

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs July 18, 2023 at Nashville

STATE OF TENNESSEE v. ERIC WILLIAMS

Appeal from the Criminal Court for Shelby County
No. 20-03167 James M. Lamme, Judge

No. W2022-01222-CCA-R3-CD

The defendant, Eric Williams, appeals his Shelby County Criminal Court jury convictions of aggravated assault and assault, arguing that the evidence was insufficient to support his convictions and that the trial court erred by classifying him as a Range II, multiple offender. Discerning no error, we affirm.

Tenn. R. App. P. 3; Judgments of the Criminal Court Affirmed

JAMES CURWOOD WITT, JR., J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR., and TIMOTHY L. EASTER, JJ., joined.

Phyllis Aluko, District Public Defender; and Tony N. Brayton (on appeal) and Robert Gowen (at trial), Assistant District Public Defenders, for the appellant, Eric Williams.

Jonathan Skrmetti, Attorney General and Reporter; Jonathan H. Wardle, Assistant Attorney General; Steven J. Mulroy, District Attorney General; and Justin Prescott and Ashley Finch, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

The Shelby County Grand Jury charged the defendant with two counts of aggravated rape, one count of aggravated kidnapping, and two counts of aggravated assault relating to offenses against a single victim. Sometime prior to trial, the State dismissed Count 1, rape by force or coercion being aided and abetted by another.¹

At the May 2022 trial, Memphis Police Department (“MPD”) Officer Jeremy Knight testified that on June 5, 2020, he responded to a call that “a male had a female in a room and wouldn’t let her out” at a house on Pendleton Street. He and other officers

¹ No transcript referring to the dismissal or order of dismissal is included in the record, but the trial proceeded only on Counts 2 through 5, and the judgment indicates that Count 1 was nolle prosequed.

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“knock[ed] on doors and windows trying to get in,” and, after five to 10 minutes, they obtained entry. The officers announced their presence for another five to 10 minutes and located the room where the defendant was with the victim. Officer Knight said that the officers heard “two people in the room. We were asking them to open the door, . . . we couldn’t get them to open the door. We could hear a male voice saying, ‘[W]hat are you doing here?’ We could hear a female voice trying to get to the door to open it” Because he “felt that we needed to get [the victim] out of there,” Officer Knight “kicked the door,” and the other “officers went in and got [the victim] out and walked her outside.” The jury viewed the footage of Officer Knight’s body camera that captured the encounter.

During cross-examination, Officer Knight said that the 9-1-1 call was placed by someone not present at the Pendleton Street house. He acknowledged that no one at the house reported hearing any screaming or “hollering” from the room where the defendant and victim were. He also acknowledged that the victim did not “yell out” until the door was kicked open.

MPD Officer Christopher Ross testified that on June 5, 2020, he responded to a call of “a hostage situation” at the Pendleton house. Other officers were already present when he arrived. Outside the house, he and other officers “were trying to figure out a safety plan in order to get inside and get the victim out safely.” He described the house as “a rooming house” with a “very narrow” hallway. He said that once inside, the officers “were trying to make sure that we were at the right door” because “each door, each room, is considered its own separate residence.” Once the officers “were at the correct door,” Officer Knight knocked on the door and “gave a loud verbal command and statement to the people on the other side of the door.” He said that they “heard a loud disturbance on the other side of the door” that sounded like “a male and a female” arguing. The male voice yelled at the officers, “What y’all doing here, we didn’t call for the police.” Officer Ross also heard the male voice ask the other person, “Did you call for the police?” He said that the female voice “was very vague, but I could tell that she was in distress,” describing her voice as “high pitch[ed], her vocal tone was shaky, she couldn’t complete phrases, . . . as if she was afraid.” Eventually, the door was opened, and the Officer Ross detained the defendant, while the victim, whom he described as “kind of hysterical, crying,” was taken outside.

During cross-examination, Officer Ross said that he had responded to a call involving the defendant and the victim in the past. He acknowledged that officers did not recover a gun from the defendant or the room. He acknowledged that he did not see any injuries on the victim.

MPD Lieutenant Brandon Harris, who was the shift supervisor at the time, responded to the Pendleton house to a call of “a lady being held against her will in a room,

inside a rooming house and she was being sexually assaulted.” He said that the dispatcher also “advised that the [defendant] may be armed with a weapon.” After making entry into the house, the officers “located the room that the . . . victim was in” and “knocked and announced” their presence. The officers spoke with the defendant through the door, but the defendant would not open the door. Lieutenant Harris said that he heard a female voice saying, “‘Just open the door, let them in,’ or something to that effect.” “Fear[ing] for the safety of the victim,” Lieutenant Harris had another officer go around the outside of the house and break the window to the room to “create a distraction,” at which point officers “kick[ed] the door in” and took the defendant into custody. The jury viewed the footage of the encounter from Lieutenant Harris’ body camera.

