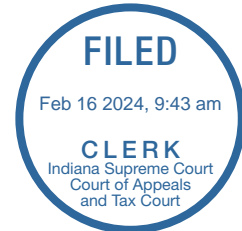


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE
Court of Appeals of Indiana

Montel Stephan Jackson,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

February 16, 2024

Court of Appeals Case No.
23A-CR-1779

Appeal from the St. Joseph Superior Court
The Honorable Elizabeth C. Hurley, Judge

Trial Court Cause Nos.
71D08-2102-F4-6
71D08-2210-F3-30

Memorandum Decision by Judge Crone
Judges Bailey and Pyle concur.

Crone, Judge.

Case Summary

- [1] Montel Stephan Jackson appeals his conviction for level 3 felony criminal confinement resulting in serious bodily injury. He asserts that the evidence is insufficient to sustain his conviction. Concluding that the evidence is sufficient, we affirm.

Facts and Procedural History

- [2] According to Jackson's police interview, he and R.M. had an intimate relationship, and R.M. claimed that he was the father of her child. On the night of September 29, 2022, Jackson went to R.M.'s apartment. They were arguing, and he "smacked the shit out of her." State's Ex. 2A at 46:48. He hit her so hard that it tore her facial piercing off her face. He knocked her into the corner of the wall, and "she hit the wall pretty hard." *Id.* at 51:27. After she hit the wall, she crouched in a fetal position, held her sides, and said, "Ah. Ah." *Id.* at 51:35, 54:58. Jackson grabbed her and "squeezed the f**k out of her." *Id.* at 51:59. R.M. said, "[L]et me go I cannot breathe." *Id.* at 52:06. She told Jackson that her "side was hurting." *Id.* at 1:04:02. He stomped on her and stepped on her face, holding her down. *Id.* at 1:04:31, 1:06:15. He told her, "This is what I do to b**ches who lie to me." *Id.* at 1:07:21.
- [3] Jackson recorded part of the beating on his phone and sent the recording to R.M. The video shows R.M. crying, naked, and crouching on a bed. Her face is bleeding. As Jackson approaches her, she moans, flinches, and puts up her

hands. Jackson then grabs her arm and says, “[G]et up b**ch.” State’s Ex. 1A. She cries and says, “No.” *Id.* R.M. falls back on the bed and says, “My ribs hurt so bad.” *Id.* Jackson tells her that he does not “give a f**k.” *Id.* He tells her to “shut the f**k up” and climbs on the bed. *Id.* She screams and cries as he stands on her side. He then puts one foot on the side of her face and holds her down as she cries out, and he repeats, “This is what I do to b**ches.” *Id.* R.M. told Jackson that she needed to go to the hospital because she could not breathe and that her “side hurt real, real bad.” State’s Ex. 2A at 58:00. Jackson took her to a hospital and dropped her off.

[4] The physician who treated R.M. that night said that he was “taken aback” when he saw her because she “just looked miserable” and “had a lot of pain.” Tr. Vol. 2 at 15-16. R.M. told him that she had been “assaulted with fists and feet,” but she “[d]id not want to discuss who had beaten her.” *Id.* at 11. R.M. had “swelling on [her] face” and “soft tissue swelling on her scalp and the side of her head.” *Id.* at 15-16. There was “blood in her abdomen [and] some abrasions,” but her most significant injury was that she suffered a splenic laceration. *Id.* at 9. Splenic lacerations are graded by doctors on a scale of one to five, with grades four and five being the most serious. According to the doctor, level four is a life-threatening injury, which may result in “fatal bleeding.” *Id.* at 10.¹ R.M.’s CT scan showed that her spleen was bleeding. *Id.*

¹ The prosecutor at Jackson’s jury trial did not specifically ask the doctor to grade R.M.’s splenic laceration.

at 19. There are three treatments for a lacerated spleen: observation to see if the spleen will heal by itself, angioembolization, and removal of the spleen.² The doctor explained that “one could argue she should have her spleen out based on the initial CT scan[,]” but the doctor decided that observation would be the best course of treatment to try to save her spleen. *Id.* at 20. R.M. remained hospitalized. Two or three days later, R.M. was still having pain, so a doctor performed an embolization to treat “an abnormality to her artery.” *Id.* at 13. R.M. was in the hospital for eight nights. In October, R.M. went to the South Bend Police Department and reported the incident. While at the police station, R.M. was “leaning over” and “wincing and holding her side.” *Id.* at 31.

[5] The State charged Jackson with level 3 felony aggravated battery, level 3 felony criminal confinement with a deadly weapon, level 3 felony criminal confinement resulting in serious bodily injury, and class A misdemeanor domestic battery. At Jackson’s jury trial, the recording of Jackson’s police interview and the video that Jackson had taken of the incident were admitted. R.M. did not testify. The jury found Jackson guilty of the lesser-included level 5 felony battery, level 3 felony criminal confinement resulting in serious bodily injury, and class A misdemeanor battery. The jury found him not guilty of level 3 felony criminal confinement with a deadly weapon. The trial court entered judgment of conviction for level 3 felony criminal confinement resulting in

² The doctor explained that angioembolization means that a catheter is inserted through an artery and devices are used through the catheter to stop the bleeding. *Tr.* Vol. 2 at 12.

serious bodily injury and sentenced Jackson to sixteen years. This appeal ensued.

