COURT OF APPEALS OF VIRGINIA

Record No. 1697-25-2

BRANDON JABOT HAWLEY
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Beales, Frucci and Senior Judge Clements

Opinion Issued October 27, 2026*

FROM THE CIRCUIT COURT OF THE CITY OF COLONIAL HEIGHTS
Steven B. Novey, Judge

(Sante J. Piracci; Sante J. Piracci, P.C., on brief), for appellant. Appellant submitting on brief.

(Jay Jones, Attorney General; Timothy J. Huffstutter, Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION
PER CURIAM

Following a jury trial, Brandon Jabot Hawley was convicted of assaulting a law-enforcement officer.[1] On appeal, Hawley challenges the circuit court's denial of her motions to strike, claiming the Commonwealth failed to prove an intentional touching necessary to sustain the conviction. Finding no error, we affirm the circuit court's judgment.[2]

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

[1] Hawley was also charged with carrying a concealed weapon. Hawley pleaded guilty to the charge and does not challenge that conviction on appeal.

[2] 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). In addition, we note that Hawley waived oral argument in this matter.

BACKGROUND[3]

Officers from the Petersburg Police Department arrested Hawley on an outstanding warrant and turned her over to Colonial Heights Police Officer Thomas.[4] Officer Thomas took Hawley to the police department and placed her in a holding cell to wait for the magistrate. After Hawley "used the restroom in [her] cell," Officer Thomas "tried to pull her out [so she could] clean herself up." Although initially calm, Hawley "became irate," tried to "run out of lockup," and spat at Officer Thomas "multiple times" when he "pulled her back." Officer Thomas returned Hawley to the cell, where she "became frustrated" and started "banging on the cell door." Hawley then spat directly on Officer Thomas as he closed the door; the expectorate landed on his boot. For this, Hawley was charged with assault and battery of a law-enforcement officer.[5]

At Hawley's jury trial, Officer Thomas clarified that he did not "want to be spit on." He asked Hawley "[t]hree, maybe four [times]" to "please stop" when she "began to spit all over the floor" while they waited on the magistrate.

When the Commonwealth rested, Hawley moved to strike the evidence. She conceded the evidence established that she knew that Officer Thomas was a law-enforcement officer and that there was an assault and battery. But Hawley challenged the sufficiency of the evidence of her intent to commit the assault and battery because the other spitting was "clearly not directed." The circuit court denied the motion, finding that "every person intends the natural and probable

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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] Hawley claims to have been "clearly intoxicated" at the time.

[5] Hawley was also charged with carrying a concealed weapon, to which she pleaded guilty, and with destruction of property, which the Commonwealth nolle prosequied.

consequences of their acts." Hawley offered no evidence and renewed her motion to strike on the issue of intent. The circuit court denied the motion, finding that it was "a jury question."

The jury convicted Hawley of assault and battery of a law-enforcement officer. The circuit court sentenced Hawley to three years of incarceration, with two years and six months suspended. Hawley appeals.

ANALYSIS

A "motion to strike challenges whether the evidence is sufficient to submit the case to the jury." *Burton v. Commonwealth*, 85 Va. App. 408, 429 (2025) (quoting *Linnon v. Commonwealth*, 287 Va. 92, 98 (2014)). "Whether the evidence adduced is sufficient to prove each of those elements is a factual finding, which will not be set aside on appeal unless it is plainly wrong." *Id.* (quoting *Linnon*, 287 Va. at 98). In a sufficiency review, this Court "consider[s] the evidence presented at trial in the light most favorable to the Commonwealth, the prevailing party below." *Bolden v. Commonwealth*, 275 Va. 144, 148 (2008).

"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)).

"Assault and battery are common law crimes." *Yellock v. Commonwealth*, 79 Va. App. 627, 641 (2024) (quoting *Montague v. Commonwealth*, 278 Va. 532, 541 (2009)). Although the crimes are "independent criminal acts," they are "linked in Code § 18.2-57." *Parish v. Commonwealth*, 56

Va. App. 324, 329 (2010). Battery is a "'wil[l]ful or unlawful touching' of another." *Kelley v. Commonwealth*, 69 Va. App. 617, 625 (2019) (alteration in original) (quoting *Parish*, 56 Va. App. at 330). The "slightest touching of another . . . if done in a rude, insolent, or angry manner, constitutes a battery," and the "unlawful intent may be imputed" from the action. *Id.* at 628 (alteration in original) (first quoting *Adams v. Commonwealth*, 33 Va. App. 463, 469 (2000); and then quoting *Parish*, 56 Va. App. at 331). "At common law, any touching 'in anger, without lawful provocation,' however slight, including 'spitting in a man's face,' was sufficient to support a battery conviction." *Gilbert v. Commonwealth*, 45 Va. App. 67, 70 (2005) (quoting *Hardy v. Commonwealth*, 58 Va. (17 Gratt.) 592, 301 (1867)). Infliction of bodily harm may be established by the commission of "an act that involve[s] physical contact and [i]s deeply offensive," such as spitting on another. *Id.* at 71.

"Whether the defendant has the required intent is a question for the trier of fact." *Welch v. Commonwealth*, 79 Va. App. 760, 768 (2024). "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)). And the "fact finder may infer that a person intends the immediate, direct, and necessary consequences of his voluntary acts." *Brown v. Commonwealth*, 68 Va. App. 746, 788 (2018) (quoting *Robertson v. Commonwealth*, 31 Va. App. 814, 820 (2000)). "In determining a defendant's intent, '[c]ircumstantial evidence is as competent and is entitled to as much weight as direct evidence, provided it is sufficiently convincing to exclude every reasonable hypothesis except that of guilt.'" *Sarka v. Commonwealth*, 73 Va. App. 56, 67 (2021) (alteration in original) (quoting *Coleman v. Commonwealth*, 226 Va. 31, 53 (1983)). "Words and prior conduct are highly relevant in shedding light on intent and the context within which certain actions transpired. A perpetrator's intent may be inferred from the nature of the overt act and the surrounding

circumstances." *Yellock*, 79 Va. App. at 642 (quoting *Clark v. Commonwealth*, 279 Va. 636, 642 (2010)).

To sustain a conviction for assault and battery of a law-enforcement officer, the Commonwealth must prove that the defendant committed "an assault and battery against another knowing or having reason to know that such other person is . . . a law-enforcement officer." Code § 18.2-57(C). On appeal, Hawley argues that the evidence was "insufficient for the trier of fact to find" that she committed an assault or battery against Officer Thomas. Hawley contends that the "expectorate that made contact with [Officer] Thomas's clothing occurred after she spit on the floor 3-4 times in a way that was clearly not directed at Thomas." She also argues that it was "not unreasonable to believe that [she] 'mistimed' spit intended for the cell door" that landed on Officer Thomas.[6] The record does not support Hawley's contention.

The evidence showed that Hawley repeatedly spit at Officer Thomas, directly hitting him once. Hawley had spit on the ground three or four times before spitting *at* Officer Thomas "multiple times." When he returned her to the cell, she spit *on* him as he tried to close the door. The jury reasonably concluded that, considering her conduct—using the bathroom in her cell, attempting to run out of lockup, and the persistent spitting—Hawley intended to batter Officer Thomas. We will not disturb the factfinder's inferences unless they enter "the realm of non sequitur." *Fary v. Commonwealth*, 77 Va. App. 331, 349 (2023) (quoting *Commonwealth v. Perkins*, 295 Va. 323, 332 (2018)). Here they do not, so we have no basis to second-guess the jury's fact-finding.

[6] Hawley asserts that she was "apparently and clearly intoxicated." It "is well settled that voluntary intoxication furnishes no excuse for the commission of a criminal offense . . . the only exception being deliberate and premeditated murder." *Shaw v. Commonwealth*, 79 Va. App. 485, 513 n.11 (2024) (alteration in original) (quoting *Riley v. Commonwealth*, 277 Va. 467, 481 (2009)).

CONCLUSION

Accordingly, we affirm the circuit court's judgment.

Affirmed.