

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

MARIO COLEMAN,

Defendant-Appellant.

UNPUBLISHED

November 19, 2020

No. 349935

Washtenaw Circuit Court

LC No. 18-000600-FH

Before: MARKEY, P.J., and METER and GADOLA, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of assaulting, resisting, or obstructing a police officer, MCL 750.81d(1).¹ Defendant was sentenced to 12 months' imprisonment. On appeal, defendant argues there was insufficient evidence to sustain his conviction. We affirm defendant's conviction and sentence, but remand to the trial court for the ministerial task of correcting defendant's judgment of sentence.

I. BACKGROUND

Pittsfield Township Police Department Officers Brett Paterson, Stephen Andrews, and Adam Hess responded to a call from dispatch, which informed them that an intoxicated male, who was wearing a white T-shirt and armed with a knife, had been reported at an apartment complex. Officers Paterson and Andrews, who were riding in the same vehicle, were first to arrive at the scene, driving up in a marked police vehicle. Officer Paterson was in uniform, and Officer Andrews was wearing jeans, a polo, and a ballistic vest that had "Police" marked on the front and back. When they arrived at the scene, they saw a crowd of people gathered in the parking lot of the complex, and they saw two males, both wearing white T-shirts, chasing each other around

¹ Defendant was originally charged with one count of assaulting, resisting, or obstructing a police officer, MCL 750.81d; one count of domestic violence, MCL 750.81; and two counts of assault with a dangerous weapon, MCL 750.82. However, the domestic violence and assault with a dangerous weapon charges were dismissed without prejudice.

vehicles in the parking lot. One of the men had a brick in his hand, and he was holding it above his head when the police arrived.

The officers exited the vehicle and ordered the men to stop and get on the ground. The man with the brick laid on the ground as instructed, but the other man, defendant, ran away from the officers. Officer Paterson gave chase to defendant, and Officer Andrews secured the man who had the brick in his hand. While pursuing defendant, Officer Paterson saw defendant toss an object between two vehicles, but he could not identify the object at the time, as he continued to pursue defendant. When Officer Paterson began pursuing defendant, Officer Hess arrived at the scene in a marked police vehicle and in uniform. Officer Hess began to follow Officer Paterson in pursuit of defendant. After running a “couple hundred yards,” defendant hid behind a bush and faced in the direction of the officers pursuing him.

Officer Paterson ordered defendant to come out from behind the bush and get on the ground. Defendant came out from behind the bush, and he approached Officer Paterson in an “aggressive manner” and “started yelling . . . profanit[ies].” Both Officer Paterson and Officer Hess again ordered defendant to get on the ground, and Officer Paterson pulled out his taser and began to back away from defendant. Defendant continued approaching Officer Paterson in the same manner, and Officer Paterson warned defendant that he would utilize the taser if defendant did not stop. Defendant continued towards Officer Paterson, and Officer Paterson fired his taser, striking defendant in the stomach and leg with its prongs and causing him to fall to the ground. With defendant now on the ground, Officer Paterson told defendant multiple times to lay on his stomach and put his hands behind his back, but defendant did not comply. Defendant was reportedly “being very uncooperative, belligerent, almost screaming,” but he was eventually subdued, handcuffed, and placed in the back of Officer Paterson’s vehicle. Defendant had slurred speech, and he “smelled as if . . . intoxicants were emitting from his body.” After securing defendant, Officer Paterson and Officer Hess went back to the area where defendant had thrown the object, and they located a knife with some blood on it. Defendant was later taken to the hospital by the officers, and the officers learned at that time that defendant had been struck in the head with a brick.

As stated above, a jury found defendant guilty of assaulting, resisting, or obstructing a police officer, and defendant was sentenced to 12 months’ imprisonment. This appeal follows.

II. DISCUSSION

Defendant argues that there was not sufficient evidence to sustain his conviction because the evidence presented did not show beyond a reasonable doubt that his actions satisfied the elements of assaulting, resisting, or obstructing a police officer. We disagree.

A. STANDARD OF REVIEW

This Court reviews sufficiency of evidence issues de novo. *People v Bailey*, 310 Mich App 703, 713; 873 NW2d 855 (2015). “The standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). “When determining if sufficient evidence was presented to sustain a conviction, a court must view the evidence in a light

most favorable to the prosecution. It must determine whether any rational trier of fact could have found that the essential elements of the crime were proven as required.” *People v Tombs*, 472 Mich 446, 459; 697 NW2d 494 (2005).

