his conviction because McKnight recanted her allegations and testified at trial that she was the aggressor and that Appellant did not strike her.

In addition to hearing Appellant's and McKnight's testimony at trial, the jury saw the photographs of McKnight's injury, listened to her 9-1-1 call, and saw her written statement to police. In both her written statement and the 9-1-1 call, McKnight claimed that Appellant struck her. The jury also heard the police officers testify about their observations of McKnight's swollen lip and missing tooth, as well as her statements that Appellant struck her in the mouth. Additionally, the jury heard Simon testify to her observations on the night of the offense, including Appellant's admission to hitting McKnight in the mouth. The jury, as the sole judge of McKnight's credibility, had the discretion to believe or disbelieve her trial testimony. *See* ***Chambers***, 805 S.W.2d at 461 (stating "[t]he jury observed the complainant's demeanor and was entitled not only to reconcile any such conflicts[,] but even to disbelieve her recantation"); ***Saldana v. State***, 287 S.W.3d 43, 60 (Tex. App.—Corpus Christi 2008, pet. ref'd) (stating "[a] fact finder is fully entitled to disbelieve a witness's recantation"); ***Hernandez v. State***, 280 S.W.3d 384, 386 (Tex. App.—Amarillo 2008, no pet.) (concluding evidence was sufficient to support family violence conviction because jury heard victim's statements made on night of assault that defendant assaulted her and could have disregarded victim's recantation). In exercising that discretion, the jury was entitled to resolve the conflicts in the evidence and to

[1] "Family" includes individuals related by consanguinity or affinity, as determined under Sections 573.022 and 573.024, Government Code, individuals who are former spouses of each other, individuals who are the parents of the same child, without regard to marriage, and a foster child and foster parent, without regard to whether those individuals reside together. TEX. FAM. CODE ANN. § 71.003 (West 2014).

[2] Appellant stipulated to his prior conviction at trial.

believe McKnight's initial statement that Appellant struck her in the mouth, as well as the additional evidence establishing that Appellant struck her. *See* ***Jackson***, 443 U.S. at 319, 99 S. Ct. at 2789 (requiring appellate courts to afford deference to the jury's determination of conflicting evidence).

Accordingly, the jury could reasonably conclude that Appellant intentionally, knowingly, or recklessly caused bodily injury to McKnight, a member of Appellant's family, by striking her mouth with his fist. *See* TEX. PENAL CODE ANN. § 22.01(a)(1). Viewing the evidence in the light most favorable to the verdict, we conclude that the jury was rationally justified in finding Appellant guilty of assault involving family violence, beyond a reasonable doubt. *See* ***Jackson***, 443 U.S. at 319, 99 S. Ct. at 2789; *see also* ***Brooks***, 323 S.W.3d at 899. Because the evidence is sufficient to support the jury's finding of guilt, we overrule Appellant's sole issue.

DISPOSITION

Having overruled Appellant's sole issue, we ***affirm*** the trial court's judgment.

GREG NEELEY
Justice

Opinion delivered April 19, 2017.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(DO NOT PUBLISH)

COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

APRIL 19, 2017

NO. 12-16-00131-CR

CAMERON CHATMAN,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 3rd District Court
of Houston County, Texas (Tr.Ct.No. 15CR-092)

THIS CAUSE came to be heard on the appellate record and briefs filed herein, and the same being considered, it is the opinion of this court that there was no error in the judgment.

It is therefore ORDERED, ADJUDGED and DECREED that the judgment of the court below **be in all things affirmed**, and that this decision be certified to the court below for observance.

Greg Neeley, Justice.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.