IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	NO. 63907-2-I
	)	
Respondent,	)	DIVISION ONE
	)	
v.	)	
	)	
KATRYNIA TODD,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	FILED: June 1, 2010

Lau, J. — Katrynia Todd challenges her juvenile conviction for fourth degree assault—domestic violence for punching her father. She contends that the State presented insufficient evidence to disprove her self-defense claim. But because the State presented sufficient evidence to allow a rational trier of fact to find an absence of self-defense, we affirm the assault conviction.

FACTS

The State charged Todd in the King County Juvenile Court with one count of fourth degree assault. At the fact-finding hearing, her father testified that he told her to do chores when she came home from school. She did not want to do them, and they began arguing. Todd told him to "fuck off" and left the house. Report of Proceedings (June 29, 2009) (RP) at 10. Her father testified that he followed her and grabbed the back of her arms to prevent her from leaving the yard. He denied throwing her to the

ground or hitting her and insisted that he attempted only to restrain her, not inflict injury. He further testified that she was not wearing shoes, and he was concerned for her safety because she had run away before. According to him, she pulled free and began hitting him with closed fists in the chest and arms. Then she began walking up the street, while he followed behind her in a car. He called 911 for police assistance.

Auburn Police Officer Christopher Pakney responded and found Todd and her father in an industrial area of Auburn. Officer Pakney testified that Todd was defensive, angry, and uncooperative, while her father appeared frustrated but calm. He did not see any injuries on either person.

Todd testified that she did not hit her father. She claimed that he pushed her to the cement driveway and pulled her hair to stop her from leaving. According to her, he pulled "a whole bunch" of her hair out in this process. RP at 54. And she insisted that she did not lay a finger on him except to push him away so she could leave.

The court found that Todd's claims were not credible. Specifically, the court found that her father did not place her in a headlock, pull her hair, or take her to the ground. The court further found that Todd intentionally struck her father by throwing several punches that landed on his chest and arms and that while these punches did not injure him, they were unwelcome and offensive to him. The court concluded that she assaulted her father and was not acting in self-defense. It entered an order of disposition imposing 6 months of supervision, 24 hours of community service, and 30 days in detention with credit for time served. Todd appeals.

ANALYSIS

Todd contends there is insufficient evidence to support her conviction because she acted in self-defense. When evaluating a challenge to the sufficiency of the evidence, we must determine whether, considering the evidence in the light most favorable to the State, any rational trier of fact could have found the crime's essential elements beyond a reasonable doubt. State v. Echeverria, 85 Wn. App. 777, 782, 934 P.2d 1214 (1997). We assume the truth of the State's evidence and all reasonable inferences that may be drawn from them. State v. B.J.S., 140 Wn. App. 91, 97, 169 P.3d 34 (2007). Circumstantial evidence is as probative as direct evidence. B.J.S., 140 Wn. App. at 97. And we do not review the trier of fact's credibility determinations. State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).

Under RCW 9A.36.041(1), "[a] person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another." Fourth degree assault includes the intentional harmful or offensive touching of another person regardless of whether it results in physical injury. State v. Tyler, 138 Wn. App. 120, 130, 155 P.3d 1002 (2007). But it is not unlawful to use force in self-defense. See State v. McCullum, 98 Wn.2d 484, 494, 656 P.2d 1064 (1983) (self-defense negates the intent element of a crime). And a child may claim self-defense even though her parent is entitled to use moderate force for discipline.[1] State v. Graves, 97 Wn. App. 55, 63, 982 P.2d 627 (1999). A

[1] RCW 9A.16.100 provides, "[T]he physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent . . . for purposes of restraining or correcting the child."

person acts in self-defense when she reasonably believes that she is about to be injured and she uses no more force than necessary to prevent an offense against her person. RCW 9A.16.020(3).[2] Once a defendant offers some evidence tending to demonstrate self-defense, the burden shifts to the State to prove the absence of self-defense beyond a reasonable doubt. State v. Walden, 131 Wn.2d 469, 473, 932 P.2d 1237 (1997).

Todd relies on Graves to support her contention that the State failed to present sufficient evidence to disprove self-defense. In Graves, a juvenile defendant was convicted of assaulting his father during a fight over chores. Graves, 97 Wn. App. at 57. He testified that his father came into his room angrily, and he was afraid his father "'was going to do something.'" Graves, 97 Wn. App. at 62. His father grabbed his chin and pushed his face, telling him "'you're a punk.'" Graves, 97 Wn. App. at 58. At one point, his father got on top of him and placed him in a headlock. Graves, 97 Wn. App. at 62. He wrestled with his father and grabbed at his waist to resist. Graves, 97 Wn. App at 60. The trial court convicted him of assaulting his father after concluding that he had no right to self-defense because his father was entitled to use reasonable force to discipline him. Graves, 97 Wn. App. at 61. On appeal, we rejected this conclusion,

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[2] RCW 9A.16.020(3) states,

"The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

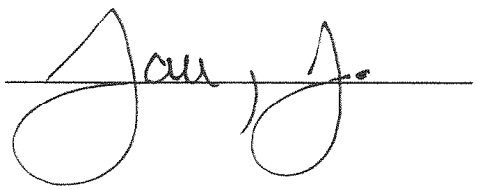
". . . .

"(3) Whenever used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, in case the force is not more than is necessary."

noting, "[T]he State has provided no authority for the position that a juvenile defendant is altogether precluded from raising self-defense where the parent admits use of force but claims parental discipline." Graves, 97 Wn. App. at 63. And based on the record there, we held that the State failed to show the absence of self-defense. Graves, 97 Wn. App. at 63.

But this case is distinguishable from Graves. Here, there was evidence that Todd pulled free of her father and then turned back to punch him several times with a closed fist. In its oral ruling, the court found, "This wasn't defensive, it was offensive" and that Todd's claim that she was acting to prevent her father from injuring her was not credible. RP at 68. Todd's father denied pulling her hair or throwing her to the ground and insisted that he attempted only to restrain her, not inflict injury.[3] And Officer Pakney testified that he observed no bruises or other indications of injury on Todd. The court found Todd's version of events was not credible while her father's was. We defer to the trier of fact on issues of witness credibility and conflicting testimony. B.J.S., 140 Wn. App. 91. Here, there was sufficient evidence for a rational trier of fact to find an absence of self-defense beyond a reasonable doubt.

Because there is sufficient evidence to support the court's findings, we affirm Todd's conviction.



[3] Todd claims the court's finding that her father did not "take her to the ground" is unsupported by the record. RP at 66. But when her father was asked whether he threw her to the ground he testified, "No, I don't believe so." RP at 11. While Todd characterizes this testimony as equivocal, it is sufficient to support the court's finding.

WE CONCUR: