FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-2914

MOHAMMAD ALFATT ALQADI,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Escambia County.
Thomas V. Dannheisser, Judge.

February 15, 2023

ROWE, C.J.

Mohammad Alfatt Alqadi appeals his judgment and sentence for attempted first-degree murder. Alqadi moved to dismiss the charge against him, asserting self-defense immunity under section 776.032, Florida Statutes (2019). After the trial court denied his motion, Alqadi entered a no-contest plea in exchange for a ten-year sentencing cap. He now appeals, arguing that the trial court erred in denying his motion to dismiss. We affirm.

Alqadi alleged in his motion that he was sleeping in his bedroom when his roommate entered the room and began hitting him. Alqadi claimed that he woke up and tried to protect himself.

But at the pretrial evidentiary hearing on the motion to dismiss, the State's witnesses told a very different story. Alqadi elected not to testify.

The State began by entering into evidence a recording of Alqadi's arrest from a dashcam video. The officers who responded to the crime scene testified that they asked Alqadi questions with help from a translator. Alqadi claimed that on the morning of the attack, he woke up to being hit by his roommate on his shoulder, knee, and hands. Alqadi denied hitting anyone and claimed that he was the one who was hit. Alqadi stated that he had blood on his hand because he was hit on the hand.

The victim, Alqadi's roommate, also testified. On the night before the early-morning attack, the victim was on the couch in the living room watching television. He testified that he never entered Alqadi's bedroom. The next thing he remembered was waking up at the hospital. He sustained serious injuries to his head, requiring several staples.

Testifying next were two eyewitnesses who saw Alqadi during and after the attack on the victim. One witness testified that Alqadi was "acting crazy" and he saw Alqadi in the living room hitting the victim over the head with a candlestick. The witness said there was blood everywhere and that he had to push Alqadi off the victim.

The second eyewitness testified that she was staying overnight at Alqadi's home and woke up around 4:30 a.m. to a loud "clanking, beating noise." She saw Alqadi standing in the living room between the couch and the end table with a wooden candlestick in his hand. The victim was bent over the couch, hyperventilating. Blood was everywhere. The eyewitness told the other people in the home that the victim needed to go to the hospital.

Neither eyewitness ever saw the victim enter Alqadi's bedroom. Nor did the eyewitnesses see the victim lay a finger on Alqadi.

The State then presented forensic evidence that supported the testimony of the victim and the eyewitnesses. The crime scene technician testified that as to Alqadi, the only injury observed was a small abrasion to his right hand. As to the victim, the technician testified that the victim sustained multiple injuries to his head and pointed to photographs showing dozens of staples used to treat the head wounds.

The State also submitted reports from the Florida Department of Law Enforcement that showed blood collected from the areas in front of the couch and behind the couch. FDLE also collected blood from the wooden candlestick used in the attack. All the blood samples collected matched the victim's DNA profile.

Based on the testimony of the witnesses and the forensic evidence presented at the evidentiary hearing, the trial court determined that the State satisfied its burden to overcome Alqadi's self-defense claim with clear and convincing evidence. *See Craven v. State*, 285 So. 3d 992, 993 (Fla. 1st DCA 2019).

Under the mixed standard of review we apply in reviewing a trial court's ruling on a motion asserting self-defense immunity, we conclude that competent, substantial evidence supports the trial court's factual findings. *See Fletcher v. State*, 273 So. 3d 1187, 1189 (Fla. 1st DCA 2019) ("A trial court's denial of pre-trial self-defense immunity involves a mixed standard of review."); *Swift v. State*, 342 So. 3d 852, 854 (Fla. 1st DCA 2022) ("On appeal, the trial court's findings of fact carry a presumption of correctness and may only be reversed if they are not supported by competent, substantial evidence."). And we hold that the trial court did not err when it determined the State met its burden to prove by clear and convincing evidence that Alqadi did not have an objectively reasonable belief that he faced an imminent threat of great bodily harm or death.

AFFIRMED.

B.L. THOMAS and LONG, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Megan Long, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Julian E. Markham, Assistant Attorney General, Tallahassee, for Appellee.