

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
SARAH J. HEFFLEY, JUDGE

DIVISION I

CA CR 07-74

LASHAWN KING

October 3, 2007

APPELLANT

APPEAL FROM THE CIRCUIT COURT OF
PULASKI COUNTY
[NO. CR2006-1740]

V.

STATE OF ARKANSAS

HONORABLE JOHN W. LANGSTON,
JUDGE

APPELLEE

AFFIRMED

A jury in Pulaski County found appellant, Lashawn King, guilty of second-degree battery for which she was sentenced as an habitual offender to ten years in prison. For reversal, appellant contends that the jury's verdict is not supported by substantial evidence. We disagree and affirm.

Arkansas Code Annotated section 5-13-202(a)(2) (Supp. 2007) provides that a person commits second-degree battery if, with the purpose of causing physical injury to another person, the person causes physical injury to any person by means of a deadly weapon other than a firearm. A person acts purposely with respect to her conduct or a result of her conduct when it is the person's conscious object to engage in conduct of that nature or to cause the result. Ark. Code Ann. § 5-2-202(1) (Repl. 2006).

The test for determining the sufficiency of the evidence is whether the verdict is supported

by substantial evidence, direct or circumstantial. *Bowker v. State*, 363 Ark. 345, 214 S.W.3d 243 (2005). Evidence is substantial if it is of sufficient force and character to compel reasonable minds to reach a conclusion and pass beyond suspicion and conjecture. *Id.* On appeal, we view the evidence in the light most favorable to the State, considering only the evidence that supports the verdict. *Id.*

On June 25, 2005, the victim, Frances Hunt, was participating in a study at the Arkansas Research Center. She was accompanied by her sisters, Kizzie McDowell and Ora McClure, and their brother Cornelius, who is mentally retarded. Appellant was also in attendance and was among a group of individuals who were making fun of Cornelius's appearance. After an exchange of words, Ms. Hunt and appellant became embroiled in a physical altercation, and during the fight Ms. Hunt was cut on her hand and stabbed in the abdomen with a knife.

Ms. Hunt testified that she felt her hand burning during the fight but was not aware that she had been stabbed in the abdomen until the fight was over. She had seen something in appellant's hand but said she could not tell what it was because she and appellant were struggling with one another. Ora McClure saw appellant with a knife in her hand during the fight, but she also saw another woman, who was dressed in pink clothing, with a knife. She believed that either one or both of them might have stabbed her sister.¹ Kizzie McDowell saw the woman wearing pink hand appellant a knife. She also saw appellant and this woman head to the bathroom once the fight was over. Police officers searched the bathroom and found a pocket knife and a box cutter hidden in the tank of the toilet.

Appellant testified that she had apologized for laughing at Cornelius and that the fight began

¹ The jury was given an instruction on accomplice liability.

when Ms. Hunt struck her on the face. Appellant said that she did not stab Ms. Hunt, that she did not see Ms. Hunt get cut, and that she did not know how Ms. Hunt had gotten stabbed. Appellant testified that she ran to the bathroom after the incident but could not get inside because the door was locked and someone else was in there. She said that, while she was waiting, members of the victim's family attacked her. She said she rolled under a bench and "came around the other way," and eventually escaped into the bathroom. Her friend Keisha, the woman in pink, was in the bathroom with her. Appellant testified that she did not leave the knives in the bathroom and that she did not know who put them there.

On appeal, appellant concedes there was substantial evidence to support a finding that she had a knife in her hand during the fight with Ms. Hunt. She argues, however, that because none of the witnesses actually saw her cut Ms. Hunt with the knife, it is possible that Ms. Hunt accidentally cut herself during the struggle.

Appellant's argument raises the question of whether there is substantial evidence to support a conclusion that she purposely stabbed Ms. Hunt. A criminal defendant's intent or state of mind is seldom capable of proof by direct evidence and must usually be inferred from the circumstances of the crime, and because intent cannot be proven by direct evidence, the fact finder is allowed to draw upon common knowledge and experience to infer it from the circumstances. *Lafort v. State*, ___ Ark. App. ___, ___ S.W.3d ___ (Mar. 21, 2007). Because of the difficulty of ascertaining a defendant's intent, a presumption exists that a person intends the natural and probable consequences of his acts. *White v. State*, ___ Ark. App. ___, ___ S.W.3d ___ (Apr. 25, 2007). In this case, there was testimony of a heated conversation between appellant and Ms. Hunt, followed by a physical altercation in which appellant introduced a knife. There was also evidence that Ms. Hunt suffered

a cut to her hand and a stab wound to her abdomen. We cannot say that there is no substantial evidence to support the jury's conclusion that appellant acted with the conscious object to engage in conduct of that nature or to cause the result.

Affirmed.

GLOVER and VAUGHT, JJ., agree.