B. ASSAULTING, RESISTING, OR OBSTRUCTING A POLICE OFFICER

Defendant argues that there was not sufficient evidence for the jury to determine beyond a reasonable doubt that he was guilty of assaulting, resisting, or obstructing a police officer. We disagree.

There are three elements that must be proven beyond a reasonable doubt for a defendant to be found guilty of assaulting, resisting, or obstructing a police officer. First, “the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered a police officer.” *People v Corr*, 287 Mich App 499, 503; 788 NW2d 860 (2010). Second, “the defendant knew or had reason to know that the person that the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties.” *Id.* Third, “the officers acted lawfully” during the encounter with the defendant. *People v Quinn*, 305 Mich App 484, 492; 853 NW2d 383 (2014). MCL 750.81d(7)(a) explains that “obstruct” means “the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command.” (Emphasis added). Accordingly, the prosecution’s evidence only needed to show beyond a reasonable doubt that defendant’s actions satisfied one of these two alternative requirements for the prosecution to establish the first element. See *People v Kowalski*, 489 Mich 488, 499; 803 NW2d 200 (2011) (“Because the Legislature used the disjunctive term ‘or,’ it is clear that there are two ways to commit the crime”); *Ellison v Dep’t of State*, 320 Mich App 169, 179; 906 NW2d 221 (2017) (“The word ‘or’ is a disjunctive term that allows a choice between alternatives.”).

The evidence presented at trial was sufficient for a rational trier of fact to determine that defendant used or threatened physical interference towards Officer Paterson. Officer Paterson testified that, once he caught up to defendant after pursuing him on foot, defendant “looked at me in an aggressive manner” and began yelling at Paterson. Officer Paterson also testified that “[defendant] started approaching me in an aggressive manner,” causing Paterson to pull out his taser for defense and back away from defendant. Officer Hess testified that defendant ignored multiple orders to stop and get on the ground, approaching Officer Paterson “in a manner that seemed aggressive to me.” Moreover, Officer Paterson explained during cross-examination that defendant had been “combative.” Defendant decided not to testify at the trial, and there was no video footage of the incident, so the only information available to the jury about whether defendant’s demeanor was threatening was the testimony of the officers. Accordingly, it is the jury’s role to determine the credibility of testimony and weigh the evidence presented. *People v Unger*, 278 Mich App 210, 222; 749 NW2d 272 (2008). Viewing the evidence in the light most favorable to the prosecution, the testimony of the officers was sufficient to establish beyond a reasonable doubt that defendant threatened physical interference.

The evidence presented at trial was also sufficient for a rational trier of fact to determine that defendant knowingly failed to comply with a lawful command. All three of the officers’ testimonies were consistent about how the events unfolded and how defendant failed to comply with the orders he was given. While running away, defendant failed to stop when Officer Paterson

ordered him to do so, which alone can be the basis for obstructing and resisting a police officer.² Additionally, defendant did not comply with Officer Paterson's or Officer Hess's repeated orders to get on the ground when he was advancing towards Paterson.³ He also failed to lie on his stomach and put his hands behind his back after being told to do so multiple times, and Officers Paterson, Hess, and Andrews all had to get involved to subdue defendant and put his arms behind his back in order to handcuff him.⁴ Although defendant argues that he did not know he was failing to adhere to lawful orders from the police, his failure to adhere to multiple orders by multiple officers would make it difficult for a jury to find that that he was not knowingly disobeying police orders.⁵ Therefore, there was sufficient evidence for the jury to find that defendant knowingly failed to comply with a lawful order.

There was also sufficient evidence that defendant knew or had reason to know that Officers Paterson, Hess, and Andrews were police officers performing their duties. It is not disputed that Officer Andrews and Officer Hess qualify as "police officers," as they were part of the Pittsfield Township Police Department, on-duty, and in uniform. Defendant has also not contested that the officers were performing their duties, which was apparent from the officers responding to information that an apparently drunk man with a knife had been reported at the apartment complex. Additionally, defendant "had reason to know" that he was interacting with police officers because defendant fled when he saw the officers drive up in a marked police vehicle; defendant was facing Officer Paterson and Officer Hess, both in full uniform, when he was approaching Paterson and shouting at him; and defendant was told to lie on his stomach in order for him to be handcuffed. Therefore, the evidence was sufficient for the jury to determine beyond a reasonable doubt that defendant knew or had reason to know that Officers Paterson, Hess, and Andrews were police officers performing their duties.

On appeal, defendant argues that he could not satisfy the *mens rea* requirement of "knowingly" failing to comply with a lawful command. Defendant allegedly suffers from post-traumatic stress disorder (PTSD) and utilizes "mood-altering" medications for treatment, and he

² See *People v Pohl*, 207 Mich App 332, 333; 523 NW2d 634 (1994) (affirming that the defendant resisted and obstructed police officers by undertaking a "prearrest flight from a police officer" after being stopped for drinking and driving).

³ See *People v Nichols*, 262 Mich App 408, 413; 686 NW2d 502 (2004) (stating that a defendant "has reason to know" that he or she is interacting with police when defendant hears "loud and persistent commands and warnings" by police officers).

⁴ See *Corr*, 287 Mich App at 504 (finding that the defendant's actions fell within "obstruct" when she "struggled with and kicked and shoved the officers who were trying to confine her during her arrest"); see *People v Morris*, 314 Mich App 399, 403; 886 NW2d 910 (2016) (finding that the defendant resisted and obstructed police officers when the defendant "refused to comply with commands to put his arms behind his back, so [two police officers] had to force him into handcuffs").

⁵ See *Nichols*, 262 Mich App at 413 ("The phrase 'has reason to know' . . . can be proven . . . by using the record evidence to show that a defendant should have had knowledge on the basis of the facts and circumstances of the case.").

had been hit in the head with a brick, which also could have altered his state of mind. Consequently, defendant asserts that he did not “even know what was happening.”

Defendant’s argument fails for two reasons. First, it has been established that defendant’s actions satisfied the definition of “obstruct,” provided by MCL 750.81d(7)(a), when he “used or threatened physical interference” towards Officer Paterson. This makes the alternative requirement that he “knowingly” failed to comply with a lawful command irrelevant because he already satisfied the statute. See MCL 750.81d(7)(a). Second, none of the information about defendant’s PTSD diagnosis or use of medications was provided to the jury in any form of evidence or testimony, and it was not admitted into the lower court’s record. The only evidence presented to the jury was the picture of the knife the defendant had thrown, the knife itself, and the officers’ testimonies. The jury was informed about defendant being struck with a brick before being arrested via cross-examination of Officer Paterson, so the jury could have considered this when determining defendant’s mental state and how it affected his guilt. With the information the jury was provided, there was sufficient evidence to determine that defendant knew or had reason to know that he was interacting with police officers.

There was also sufficient evidence that Officers Paterson, Hess, and Andrews all acted lawfully when arresting defendant. “A police officer may make an arrest without a warrant if there is probable cause to believe that a felony was committed by the defendant, or probable cause to believe that the defendant committed a misdemeanor in the officer’s presence.” *People v Chapo*, 283 Mich App 360, 366-367; 770 NW2d 68 (2009); see also MCL 764.15(1). “Probable cause is found when the facts and circumstances within an officer’s knowledge are sufficient to warrant a reasonable person to believe that an offense had been or is being committed.” *Chapo*, 283 Mich App at 367 (quotation marks and citation omitted). Here, all the officers were responding to a report that there was a drunk male with a knife at the apartment complex. When Officers Paterson and Andrews arrived at the complex’s parking lot, they saw a commotion and two males who matched the description of the suspect chasing each other, one holding a brick over his head to strike the other. Once they exited their vehicle defendant ran away from the officers and tossed an object while fleeing. Considering the dispatcher’s information and what the officers witnessed when they arrived at the apartment complex, Officers Paterson and Andrews had an objectively reasonable belief that a violent offense had been committed by defendant, the man with the brick, or both. Therefore, the orders directing defendant to stop running and to lie on the ground along with his subsequent arrest were lawful.

III. CONCLUSION

There was sufficient evidence for the jury to determine that defendant’s actions satisfied the elements of assaulting, resisting, or obstructing a police officer. Accordingly, we affirm defendant’s conviction and sentence. However, we remand this case for the limited task of correcting defendant’s judgment of sentence to properly reflect his jury trial conviction.

Affirmed.

/s/ Jane E. Markey
/s/ Patrick M. Meter
/s/ Michael F. Gadola