During cross-examination, Lieutenant Harris acknowledged that other people were at the house but that no one responded to the officers’ knocking on the front door. He acknowledged that he heard the defendant say something to the effect of his not being permitted to be near the victim. He acknowledged that he did not see a gun when he entered the defendant’s room.

MPD Officer William Robinson testified that when the door to the defendant’s room was kicked in, Officer Robinson was “in the back of our formation,” and officers “handed the victim back to me[,] and then I took her out to the car to get her away from the suspect, as quick as possible.” He said that he did not notice any injuries to the victim but that “she was kind of staggering” as she walked. He said that the victim “was kind of confused . . . and shaken up by the whole experience.” The jury viewed the footage from Officer Robinson’s body camera.

Tiare Stone, the former president of Amanda’s Way, “a domestic violence shelter for victims of violence,” testified that on June 5, 2020, the victim texted the organization’s hotline reporting that the defendant was “holding me hostage” and had beaten her “so bad[ly] I can’t see or talk straight,” leaving her “unrecognizable.” Through text, the victim asked Ms. Stone to call 9-1-1 and reported that she was being held in a locked room at the Pendleton Street house and that the defendant had a gun. Ms. Stone said that she called 9-1-1 for the victim. She later picked the victim up after the victim had been treated at the hospital and took her to a shelter. She said that the victim appeared “[s]cared” and that the next day, the victim’s bruising looked “really bad, . . . her face was very bruised,” and “[s]he had bite marks on her front[] and her back, her legs and stomach, bruising everywhere.” Ms. Stone photographed the victim’s injuries three days after the incident, and the jury viewed the photographs.

During cross-examination, Ms. Stone said that Amanda’s Way had previously taken the victim to a hotel and then to the Family Safety Center in response to an unrelated incident.

Courtney Simpson, the former Executive Director for Amanda's Way testified that on May 29, 2020, the organization put the victim up in a hotel for two days before the victim was transferred to the care of the Family Safety Center. Ms. Simpson said that Amanda's Way was "under the impression" that the victim was continuing to receive care from the Family Safety Center until the victim contacted their hotline on June 5, 2020. That night, Ms. Stone contacted Ms. Simpson about the victim's texts, and Ms. Simpson called 9-1-1. Ms. Stone estimated that 20 to 25 minutes elapsed before the 9-1-1 dispatcher confirmed that the victim was safe. Ms. Simpson said that after the victim was treated at the Rape Crisis Center, she was transported "to our shelter," and later the next day, Ms. Simpson conducted the victim's intake, which included photographing and diagramming the victim's injuries.

During cross-examination, Ms. Simpson said that it was the organization's practice to document the victim's story and injuries the same day of their intake but that if the victim "is too traumatized in that moment, we will wait a day." She explained that after a victim is treated at the Rape Crisis Center, she waits "between three and four days afterwards" to photograph any injuries "so that way you can see the extent of the bruising thereafter, because there are bruises that don't necessarily show up on the initial impact. They will show up within two to three days, they'll rise to the surface."

MPD Detective Demarius Jones testified that he worked in the sex crimes unit and that he responded to the Pendleton house after the victim had been taken to the hospital. Other officers were in the process of obtaining a search warrant for the defendant's room, and pursuant to that warrant, Detective Jones searched the room but did not find a firearm or other weapon. He collected the bedsheets for DNA evidence and collected buccal and penile swabs from the defendant.

MPD Detective Alfreda Harper testified that she worked with the sex crimes unit in June 2020 and that she responded to the hospital to get a statement from the victim. She described the victim as having "bruising on her face," "around her neck," and "on her left side of her body and scratches." She said that after the victim was discharged from the hospital, another officer took her to the Rape Crisis Center, and Detective Harper went to the Sex Crimes Bureau to interview the defendant. Because of the department's COVID-19 precautions, she interviewed the defendant in the squad car in the facility's garage but said that the defendant "didn't want to talk."

During cross-examination, Detective Harper acknowledged that before the defendant indicated that he did not want to talk, he told her that if the victim had injuries, they were self-inflicted. She also acknowledged that the defendant told her that he had left the victim at the Pendleton house while he went to the liquor store.

The parties stipulated to the fact that the defendant had been “enjoined on May 29, 2020, by an order of General Sessions Criminal Court of Shelby County, a court of competent jurisdiction, from committing an assault against [the victim].”

