

63907-2

63907-2

NO. 63907-2-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

KATRYNIA TODD,

Appellant.

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COURT OF APPEALS DIV #1
STATE OF WASHINGTON
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APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE CAROL SCHAPIRA

BRIEF OF RESPONDENT

DANIEL T. SATTERBERG
King County Prosecuting Attorney

LEAH R. ALTARAS
Deputy Prosecuting Attorney
Attorneys for Respondent

King County Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000

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A. ISSUES PRESENTED

Evidence is sufficient to support a conviction if, after reviewing it in a light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. By claiming the evidence is insufficient, the defendant admits the truth of the State's evidence and all inferences that can reasonably be drawn from it. Here, Chad Todd and his teenaged daughter, the Appellant, Katrynia Todd, got into an argument over Katrynia doing chores. Ms. Todd began to walk away from the home and Mr. Todd held onto her shoulders/arm in an attempt to stop her because he was concerned for her safety and did not want her to leave the home. Katrynia Todd responded by pulling away and then turning to Mr. Todd and punching him in the arms and chest with closed fists before running from the home. Mr. Todd called 911 and followed his daughter in his vehicle until police arrived and contacted her. Katrynia Todd was charged with assault in the fourth degree, domestic violence. Was there sufficient evidence to support the Honorable Judge's finding of guilt at a bench trial?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

Katrynia Todd, born September 30, 1993, was charged on May 5, 2009, in Juvenile Court, with Assault in the Fourth Degree, Domestic Violence, for assaulting her father, Chad Todd, pursuant to RCW 9A.36.041¹. CP 1. The Honorable Carol Schapira found Ms. Todd guilty at bench trial² on June 29, 2009. RP 66. Judge Schapira sentenced Ms. Todd the same day to six months of supervision, 24 hours of community service, and 30 days in detention, with credit for time served. RP 71-72.

2. SUBSTANTIVE FACTS

Chad Todd is Katrynia Todd's father. RP 3. On April 30 2008, Ms. Todd lived with her father in Auburn, King County, Washington. RP 4. That day, after Katrynia Todd got home from school for the day, she and her father, Chad Todd, got into an argument because Chad wanted Ms. Todd to do chores, and she

¹ RCW 9A.36.041: 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.

(2) Assault in the Fourth Degree is a gross misdemeanor.

² Also referred to as a "fact finding" hearing in Juvenile Court. See RP 1; RCW 13.04.030(3)(iii).

did not want to do them. RP 8, 9, 19, 23, 48, 49, 51. The two yelled at each other. RP 6. Katrynia Todd told her father that she was leaving, pushed past her father, and walked out of the home through the back door. RP 13, 19, 43. Ms. Todd did not have any shoes on. RP 30, 46.

Mr. Todd was concerned for his daughter's safety and did not want her to leave the home, and so he held onto her arms or shoulders to keep her from leaving. RP 10, 11, 12, 19, 23, 25. Katrynia Todd then pulled free and turned and began hitting her father with closed fists in his chest and arms, while yelling at him to "get the fuck away." RP 19. Ms. Todd then broke away and began walking down the road away from her home. RP 13.

Mr. Todd called 911 to request police assistance and then followed Ms. Todd in his car until the police arrived. RP 6, 13, 14. Officer Christopher Pakney responded and contacted both Mr. Todd and Ms. Todd. RP 30, 31. Officer Pakney noted that Mr. Todd was calm but frustrated, and Katrynia Todd was defensive, angry, and uncooperative. RP 30, 31. Officer Pakney did not see any injuries on either person. RP 31, 34.

At trial, Katrynia Todd testified that her father grabbed her and pulled her to the ground by her arms and hair as she tried to

walk away. RP 44-45, 53. Further, she denied ever punching him and stated that she never laid a finger on him, except to push him off of her before running away. RP 44, 53. Ms. Todd also testified that she did not like her father's girlfriend and so she did not want to be at the home. RP 45. The trial judge did not find Ms. Todd's testimony credible. RP 68.

C. ARGUMENT

VIEWED IN THE LIGHT MOST FAVORABLE TO THE STATE AND DRAWING ALL INFERENCES IN THE STATE'S FAVOR, THERE IS SUFFICIENT EVIDENCE TO SUPPORT THE FACT FINDER'S GUILTY VERDICT.

On appeal, Katrynia Todd claims that there is insufficient evidence to support her Assault in the Fourth Degree, Domestic Violence designation conviction because of her claim that she acted in self-defense. However, when the evidence is reviewed in the light most favorable to the State, and all reasonable inferences are drawn in the State's favor, there is sufficient evidence from which a rational trier of fact could find beyond a reasonable doubt that Ms. Todd assaulted her father by punching him, and that she was not acting in self-defense when she did so.

