



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-19-00756-CR

Teanna Danielle SAN NICOLAS,
Appellant

v.

The STATE of Texas,
Appellee

From the 186th Judicial District Court, Bexar County, Texas
Trial Court No. 2016CR9270C
Honorable Jefferson Moore, Judge Presiding

Opinion by: Rebeca C. Martinez, Justice

Sitting: Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice
Liza A. Rodriguez, Justice

Delivered and Filed: December 2, 2020

AFFIRMED

A jury convicted Teanna Danielle San Nicolas of aggravated kidnapping. *See* TEX. PENAL CODE ANN. § 20.04(b). San Nicolas challenges her conviction, arguing the evidence is legally insufficient to show she used or exhibited a deadly weapon during the robbery. We affirm the trial court's judgment.

BACKGROUND

San Nicolas was indicted on one count of aggravated kidnapping. The indictment alleges that San Nicolas kidnapped Desiree Urdiales and that she used and exhibited a deadly weapon—

scissors—while doing so. San Nicolas pleaded not guilty. At trial, Deputy Cruz Reyna testified that on the night in question, he responded to calls regarding a disturbance and a welfare check at a house. When Deputy Reyna arrived at the scene, he knocked on the door and heard movement inside the house, but no one responded. He then heard a cry for help and attempted to make a forced entry, but was unable to do so.

Deputy Sergio Gonzalez testified that he and Deputy Reuben Patlan arrived at the scene, breached the back door, and entered the house. Upon entrance, the deputies saw San Nicolas and Desiree Urdiales standing at the top of the staircase. Deputy Gonzalez testified that San Nicolas was standing on the left side of the staircase with scissors in her hand, pointing towards Urdiales on her right. The deputies ordered San Nicolas to drop the scissors. She complied and came down the stairs. The deputies then handcuffed her. According to Deputy Gonzalez, upon inspection of the scene, the deputies also found a machete, a knife, and broken zip ties on the ground and attached to a chair.

Urdiales testified she had been detained at that residence for several days by San Nicolas, Mercedes Salazar, and James Cerda. On the night the deputies discovered Urdiales, San Nicolas had been tasked to watch Urdiales while Salazar was gone. Urdiales was tied to a chair with zip ties and, at some point, San Nicolas used a pair of scissors to release one of her hands from the chair. San Nicolas fell asleep and woke up to discover Urdiales free from the chair and on the phone. Urdiales testified that San Nicolas then began to struggle with her. San Nicolas had a knife in her hand but dropped it during the struggle. The police then began banging on the door of the residence. Urdiales testified that San Nicolas then yelled for help and tried to run down the stairs but San Nicolas picked up a pair of scissors and used them to prevent Urdiales from descending.

Pictures of the scissors, knife, machete, zip ties, and chair were admitted into evidence at trial. The jury ultimately found San Nicolas guilty of aggravated kidnapping and the trial court

sentenced her to 17 years' confinement. This appeal followed. San Nicolas argues the evidence is legally insufficient to show that the scissors were a deadly weapon and, therefore, does not support the jury's finding that she committed aggravated kidnapping.

STANDARD OF REVIEW

In reviewing a complaint based on legal insufficiency, we must determine whether any rational trier of fact could have found the essential elements of the charged offense beyond a reasonable doubt. *See Nowlin v. State*, 473 S.W.3d 312, 317 (Tex. Crim. App. 2015); *Caballero v. State*, 292 S.W.3d 152, 154 (Tex. App.—San Antonio 2009, pet. ref'd). We view the evidence in the light most favorable to the jury's guilty verdict and resolve all reasonable inferences from the evidence in its favor. *Tate v. State*, 500 S.W.3d 410, 417 (Tex. Crim. App. 2016). "Because the jury is the sole judge of witness credibility and determines the weight to be given to testimony," we must defer to its determinations. *Hines v. State*, 383 S.W.3d 615, 623 (Tex. App.—San Antonio 2012, pet. ref'd). "If any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt, we must affirm the trial court's judgment." *Hernandez v. State*, 198 S.W.3d 257, 260 (Tex. App.—San Antonio 2006, pet. ref'd).

APPLICABLE LAW

A person commits kidnapping "if he intentionally or knowingly abducts another person." TEX. PENAL CODE ANN. § 20.03(a). He commits aggravated kidnapping if, inter alia, he "exhibits a deadly weapon during the commission of the offense." *Id.* § 20.04(b). The Texas Penal Code defines "deadly weapon" as, inter alia, "anything that in the manner of its use or intended use is capable of causing death or serious bodily injury." *Id.* § 1.07(a)(17)(B).

Scissors are not a deadly weapon *per se*. *See Dominique v. State*, 598 S.W.2d 285, 286 (Tex. Crim. App. [Panel Op.] 1980) (analyzing whether sufficient evidence supported the finding that scissors constituted a deadly weapon). However, the State can establish that scissors are a

deadly weapon by showing that the scissors, “in the manner of [their] use or intended use, was capable of causing death or serious bodily injury.” *See Hester v. State*, 909 S.W.2d 174, 179 (Tex. App.—Dallas 1995, no writ). A weapon need not wound a person to qualify as a deadly weapon. *Denham v. State*, 574 S.W.2d 129, 130 (Tex. Crim. App. 1978). We consider the appellant’s verbal threats, the distance between the appellant and the victim, and the witnesses’ descriptions of the weapon in determining whether the appellant intended to use the instrument as a deadly weapon. *See Brown v. State*, 716 S.W.2d 939, 946 (Tex. Crim. App. 1986). Manner of use is the most important criterion. *Dominique*, 598 S.W.2d at 286. It is sufficient if the weapon is capable of causing death or serious bodily injury and is displayed in a manner conveying an express or implied threat that serious bodily injury or death will result if the aggressor is not satisfied. *Lockett v. State*, 874 S.W.2d 810, 814 (Tex. App.—Dallas 1994, pet. ref’d).

APPLICATION

On appeal, San Nicolas does not dispute that the evidence supports a finding that she committed kidnapping and that she displayed scissors during the kidnapping. She contends, however, that the evidence is legally insufficient to show that the scissors were a deadly weapon, as required to support her aggravated kidnapping conviction.

We disagree. Here, the evidence in the record supports a finding that San Nicolas intended to use the scissors in a threatening manner, which makes the scissors a “deadly weapon.” *See Dominique*, 598 S.W.2d at 286 (holding appellant’s placement of scissors on the victim’s neck accompanied by a threat to kill and slashing motions was sufficient evidence “to sustain a finding that the scissors, in the manner of their intended use, constituted a deadly weapon”). Here, the evidence in the record shows that San Nicolas used the scissors to prevent Urdiales from escaping when Urdiales yelled for help once the deputies arrived at the residence. Urdiales testified that she was physically intimidated by San Nicolas and that as she was trying to go down the stairs,

San Nicolas struggled with her and “tried to stop [her] from going down the stairs by holding [her] at the top with the scissors.” San Nicolas argues there is no evidence that the manner in which she used or intended to use the scissors could cause death or serious bodily injury because she previously used the scissors to partially free Urdiales from the chair to which she was zip tied. However, as the evidence shows, San Nicolas later used the scissors to threaten Urdiales and to prevent her from coming down the stairs once the deputies arrived. We hold the evidence is sufficient to establish that the scissors were a “deadly weapon.” See TEX. PENAL CODE ANN. §§ 1.07(a)(17)(B), 20.04(b); *Dominique*, 598 S.W.2d at 286; see also *Ruiz v. State*, No. 13-99-179-CR, 2001 WL 1554212, at *2 (Tex. App.—Corpus Christi Nov. 29, 2001, no pet.) (not designated for publication) (scissors used “in a threatening, stabbing manner” constituted a deadly weapon); *Arriaga v. State*, No. 05-95-01327-CR, 1997 WL 401943, at *3 (Tex. App.—Dallas July 17, 1997, pet. ref’d) (per curiam) (not designated for publication) (scissors pointed at and used to stab a victim constituted a deadly weapon); *Green v. State*, 705 S.W.2d 403, 403–04 (Tex. App.—Fort Worth 1986, no writ) (scissors held to a victim’s throat constituted a deadly weapon).

CONCLUSION

We overrule San Nicolas’s sufficiency complaint and affirm the trial court’s judgment.

Rebeca C. Martinez, Justice

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