COURT OF APPEALS OF VIRGINIA

Record No. 0577-25-4

JOHN CLETIS DOLLY
v.
COMMONWEALTH OF VIRGINIA

Present: Judges O'Brien, Causey and Bernhard

Opinion Issued October 6, 2026*

FROM THE CIRCUIT COURT OF FREDERICK COUNTY
Brian M. Madden, Judge

(Dorian L. Dalton, Senior Appellate Attorney; Virginia Indigent Defense Commission, on briefs), for appellant.

(Jason S. Miyares,[1] Attorney General; Kimberly A. Hackbarth, Senior Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION
PER CURIAM

The trial court convicted John Cletis Dolly of assault and battery of a family member and sentenced him to 12 months' incarceration, all suspended. On appeal, Dolly argues that the trial court erred because he lacked the requisite intent. Finding no error, we affirm the trial court's judgment.[2]

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

[1] Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

[2] Having examined the briefs and record in this case, the panel unanimously agrees that oral argument is unnecessary because "the dispositive issue or issues have been authoritatively decided, and the appellant has not argued that the case law should be overturned, extended, modified, or reversed." *See* Code § 17.1-403(ii)(b); Rule 5A:27(b).

BACKGROUND[3]

The evidence presented at Dolly's bench trial established that in 2023, Dolly and Teri Jean Baylor were cohabitating and in a romantic relationship. One evening, Dolly accosted Baylor's adult son Kyle about a work matter. When Baylor intervened because she did not approve of the way Dolly spoke to Kyle, Dolly "grabbed [Baylor] by the shoulders," "pushed [her] out the door," and then "slammed the door in [her] face."

Kyle went outside followed by Dolly, Baylor, and A.G.[4] When Dolly lunged for Kyle, Baylor grabbed Dolly by his shirt, causing it to rip. Dolly and Baylor fell from the porch. Dolly got up and lunged for Kyle again, but Baylor pulled Dolly back and removed his glasses, hoping that Dolly "would stop and like take a breather," but the scuffle continued. Baylor described Dolly as "agitated," "drunk," and "acting like a crazy fool."

Both A.G. and Baylor managed to get Dolly inside the residence, where he "pushed" Baylor against a wall. He got "really close" to Baylor's face, and A.G. slid in front of her mother because she feared "something was about to happen." When she did, Dolly's arms "flinched up" and "went back down."

Frederick County Sheriff's Deputy Kelly arrived at the residence in response to A.G.'s 911 call and separated Dolly and Baylor. Dolly was "still very upset" when Kelly arrived. He resisted Kelly photographing his injuries because "he was not pressing charges and a picture was not needed." Almost immediately, though, Dolly said that his cat had scratched him, and he later

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[3] We recite the facts "in the 'light most favorable' to the Commonwealth, the prevailing party in the trial court." *Hammer v. Commonwealth*, 74 Va. App. 225, 231 (2022) (quoting *Commonwealth v. Cady*, 300 Va. 325, 329 (2021)). In doing so, we discard any evidence that conflicts with the Commonwealth's evidence, and regard as true all the credible evidence favorable to the Commonwealth and all inferences that can be fairly drawn from that evidence. *Cady*, 300 Va. at 329.

[4] Baylor's 16-year-old daughter is referred to by her initials throughout to protect her privacy.

gave multiple versions of how he sustained injuries. Baylor had bruises on her arms. Kelly arrested Dolly for domestic assault.

Dolly presented no evidence at trial. During closing argument, Dolly argued that it "is impossible to conclude beyond a reasonable doubt that [he] was the aggressor when, in fact, [Baylor] pulled his shirt, ripped it, [and] they collectively lost their balance and fell off" the porch. During allocution, Dolly stated that "[his] intentions were not to assault anyone. [His] intentions were [that he] wanted someone out of [his] house." He concluded by stating that "everything was perfectly fine" until he "found out [Baylor] was seeing someone else."

The trial court convicted Dolly of assault and battery of a family member, relying on A.G.'s "observation of the event [that Dolly] w[as] the aggressive party" and that he placed his hands on Baylor more than once in an angry and aggressive manner. It sentenced Dolly to 12 months' incarceration, all suspended. Dolly appeals.

ANALYSIS

"When an appellate court reviews the sufficiency of the evidence underlying a criminal conviction, its role is a limited one." *Commonwealth v. Garrick*, 303 Va. 176, 182 (2024). "The judgment of the trial court is presumed correct and will not be disturbed unless it is 'plainly wrong or without evidence to support it.'" *Pijor v. Commonwealth*, 294 Va. 502, 512 (2017) (quoting Code § 8.01-680). "Thus, 'it is not for this [C]ourt to say that the evidence does or does not establish [the defendant's] guilt beyond a reasonable doubt because as an original proposition it might have reached a different conclusion.'" *Commonwealth v. Barney*, 302 Va. 84, 97 (2023) (alterations in original) (quoting *Cobb v. Commonwealth*, 152 Va. 941, 953 (1929)).

The question on appeal is not if the Court believes the evidence at trial was sufficient, but rather if "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Cappe v. Commonwealth*, 79 Va. App. 387, 398 (2024) (quoting *Vasquez v.*

Commonwealth, 291 Va. 232, 248 (2016)). "If there is evidentiary support for the conviction, 'the reviewing court is not permitted to substitute its own judgment, even if its opinion might differ from the conclusions reached by the finder of fact at the trial.'" *McGowan v. Commonwealth*, 72 Va. App. 513, 521 (2020) (quoting *Chavez v. Commonwealth*, 69 Va. App. 149, 161 (2018)).

The common law defines battery as the willful or unlawful touching of another. *Yellock v. Commonwealth*, 79 Va. App. 627, 641 (2024) (quoting *Parish v. Commonwealth*, 56 Va. App. 324, 330 (2010)). Battery is "the actual infliction of corporal hurt on another that is done willfully or in anger." *Montague v. Commonwealth*, 278 Va. 532, 541 (2009). The unlawful intent determines whether a touching rises to battery and is a question of fact for the factfinder. *Yellock*, 79 Va. App. at 641.

Unlawful intent exists if the touching is an "objectively offensive or forcible contact with the victim's person resulting in some manifestation of a physical consequence or corporeal hurt." *Lopez v. Commonwealth*, 73 Va. App. 70, 84 (2021) (quoting *Adams v. Commonwealth*, 33 Va. App. 463, 470 (2000)). It exists when the touching is done in a "rude, insolent, or angry manner." *Yellock*, 79 Va. App. at 641 (quoting *Kelley v. Commonwealth*, 69 Va. App. 617, 628 (2019)). Unlawful intent "may often be gathered from the conduct of the aggressor, viewed in the light of the attending circumstances." *Parish*, 56 Va. App. at 331 (quoting *Wood v. Commonwealth*, 149 Va. 401, 405 (1927)).

Dolly physically forced Baylor out of A.G.'s bedroom and slammed the door in her face. He later shoved her against a wall. Baylor had bruises on her arms when Deputy Kelly arrived, and Dolly was uncooperative with the deputy. Given his words, manner, and the on-going nature of his actions, it was reasonable for the factfinder to conclude that Dolly touched Baylor in a "rude, insolent, or angry manner." *Parish*, 56 Va. App. at 331.

CONCLUSION

Accordingly, we affirm the trial court's judgment.

Affirmed.