

IN THE COURT OF APPEALS OF IOWA

No. 7-580 / 06-0845
Filed November 15, 2007

STATE OF IOWA,
Plaintiff-Appellee,

vs.

RANDALL ALAN MAAS,
Defendant-Appellant.

Appeal from the Iowa District Court for Tama County, Denver D. Dillard,
Judge.

Randall Maas appeals from the district court's judgment and sentence for
domestic abuse assault causing bodily injury and third-degree criminal mischief.

AFFIRMED.

Mark C. Smith, State Appellate Defender, and Stephan Japuntich,
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Linda Hines, Assistant Attorney
General, Brent D. Heeren, County Attorney, and Richard VanderMey, Assistant
County Attorney, for appellee.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

VAITHESWARAN, J.

A district court found Randall Maas guilty of domestic abuse assault causing bodily injury and third-degree criminal mischief. See Iowa Code §§ 236.2, 708.1, 708.2, 708.2A, 716.1, .2, .5 (2005). On appeal, Maas challenges the sufficiency of the evidence supporting the findings of guilt.

“We uphold a verdict if substantial evidence supports it.” *State v. Keeton*, 710 N.W.2d 531, 532 (Iowa 2006). “Evidence is substantial if it would convince a rational fact-finder that the defendant is guilty beyond a reasonable doubt.” *Id.* (citation omitted).

I. Domestic Abuse Assault. The State had to prove the following elements: (1) the defendant did an act intended to cause pain or injury, or intended to result in physical contact that would be insulting or offensive, or intended to place another in fear of immediate physical contact which would be painful, injurious, insulting, or offensive, (2) the defendant had the apparent ability to execute the act, (3) the defendant’s act caused bodily injury or mental illness, and (4) the requisite relationship existed. Iowa Code §§ 236.2, 708.1(1), (2), 708.2(2).

A rational fact-finder could have found the following facts. Randall and Diane Maas were married. Randall came home smelling of alcohol. Diane, who was in bed but awake, expressed her irritation with Randall for going to bars. She proceeded to spurn his physical affections. Randall responded by telling Diane she was “lippy” and she “needed to be punished for it.” He pinned her lower body down with his leg, pulled down the back of her underwear, and hit her buttocks with his hand five or six times. Diane buried her face in her pillow to muffle a scream. After Randall stopped hitting Diane, he told her sternly “[h]e

could do it so they would never find the body.” The next day, Diane’s buttocks hurt and she noticed purple handprint-shaped bruises on them.

Several days later, Diane shared what happened with a friend and showed her the bruises. The friend photographed the bruises and the picture was admitted into evidence.

Police officers interviewed Diane. She showed the officers her buttocks. One of the officers saw a palm print and stated there was a bruise that appeared to be a few days old. An officer also interviewed Randall. When asked about whether he hit Diane, Randall replied “he had not hit her that hard.”

This evidence amounts to substantial evidence supporting the court’s finding of guilt.

We recognize there was evidence impugning Diane’s credibility. The district court addressed that evidence as follows:

While the credibility of Diane Maas is diminished by the opinion testimony of [her friend] and by the specific incidents of conduct and reputation testified to by law enforcement officers, it was not completely destroyed.

We accept this assessment, as the district court was in the best position to evaluate credibility. See *State v. Shanahan*, 712 N.W.2d 121, 135 (Iowa 2006) (stating it was up to fact-finder to place credibility where it belonged).

II. Criminal Mischief. Criminal mischief is “any damage, defacing, alteration, or destruction of property . . . done intentionally by one who has no right to so act.” Iowa Code § 716.1. Third-degree criminal mischief occurs where “the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or

destroyed exceeds five hundred dollars, but does not exceed one thousand dollars.” Iowa Code § 716.5.

A reasonable fact-finder could have found the following facts. Several days after the domestic abuse incident, Diane and her friend returned to the house Diane shared with Randall to find “[a] terrible mess.” There were broken mirrors and glass, crushed pictures, and damaged antique furniture. Randall’s belongings, such as a big screen television, entertainment center, and military service memorabilia, did not appear to be damaged. Diane’s friend took pictures of the damage. Those pictures were admitted into evidence.

Diane testified she believed it would cost approximately \$5000 to repair or replace her damaged property. She estimated the value of certain damaged items, opining that a picture was worth \$150, an antique cabinet was worth \$1500, an oak bench was worth \$50, her damaged depression glass was worth \$100, and a damaged computer would cost \$250 to repair. See *State v. Savage*, 288 N.W.2d 502, 504 (Iowa 1980) (“The general rule is that an owner may testify as to actual value without a showing of general knowledge of market value.”).

The district court rejected Diane’s overall estimate of damage, stating “[i]t is reasonable to conclude that Diane Maas would assign a higher than actual value to her property.” The court instead valued the property at more than \$500 but not more than \$1000. Based on this lower valuation, the court found Maas guilty of third-degree rather than second-degree criminal mischief. See Iowa Code § 716.4 (second-degree criminal mischief requires showing that replacement cost exceeds one thousand dollars but does not exceed ten thousand dollars). The court’s finding of guilt is supported by substantial

evidence. See *State v. Theodore*, 260 Iowa 1038, 1045, 150 N.W.2d 612, 616 (Iowa 1967) (stating fact-finder could use common knowledge and experience to value stolen item).

We affirm Maas's judgment and sentence for domestic abuse assault causing bodily injury and third-degree criminal mischief.

AFFIRMED.