Discussion and Decision

[6] Jackson challenges the sufficiency of evidence supporting his confinement conviction. In reviewing a challenge to the sufficiency of the evidence, we neither reweigh the evidence nor judge the credibility of witnesses. *Anderson v. State*, 37 N.E.3d 972, 973 (Ind. Ct. App. 2015), *trans. denied*. We respect “the jury’s exclusive province to weigh conflicting evidence,” and we consider “only the evidence most favorable to the verdict.” *Id.* “We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt.” *Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009). On appeal, it is “not necessary that the evidence overcome every reasonable hypothesis of innocence.” *Gray v. State*, 957 N.E.2d 171, 174 (Ind. 2011). “[T]he evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Patel v. State*, 60 N.E.3d 1041, 1049 (Ind. Ct. App. 2016) (quoting *Pickens v. State*, 751 N.E.2d 331, 334 (Ind. Ct. App. 2001)).

[7] A person who “knowingly or intentionally confines another person without the other person’s consent” commits criminal confinement. Ind. Code § 35-42-3-3(a). The offense is a level 3 felony if it “results in serious bodily injury to a person other than the confining person.” Ind. Code § 35-42-3-3(b)(3)(B). Confine means to “substantially interfere with the liberty of a person.” Ind.

Code § 35-42-3-1. “‘Serious bodily injury’ means bodily injury that creates a substantial risk of death or that causes ... extreme pain.” Ind. Code § 35-31.5-2-292. At trial, the prosecutor argued that Jackson’s act of standing on R.M.’s side and face constituted criminal confinement and that it caused R.M. an injury creating a substantial risk of death and/or extreme pain. Jackson concedes that the evidence is sufficient to prove that he confined R.M. without her consent. He asserts that the evidence is insufficient to establish that R.M.’s “splenic laceration” resulted from the criminal confinement and that it created a substantial risk of death. Appellant’s Br. at 9. He baldly claims that there is no evidence that R.M. suffered from extreme pain. We disagree.

[8] Our supreme court has acknowledged that “there is no bright-line test to distinguish between pain and extreme pain—between bodily injury and serious bodily injury.” *Bailey v. State*, 979 N.E.2d 133, 142 n.17 (Ind. 2012). Nevertheless, our courts have concluded that persons of average intelligence can understand the term “extreme pain.” *Id.* (quoting *Vaillancourt v. State*, 695 N.E.2d 606, 610 (Ind. Ct. App. 1998), *trans. denied*). In assessing the level of pain suffered by a victim, “we entrust to the jury the task of applying its ‘experiences in life’ and ‘common sense’ as it ‘takes into account all of the facts and circumstances’ in a given case.” *Smith v. State*, 167 N.E.3d 378, 383 (Ind. Ct. App. 2021) (quoting *McAlpin v. State*, 80 N.E.3d 157, 163 (Ind. 2017)). Accordingly, “[w]hen determining whether a bodily injury is ‘serious’ we exercise considerable deference to the fact-finder.” *Mendenhall v. State*, 963 N.E.2d 553, 569 (Ind. Ct. App. 2012), *trans. denied*; *see also Davis v. State*, 813

N.E.2d 1176, 1178 (Ind. 2004) (“Our commitment to the role of fact-finders tends to produce considerable deference on a matter as judgmental as whether a bodily injury was ‘serious.’”).

[9] The evidence supporting the jury’s verdict shows that Jackson knocked R.M. into the corner of the wall, and she crouched on the floor, held her side, and said, “Ah. Ah.” State’s Ex. 2A at 51:35, 54:58. Then he grabbed her and “squeezed the f**k out of her,” and she cried and said she could not breathe. *Id.* at 51:59. The video shown to the jury shows R.M. crouching in bed, crying, and saying that her “ribs hurt so bad.” State’s Ex. 1A. The jury saw Jackson climb on the bed and stand on R.M.’s side while she screams and cries. Afterward, she told Jackson that she needed to go to the hospital because she could not breathe and her “side hurt real, real bad.” State’s Ex. 2A at 58:00. At the hospital, R.M. “had a lot of pain” and “looked miserable.” Tr. Vol. 2 at 15-16. After two or three days in the hospital, she was still in pain and required surgery. She remained in the hospital for eight days. When she went to the police station to report the incident, she was still in pain, as she was “leaning over” and “wincing and holding her side.” *Id.* at 31.

[10] From the evidence showing R.M.’s pain before, during, and after Jackson stood on her, the jury reasonably could have found that Jackson’s act of standing on her increased her pain and caused her extreme pain. *See Mickens v. State*, 115 N.E.3d 520, 526 (Ind. Ct. App. 2018) (concluding that defendant inflicted serious bodily injury on victim during criminal confinement by dragging victim onto lawn, repeatedly stomping on her already broken leg, and dragging her

back to front door), *trans. denied* (2019). We conclude that sufficient evidence supports Jackson's conviction.

[11] Affirmed.

Bailey, J., and Pyle, J., concur.

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