The victim testified that she had dated the defendant for three years. She said that on May 29, 2020, the defendant “was being very abusive and I was trying to get away from him” and that she contacted Amanda’s Way for help. On that occasion, the defendant was arrested for assault against the victim, and Amanda’s Way put the victim up in a hotel for a short period. The victim said, however, that “they didn’t know where else to place me, they told me I had to find somewhere else to go,” and she paid the defendant’s bond and returned with him to the Pendleton house.

The victim said that on June 4, 2020, the defendant’s mother and the defendant picked her up from the hotel at approximately 12:00 p.m. and that the defendant’s mother dropped the couple off at the Pendleton house at approximately 4:00 or 5:00 p.m. The victim said that “[a]t first I thought everything was going to be okay because . . . he seemed like he was listening to [his mother] and she [wa]s telling him not to do this to me” and that the defendant “was pretty nice to me on up until we got to the house.” She said that she and the defendant went directly to the defendant’s room “and we kind of got settled in,” but the defendant soon became “angry at me, because he felt like he knew that I was responsible for getting him locked up in the first place.” The victim said that the defendant “told me that I couldn’t come out” of the room and that she felt “[v]ery afraid.” She said that the defendant “grabbed my phone, he snatched it out of my hand and he took it somewhere and smashed it.”

The victim said that the defendant first “told me that if I attempted to leave then he was going to kill me on the spot[,] and he started punching me and wouldn’t stop.” She said that the defendant punched her in her face and head with his fist, “He was just punching me and he started choking me,” making it difficult for her to breathe. She said that “[s]everal times” she passed out from the choking and that the defendant “would put water on me.” She said that she begged the defendant to stop and that he would stop “[j]ust for a second and then he would go back into it.” She said that he also told her, “You’re going to die.” She said that the abuse continued “all night” and that she screamed for help, but nobody responded. The victim said that the defendant “told me to pull off all of my clothes” and that, although she did not want to, she complied. The defendant “told me to lay down,” and “[h]e jumped on top of me and started choking me because I was saying, ‘No, don’t do this, please.’” She said that the defendant told her “that I was his property, ‘Don’t tell me what to do, this is my p**** and you don’t tell me what to do.’” The defendant then “started punching me in my side and he started having sex with me,”

“start[ing] anally” and then penetrating her vagina. The victim denied that she wanted to have sex with the defendant. The victim said that after the defendant finished, she was bleeding from her anus. She said that she cried out for help, but again, nobody responded. She said that she could not call the police because the defendant had broken her telephone.

After raping the victim, the defendant “kept punching me” and said, “This ain’t over.” The defendant walked in and out of the room but told the victim, “If you leave, I’m going to kill you.” The victim knew that the defendant remained close to the room because she “could hear him talking.” She said that she “went to the bathroom[,] and he beat me for doing that.” She said that when going to the bathroom, “I was really trying to come out of the room to see if I s[aw] anybody to call for help, since I couldn’t call for help,” but the defendant forced her back into the room. She said that the defendant continued to beat her “and raped me, again.” She said that she could not leave and “was so afraid of him.” She was able to summon help from a telephone that was not connected to a service and could not make calls but could access the internet. She tried to call 9-1-1, but the telephone “said that it didn’t support 9-1-1.” The victim “remembered the Amanda’s Way number and I proceeded to text that number.” She said that she was “relieved that I actually got a response” to her text messages. She said that she “was on the corner, in the floor” of the room and that the defendant was coming in and out of the room. When the defendant “would come in the room[,] I would like throw the phone underneath the bed, so he wouldn’t see me” using it. She said that she asked Amanda’s Way to contact the police for her. The victim said that when the police arrived, the defendant “was anxious” and locked the door to the room and told the victim “to say absolutely nothing.” He threatened that if the victim “sa[id] a word you’re gone.” Eventually, the police broke the door down to enter the room and took the victim to the hospital.

The victim recalled a prior incident on June 16, 2019, when she left the defendant and sought help at the Safety Center. The defendant, however, “called me and then he convinced me to come back, that he missed me, he wanted me to be with him, . . . and he’s going to do better.” Instead, the defendant “beat me and bit me up, all in my back, all in my arms.” The defendant also hit her with a gun, causing her to have “to actually push my eye-ball back in my head.” She said that she called the police but because she “couldn’t say nothing” in the defendant’s presence, she “just let them hear him talking.”

During cross-examination, the victim said that while the police were outside the room at the Pendleton house, she kept her cool because she “didn’t want to die” and wanted the defendant “to keep hi[s] cool.” She said that the door to the room locked by a twist handle from inside the room and that the defendant and the defendant’s cousin had a key to the room. She acknowledged that the defendant left her alone in the room while he went to the store, which the victim said was “across the street” and visible from the house.

She said that on other occasions, however, the defendant's cousin, who rented the room next door to the defendant, stayed in the room with the victim when the defendant left. The victim said that although other people lived in the house, when she cried out for help, "they would come knock at the door and say, 'Hey chill out,'" but otherwise did not respond. She said that she was kept in the defendant's room for at least 24 hours and that the defendant did not provide her any food or drink other than one wine cooler despite his knowing that the victim was a recovering alcoholic. She said that when the defendant slept, he kept her "in his clutch" and that she "could not budge, or move, or he would wake right up."

Diarry Prater, a forensic nurse practitioner at the Rape Crisis Center, testified that she treated the victim on June 6, 2020. Ms. Prater obtained "a medical history and history of the incident" and "d[id] a complete exam" of the victim. Ms. Prater said that the victim "had bruises" and disclosed that the defendant had "put his fingers insider her vagina and then he did penile . . . penetration to the vagina and the rectum." Ms. Prater "d[id] an exam from head to toe" and documented all injuries that she found. She also performed a pelvic exam on the victim and "collect[ed] evidence from that area." Ms. Prater said that the victim did not have injuries or bruising to her pelvic area but that she noticed "bruises on her body." Ms. Prater photographed the victim's injuries, which included bruising to the victim's cheeks, neck, face, forehead, shoulders, lower arms, and back. She also had bite marks on her shoulders. Ms. Prater said that the bruising around the victim's neck was consistent with having been strangled. Ms. Prater collected swabs of the victim's vulva, vagina, rectum, and mouth.

During cross-examination, Ms. Prater acknowledged that the victim's eyes did not appear swollen shut during the examination. She said that it is possible for a person to suffer a subconjunctival hemorrhage from strangling, causing the eyes to turn red and acknowledged that the victim did have such an injury.

On redirect examination, Ms. Prater said that bruising in the eyes from strangulation looks like "little red dots in the eye" and results from "really a lot of pressure on the neck." She said that the red dots tend to fade after 24 to 48 hours. She also said that it was common for victims to have no visible injuries to the vaginal area from penetration because the "vaginal area stretches, so there may not be evidence of injuries." She said that the victim's lack of bruising or injuries to her vaginal and anal areas was typical of sexual assault victims.

Tennessee Bureau of Investigation Special Agent Kristyn Meyers testified as an expert in forensic biology. Agent Meyers concluded that swabs of the defendant's penile head and pubic hair contained the victim's DNA. Swabs of the victim's vagina, vulva, and anus indicated the presence of semen.

The State rested.

The defendant elected to testify in the form of a narrative. He said that the victim sustained her injuries when she “fell outside[,] and I tried to help her up.” He denied “hold[ing] her against her will” and said that he told the victim to talk to the police but that she did not want them to make her leave. He said that he loved the victim and denied that he told her that she was his property.

During cross-examination, the defendant alleged that some of the photographs of the victim’s injuries were from the 2019 incident. He said that the bruising around the victim’s neck and the bite marks were from “rough sex.” He acknowledged that he and the victim “had an altercation.” He said that he did not open the door to the police because he and the victim were not “supposed to be around each other.”

The jury found the defendant not guilty of aggravated rape in Count 2 and aggravated kidnapping in Count 3. The jury convicted the defendant of the lesser included offense of assault in Count 4 and of aggravated assault as charged in Count 5. After a sentencing hearing, the trial court sentenced the defendant as a Range II offender to an effective sentence of 10 years’ incarceration.

Following a timely but unsuccessful motion for a new trial, the defendant filed a timely notice of appeal. In this appeal, the defendant argues that the evidence is insufficient to support the convictions and that the trial court erred by sentencing him as a Range II offender.

I. Sufficiency of the Evidence

The defendant argues that the evidence is insufficient to support his convictions because the only supporting evidence was the victim’s “highly suspect” and “untrustworthy” testimony. The State contends that the evidence sufficiently supports the jury’s verdicts.

