COURT OF APPEALS OF VIRGINIA

Record No. 1363-25-2

REBECCA CLAYTOR MURRAY
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Beales, Frucci and Senior Judge Clements

Opinion Issued October 27, 2026*

FROM THE CIRCUIT COURT OF HALIFAX COUNTY
Robert H. Morrison, Judge

(John A. Terry; Law Office of John A. Terry, PLLC, on brief), for appellant.

(Jay Jones, Attorney General; Justin M. Brewster, Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION
PER CURIAM

Following a bench trial, Rebecca Claytor Murray was convicted of two counts of assault of an emergency medical services responder. On appeal, Murray argues that the evidence was insufficient to prove that she intended to assault either responder. For the following reasons, we affirm the circuit court's judgment. [1]

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

[1] Having examined the briefs and record in this case, the panel unanimously agrees that oral argument is unnecessary because "the appeal is wholly without merit." Code § 17.1-403(ii)(a); Rule 5A:27(a).

BACKGROUND[2]

In November 2024, Benjamin Conner, a paramedic with the Halifax County Rescue Squad, was dispatched to Murray's residence in Clover, Virginia. Conner found Murray on a bed; she was "not really with it," "kind of altered," and "out of it." Conner did not believe that Murray "knew what was going on." Murray's family members told Conner that Murray "had taken some medicine," but "[t]hey didn't know how many pills she had taken." Conner and Kelly Bowen, another member of the Halifax County Rescue Squad, attempted to rouse Murray by using "some stimulation," such as a sternum rub and administering multiple doses of Narcan. Each time they attempted to rouse Murray, she "instantly [became] combative." After Conner and Bowen administered Narcan "multiple times," Murray became "a little bit more responsive." According to Conner, a patient can "[s]ometimes" be "combative with Narcan."

While Conner and Bowen were "trying to protect her from harming herself," Murray struck both responders "a couple times." The responders used a stair chair to move Murray to their truck. Murray "was kicking and hitting and pinching" them as they moved her. Murray hit Conner "in the left side of the face." Murray kicked and bruised Bowen "in the crotch," pinched and bruised Bowen's thigh, and grabbed Bowen's breast and twisted, which left a bruise. At trial, the Commonwealth submitted a photograph of the thigh injury.[3] Both responders testified that they were employed by the county rescue squad, that they were in uniform, displaying

[2] 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. "This deferential principle applies not only to 'matters of witness credibility' but also to the factfinder's 'interpretation of all of the evidence, including video evidence' presented at trial." *Commonwealth v. Barney*, 302 Va. 84, 97 (2023) (quoting *Meade v. Commonwealth*, 74 Va. App. 796, 806 (2022)).

[3] Bowen "did not feel comfortable giving pictures of the other bruises."

badges and credentials, and that they announced "multiple times" that they were rescue squad workers.

After the Commonwealth rested, Murray moved to strike the evidence, arguing that because the evidence was undisputed that she was "out of it," the evidence did not establish that she intended to assault anyone or even that she could have had "reason to know that the individual was a first responder." The Commonwealth, citing *Chittum v. Commonwealth*, 211 Va. 12 (1970), answered that "voluntary intoxication is not a defense," that Murray had "not shown that she was involuntarily intoxicated," and that "[a]ll the evidence would support that she was voluntarily intoxicated if intoxicated at all." It noted that while the legislature had established a defense of diminished capacity under Code § 19.2-271.6, it reaffirmed in that same statute that: "Nothing in this section shall be construed as permitting the introduction of evidence of voluntary intoxication." Code § 19.2-271.6(G).

Murray responded that the evidence showed that Narcan can cause someone to "become combative" and argued that the Narcan "was involuntarily given to her." The circuit court observed that, unlike other citizens, the first responders cannot walk away but have a "legal obligation to help," to "put themselves in harm[']s way in a situation created by, whether intentionally or unintentionally, the defendant." It acknowledged that application of the doctrines governing voluntary intoxication could seem "inequitable sometimes" but found that they applied and denied the motion. Murray presented no evidence and renewed the motion to strike, adding that there was "no evidence that she took any type of substance or . . . what the medical issue was that caused her to be out of it." The Commonwealth answered that evidence of Murray's physical condition, if relevant, was her burden and that it was not an element of the offense. The circuit court denied the renewed motion and convicted Murray. Murray 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)).

Therefore, the only relevant question for this Court on review "is, after reviewing the evidence in the light most favorable to the prosecution, whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* (quoting *Sullivan v. Commonwealth*, 280 Va. 672, 676 (2010)). "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)).

"It is firmly established that '[c]ircumstantial evidence is competent and is entitled to as much weight as direct evidence provided that the circumstantial evidence is sufficiently convincing to exclude every reasonable hypothesis except that of guilt.'" *Kelley v. Commonwealth*, 69 Va. App. 617, 629 (2019) (alteration in original) (quoting *Pijor*, 294 Va. at 512). "Circumstantial evidence is not 'viewed in isolation' because the 'combined force of many concurrent and related circumstances, each insufficient in itself, may lead a reasonable [fact finder]' to conclude beyond a reasonable doubt that a defendant is guilty." *Rams v.*

Commonwealth, 70 Va. App. 12, 27 (2019) (alteration in original) (quoting *Muhammad v. Commonwealth*, 269 Va. 451, 479 (2005)).

> [I]f any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is . . . any emergency medical services personnel member . . . engaged in the performance of his public duties . . . , [then] such person is guilty of a Class 6 felony . . . .