In a prosecution for Assault in the Fourth Degree, the State must prove beyond a reasonable doubt that on or about a date

certain (1) the defendant assaulted another and (2) the act occurred in the State of Washington. RCW 9A.36.041. The use, attempt, or offer to use force towards another person is not unlawful when it is “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...” RCW 9A.16.020(3). Parents are authorized by law to use reasonable and moderate force for the purpose of restraining or correcting their child(ren). RCW 9A.16.100. Children can claim self-defense against a parent, even when that parent’s use of force was authorized by law. State v. Graves, 97 Wn. App. 55, 982 P.2d 627 (1999). In order to raise a claim of self-defense, a defendant³ must first offer credible evidence tending to prove self-defense. State v. Dyson, 90 Wn. App. 433, 438, 952 P.2d 1097 (1997). The burden then shifts to the State to prove the absence of self-defense beyond a reasonable doubt. State v. Acosta, 101 Wn.2d 612, 683 P.2d 1069 (1984).

Evidence is sufficient to support a conviction if, viewed in the light most favorable to the State, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable

³ Juvenile defendants are referred to as “respondents” in juvenile court. RCW 13.40.020(21); RP 1, 107.

doubt. State v. Tilton, 149 Wn.2d 775, 786, 72 P.3d 735 (2003); State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). By claiming insufficiency of the evidence, a defendant admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. State v. Salinas, 119 Wn.2d at 201. All reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant/respondent. Id.

Furthermore, when evidence is conflicting or is of such a character that reasonable minds may differ, it is the function and province of the finder of fact to weigh the evidence, to determine the credibility of the witnesses, and to decide the disputed questions of fact. State v. Gerber, 28 Wn. App. 214, 216, 622 P.2d 888, rev. denied, 95 Wn.2d 1021 (1981). Credibility determinations are for the trier of fact and are not subject to appellate review. State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990). Deference must be given to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. State v. Walton, 64 Wn. App. 410, 415-16, 824 P.2d 533, rev. denied, 119 Wn.2d 1011 (1992).

In conducting a review for sufficiency, appellate courts draw no distinction between circumstantial and direct evidence presented at trial, because both are considered equally reliable. State v. Bencivenga, 137 Wn.2d 703, 711, 974 P.2d 832 (1999). Furthermore, in determining whether sufficient evidence was presented, reviewing courts need not be convinced of the Appellant's guilt beyond a reasonable doubt, but only that a reasonable trier of fact *could* so find. State v. Gallagher, 112 Wn. App. 601, 613, 51 P.3d 100 (2002), rev. denied, 148 Wn.2d 1023 (2003). Finally, as in all cases on appeal, the appellate court may affirm for any basis apparent in the record. State v. Jones, 71 Wn. App. 798, 863 P.2d 85 (1993); State v. Swan, 114 Wn.2d 613, 790 P.2d 610 (1990); State v. Butler, 53 Wn. App. 214, 766 P.2d 505 (1989).

Here, Ms. Todd argues that the evidence is insufficient to support her conviction and that the juvenile court's credibility judgment was erroneous, and that even absent Ms. Todd's own testimony, the evidence presented indicated that Ms. Todd acted in self-defense. However, the State's evidence that the trial court found to be credible indicates that Mr. Todd held onto Katrynia's shoulders to keep her from running away, and that Ms. Todd pulled

free *and then* turned and punched her father multiple times in the chest and arms, while yelling at him. RP 19, 68. Ms. Todd's account differed substantially from her father's—she claimed that her father pulled her to the ground by her hair and arms, and she denied punching her father at all. RP 44, 52, 53. The court did not find Katrynia Todd's account credible. RP 68. The court found that the punches were offensive. RP 68. Chad Todd and Katrynia Todd were the only two witnesses to the substantive facts at trial.

There is sufficient evidence to support the judge's verdict. However, Ms. Todd argues that this Court should disregard the finder of fact's decision because she testified that she acted in self-defense. This argument fails for two reasons. First, as discussed above, the evidence must be viewed in the light most favorable to the State and all reasonable inferences must be drawn in the State's favor, including inferences drawn from circumstantial evidence. Second, when evidence is conflicting, it is the sole province of the trial level fact finder to decide the disputed questions of fact. The trial judge did just that and concluded that Todd assaulted her father and did not act in self-defense. RP 65-69. Credibility is solely an issue for the finder of fact at the trial level, and is not subject to appellate review.

D. CONCLUSION

Taking as true the State's evidence and drawing all reasonable inferences in the State's favor, the evidence supports the judge's conclusion that Katrynia Todd assaulted Chad Todd, her father. This verdict should not be overturned simply because Ms. Todd disagrees with the outcome of the fact finding.

DATED this 2 day of February, 2010.

Respectfully submitted,

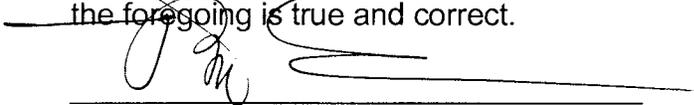
DANIEL T. SATTERBERG
King County Prosecuting Attorney

for By: Deborah A. Dewey, #18887
LEAH R. ALTARAS, WSBA #09266
Deputy Prosecuting Attorney
Attorneys for Respondent
Office WSBA #91002

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Gregory C. Link, the attorney for the appellant, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Brief of Respondent, in STATE V. KATRYNIA TODD, Cause No. 63907-2-1, in the Court of Appeals, Division I, for the State of Washington.

I certify ~~under penalty~~ of perjury of the laws of the State of Washington that the foregoing is true and correct.



Name
Done in Seattle, Washington

22/02/10
Date

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