Sufficient evidence exists to support a conviction if, after considering the evidence—both direct and circumstantial—in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Tenn. R. App. P. 13(e); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011). This court will neither re-weigh the evidence nor substitute its inferences for those drawn by the trier of fact. *Dorantes*, 331 S.W.3d at 379. The verdict of the jury resolves any questions concerning the credibility of the witnesses, the weight and value of the evidence, and the factual issues raised by the

evidence. *State v. Cabbage*, 571 S.W.2d 832, 835 (Tenn. 1978). Significantly, this court must afford the State the strongest legitimate view of the evidence contained in the record as well as all reasonable and legitimate inferences which may be drawn from the evidence. *Id.*

As relevant to this case,

[a] person commits aggravated assault who, after having been enjoined or restrained by an order . . . of a court of competent jurisdiction from in any way causing or attempting to cause bodily injury or in any way committing or attempting to commit an assault against an individual . . . , intentionally or knowingly attempts to cause or causes bodily injury or commits or attempts to commit an assault against the individual

T.C.A. § 39-13-102(c). “A person commits assault who . . . [i]ntentionally, knowingly or recklessly causes bodily injury to another” *Id.* § 39-13-101(a)(1). ““Bodily injury” includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty” *Id.* § 39-11-106(a)(3).

The evidence taken in the light most favorable to the State established that the defendant beat, bit, and strangled the victim, leaving bite marks and bruises all over her face and body. This evidence is more than sufficient to support a conviction of assault. Moreover, the parties stipulated that the defendant had been enjoined from committing an assault against the victim at the time of the assault in this case. This supports the defendant’s conviction of aggravated assault. That the defendant deems the victim’s testimony untrustworthy is of no consequence. The credibility of a witness and the weight and value of the evidence lies solely within the purview of the jury. *See Cabbage*, 571 S.W.2d at 835. This issue lacks merit.

II. Sentencing

The defendant also argues that the trial court erred by sentencing him as a Range II offender because one of his prior convictions, though a felony at the time of the conviction, was no longer deemed a felony offense. The State contends that the trial court did not err.

Our supreme court has adopted an abuse of discretion standard of review for sentencing and has prescribed “a presumption of reasonableness to within-range sentencing

decisions that reflect a proper application of the purposes and principles of our Sentencing Act.” *State v. Bise*, 380 S.W.3d 682, 707 (Tenn. 2012). The application of the purposes and principles of sentencing involves a consideration of “[t]he potential or lack of potential for the rehabilitation or treatment of the defendant . . . in determining the sentence alternative or length of a term to be imposed.” T.C.A. § 40-35-103(5). Trial courts are “required under the 2005 amendments to ‘place on the record, either orally or in writing, what enhancement or mitigating factors were considered, if any, as well as the reasons for the sentence, in order to ensure fair and consistent sentencing.’” *Bise* 380 S.W.3d at 698-99 (quoting T.C.A. § 40-35-210(e)). The abuse-of-discretion standard of review and the presumption of reasonableness also applies to a trial court’s determination of the defendant’s range classification. *See State v. Laylon Ward, Jr.*, No. W2017-00736-CCA-R3-CD, 2018 WL 1091792, at *2 (Tenn. Crim. App., Jackson, Feb. 23, 2018) (citing *State v. Joseph Cordell Brewer, III*, No. W2014-01347-CCA-R3-CD, 2015 WL 4060103, *7-8 (Tenn. Crim. App., Jackson, June 1, 2015)) (applying an abuse of discretion standard to the trial court’s determination of the range classification)).

As relevant here, a Range II, multiple offender “is a defendant who has received “[a] minimum of two (2) but not more than four (4) prior felony convictions within the conviction class, a higher class, or within the next two (2) lower felony classes.” T.C.A. § 40-35-106(a)(1).

Here, the defendant had a prior conviction of aggravated assault, a Class C felony, from June 17, 2019, and a prior conviction from May 7, 2009, of theft of property valued at more than \$500 but less than \$1,000, a Class E felony at the time of conviction. *See* T.C.A. § 39-14-105(2) (2006). The defendant argues that the Criminal Savings Statute, Code section 39-11-112, entitles him to have his prior Class E theft conviction considered as a Class A misdemeanor for the purpose of offender classification because the General Assembly amended the theft grading statute prior to his sentencing in the present case. We disagree.

Our supreme court has concluded that the Criminal Savings Statute does not permit courts to apply the amended theft grading statute when “the offense occurred and the defendant was sentenced before the statute’s effective date.” *State v. Keese*, 591 S.W.3d 75, 77 (Tenn. 2019); *cf. State v. Tolle*, 591 S.W.3d 539, 546 (Tenn. 2019) (Criminal Savings Statute did not entitle defendant to lesser punishment under amended theft grading statute in effect at time of probation revocation). Because here, the defendant’s prior commission of theft of property and his sentencing for that offense occurred before the relative amendments to the theft grading statute took effect on January 1, 2017, his conviction is properly classified as a Class E felony. Consequently, the trial court did not err by classifying the defendant as a Range II, multiple offender.

Accordingly, the judgments of the trial court are affirmed.

JAMES CURWOOD WITT, JR., JUDGE