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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-700

No. COA21-788

Filed 18 October 2022

Surry County, Nos. 18 CRS 50394–95, 50401

STATE OF NORTH CAROLINA

v.

AARON BRETT HARRISON

Appeal by defendant from judgments entered 21 April 2021 by Judge Angela B. Puckett in Surry County Superior Court. Heard in the Court of Appeals 7 September 2022.

*Attorney General Joshua H. Stein, by Special Deputy Attorney General Kari R. Johnson, for the State.*

*Jarvis John Edgerton, IV, for defendant*

DIETZ, Judge.

¶ 1

Defendant Aaron Brett Harrison appeals his conviction for assault inflicting serious bodily injury. Harrison broke his former girlfriend’s toe with crimping pliers, inflicting intense pain and causing her to have a permanent crooked toe that is both disfigured and forced her to wear a special shoe. He contends on appeal that there was insufficient evidence that this toe injury was a “serious bodily injury” as that

term is defined in the criminal code.

¶ 2 As explained below, we reject this argument. The State presented substantial evidence from which a reasonable jury could conclude that Harrison inflicted a serious bodily injury. We thus find no error in the trial court’s judgments.

### **Facts and Procedural History**

¶ 3 In 2016, Defendant Aaron Brett Harrison began a relationship with Kim.<sup>1</sup> Kim and her young daughter lived with Harrison and, at some point during the course of their relationship, Harrison became abusive. Harrison physically injured Kim several times during their relationship.

¶ 4 In 2017, Kim and Harrison got into an argument at a convenience store and Harrison became upset. He later poured hot coffee on Kim’s arm as they rode home together in a car and Kim suffered serious burns. During the drive home, Harrison also repeatedly hit Kim in her face, sides, and stomach area.

¶ 5 Later, after Harrison and Kim entered the home, Harrison used a pair of crimping pliers, normally used for crimping metal pipe fittings, to grab Kim’s second toe and break it. Kim described the pain from the injury as “worse than having a baby.”

¶ 6 Law enforcement officers arrested Harrison after another violent incident

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<sup>1</sup> We use a pseudonym to protect the complainant’s identity because the facts in this criminal case involve severe domestic violence.

involving Kim several months later. Kim described the previous assault involving the crimping pliers. An officer examined Kim's toe and observed that it had an odd shape and was "completely crooked." Kim experienced trouble walking for roughly a year following the injury and she was required to wear a special shoe. Kim's toe was still aggravated years later at the time of trial and could not be repaired without surgery.

¶ 7 The State charged Harrison with one count of assault inflicting serious bodily injury, one count of assault inflicting serious injury, and one count of assault by strangulation, all stemming from Harrison's repeated violence against Kim. Harrison moved to dismiss the charge of assault inflicting serious bodily injury for insufficient evidence. The trial court denied the motion. The jury later convicted Harrison of all three charges. The trial court sentenced Harrison to consecutive prison terms of 19 to 32 months and 8 to 19 months. Harrison timely appealed.

### **Analysis**

¶ 8 Harrison argues that the trial court erred when it denied his motion to dismiss the charge of assault inflicting serious bodily injury. This charge concerned the alleged injury Harrison inflicted to Kim's toe with crimping pliers. Harrison contends that the State failed to present sufficient evidence that Kim's toe injury constituted a "serious bodily injury."

¶ 9 "This Court reviews the trial court's denial of a motion to dismiss *de novo*." *State v. Smith*, 186 N.C. App. 57, 62, 650 S.E.2d 29, 33 (2007). On a motion to dismiss,

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“the question for the Court is whether there is substantial evidence (1) of each essential element of the offense charged, or of a lesser offense included therein, and (2) of defendant’s being the perpetrator of such offense. If so, the motion is properly denied.” *State v. Fritsch*, 351 N.C. 373, 378, 526 S.E.2d 451, 455 (2000). “Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *State v. Smith*, 300 N.C. 71, 78, 265 S.E.2d 164, 169 (1980). “In making its determination, the trial court must consider all evidence admitted, whether competent or incompetent, in the light most favorable to the State, giving the State the benefit of every reasonable inference and resolving any contradictions in its favor.” *State v. Rose*, 339 N.C. 172, 192, 451 S.E.2d 211, 223 (1994).

¶ 10 The elements of assault inflicting serious bodily injury are: (1) assault of another person that (2) inflicts serious bodily injury. N.C. Gen. Stat. § 14-32.4(a). “Serious bodily injury” is “bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.” *Id.*

¶ 11 This Court has held that in “ordinary usage, ‘disfigurement’ is defined as ‘to mar or spoil the appearance or shape of.’” *State v. Downs*, 179 N.C. App. 860, 862, 635 S.E.2d 518, 520 (2006). “Protracted” has been defined as “prolonged in time or space;

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continued.” *State v. Rushing*, 268 N.C. App. 285, 290, 836 S.E.2d 262, 265 (2019).

¶ 12 Harrison argues that the only evidence the State presented at trial was Kim’s testimony about her injury and a photograph of her “crooked toe.” Harrison contends that Kim’s toe condition could have been repaired with surgery and that, had she sought medical care, she would have experienced a full recovery and not suffered permanent disfigurement or protracted pain and impairment.

¶ 13 We reject Harrison’s contention that, to prove a serious bodily injury, the State must demonstrate that there was no medical treatment that could have lessened or eliminated the disfigurement or protracted impairment. *See Downs*, 179 N.C. App. at 862, 635 S.E.2d at 520.

¶ 14 The State’s evidence established that Harrison gripped Kim’s toe using crimping pliers and applied enough pressure to break the toe. Kim testified that the pain she experienced from the incident was “worse than having a baby.” The State’s evidence further established that Kim’s toe after this assault was severely disfigured in a manner that did not change over time. Kim also testified at trial that she had trouble walking for a year, that her toe remained disfigured and swollen at the time of trial, and that she was required to wear a special shoe because of her injury.

¶ 15 This is substantial evidence from which a reasonable jury could conclude that Harrison’s assault caused Kim to suffer “permanent disfigurement” or “permanent or protracted loss or impairment of the function” of her toe. N.C. Gen. Stat. § 14-32.4(a).

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Accordingly, the trial court properly denied the motion to dismiss and submitted this case to the jury.

**Conclusion**

¶ 16

We find no error in the trial court's judgments.

NO ERROR.

Judges COLLINS and CARPENTER concur.

Report per Rule 30(e).