Code § 18.2-57(C). Murray argues that because she was involuntarily intoxicated, she did not intend to assault either Conner or Bowen.

Virginia does recognize an involuntary intoxication defense, however, it does so "as an alternative basis for an insanity defense." *Schmuhl v. Commonwealth*, 69 Va. App. 281, 302 (2018), *aff'd*, 298 Va. 131 (2019) (order). Therefore, instead of "showing that the defendant had a pre-existing mental disease or defect," the defendant must show "that [her] involuntary intoxication produced a defect in [her] *mens rea* that rose to the level of insanity, as set by the *M'Naghten* rule." *Id.* "[A] defendant who pleads involuntary intoxication in this situation must comply with the statutory requirements for putting on an insanity defense." *Id.* at 304.

"Virginia allocates 'both the burden of production and the burden of persuasion' to the defendant to prove an insanity defense." *Khine v. Commonwealth*, 75 Va. App. 435, 449 (2022) (quoting *Morgan v. Commonwealth*, 50 Va. App. 120, 134 (2007)). "The defendant 'bears the burden of proving the defense [of insanity] by a preponderance of the evidence.'" *Id.* (alteration in original) (quoting *Brown v. Commonwealth*, 68 Va. App. 746, 795 (2018)). "When asserting an affirmative defense, such as insanity, self-defense, or unconsciousness, the burden is on the defendant to present evidence establishing such defense to the satisfaction of the fact finder." *Riley v. Commonwealth*, 277 Va. 467, 479 (2009) (citing *Shifflett v. Commonwealth*, 221 Va. 760, 769 (1981)).

Murray satisfied none of these requirements. In particular, she did not plead involuntary intoxication and failed to present evidence that she was intoxicated or how she came to be intoxicated. She instead argued only that "there's been no evidence from the Commonwealth about what caused" the responders' observation that "she appeared to be out of it." The circuit court correctly held that the Commonwealth was not required to provide such evidence. That burden was Murray's alone. *Khine*, 75 Va. App. at 449. Murray's only evidence of any intoxication was the family's report to Conner and Bowen that Murray "had taken some medicine," that Conner and Bowen administered Narcan, and that Conner agreed that some people "can be combative with Narcan." Murray did not establish whether her "combative" attitude was caused by the Narcan, by withdrawal from previously ingested drugs, or by some other factor. She did not establish that Narcan could produce "a defect in [her] *mens rea* that rose to the level of insanity." *Schmuhl*, 69 Va. App. at 302. And the record is devoid of compliance with any of the procedural prerequisites for presenting an insanity defense.[4] The circuit court did not err in declining to find that Murray had established the affirmative defense of involutory intoxication.[5] Absent evidence to establish an involuntary intoxication defense, the evidence was sufficient for the circuit court to infer the necessary intent.

"To sustain a conviction for battery, the Commonwealth must prove a 'wil[l]ful or unlawful touching' of another." *Parish v. Commonwealth*, 56 Va. App. 324, 330 (2010)

[4] *See, e.g.*, Code §§ 19.2-169.5 (evaluation of sanity), 19.2-168 (60 days' notice to Commonwealth).

[5] The Commonwealth also argues that Murray's arguments are waived because her opening brief does not satisfy several of the requirements of Rule 5A:20. Because we otherwise dispose of Murray's arguments on the best and narrowest ground to reach our decision, we do not address the other issues briefed by the Commonwealth. *See Butcher v. Commonwealth*, 298 Va. 392, 396 (2020); *see also Abdo v. Commonwealth*, 64 Va. App. 468, 473 n.1 (2015) (declining to reach Rule 5A:18 issue where "resolution of the merits constitutes the best and narrowest ground").

(alteration in original) (quoting *Wood v. Commonwealth*, 149 Va. 401, 404 (1927)). "Whether a touching is a battery, depends on the intent of the actor, not on the force applied." *Id.* (quoting *Adams v. Commonwealth*, 33 Va. App. 463, 469 (2000)). "The slightest unlawful touching of another, 'if done in a rude, insolent, or angry manner, constitutes a battery for which the law affords redress.'" *Griffin v. Commonwealth*, 78 Va. App. 116, 146 (2023) (quoting *Crosswhite v. Barnes*, 139 Va. 471, 477 (1924)).

"Because intent is a 'state of mind,' it 'may be proved by a person's conduct or by his statements.'" *Fletcher v. Commonwealth*, 72 Va. App. 493, 506 (2020) (quoting *Barrett v. Commonwealth*, 210 Va. 153, 156 (1969)). "[T]he 'fact finder may infer that a person intends the immediate, direct, and necessary consequences of his voluntary acts.'" *Brown*, 68 Va. App. at 788 (quoting *Robertson v. Commonwealth*, 31 Va. App. 814, 820 (2000)). "Whether the defendant has the required intent is a question for the trier of fact." *Welch v. Commonwealth*, 79 Va. App. 760, 768 (2024).

The record shows that Murray "was kicking and hitting and pinching" Conner and Bowen as they moved her out of the house. Murray hit Conner "in the left side of the face." She kicked and bruised Bowen "in the crotch," pinched and bruised Bowen's thigh, and grabbed, twisted, and bruised Bowen's breast. The circuit court could infer from the repeated, targeted attacks that Murray acted in a "rude, insolent, or angry manner." *Parish*, 56 Va. App. at 331. The circuit court did not err in finding that Murray committed the batteries as charged.

CONCLUSION

For the foregoing reasons, the circuit court's judgment is affirmed.

Affirmed.