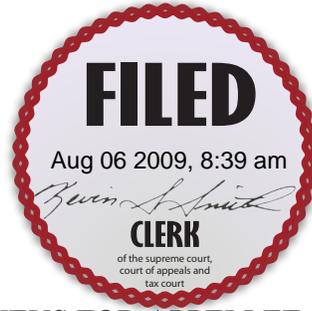


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

ATTORNEYS FOR APPELLEE:

BRYAN LEE CIYOU
Indianapolis, Indiana

GREGORY F. ZOELLER
Attorney General of Indiana

J.T. WHITEHEAD
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

WILLIAM YOUNG,)
)
Appellant- Defendant,)
)
vs.) No. 49A02-0810-CR-902
)
STATE OF INDIANA,)
)
Appellee- Plaintiff,)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Carol J. Orbison, Judge
The Honorable Amy Barbar, Magistrate
Cause No. 49G22-0708-FA-166658

August 6, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

Following a bench trial, William Young appeals his convictions for attempted murder and robbery, both Class A felonies. On appeal, Young raises one issue, which we restate as whether sufficient evidence supports Young's attempted murder and robbery convictions. Concluding sufficient evidence supports Young's convictions, we affirm.

Facts and Procedural History

In late-July 2007, Young and his wife, Stephanie, along with Stephanie's daughter, Tanesha Boyd, and three grandchildren (Young is their step-father and step-grandfather), stopped at Stephanie's sister's house in Atlanta, Georgia, while en route to Florida for a vacation. The visit was less than tranquil; Young, who had a reputation for succumbing to drinking binges, raided Stephanie's sister's liquor cabinet. After the group departed and was on the road, Young, apparently still intoxicated, urinated on himself and one of Stephanie's grandchildren. Young also threatened to kill Stephanie, telling her he would "wring her neck" and "tie [her] up." Transcript at 81. The rest of the vacation was without incident, and the group returned home to Indianapolis on either July 28 or 29, 2007.

On the evening of August 12, 2007, while the couple was at Stephanie's Indianapolis apartment, Stephanie told Young that due to his behavior during the vacation, he was no longer welcome in her home and he could no longer see her grandchildren. Stephanie did permit Young to stay for one more evening, however, and offered to drop him off at a fast-food restaurant while on her way to work the following morning. Young's response is not entirely clear from the record – he was either silent or

said, “Okay,” id. at 61 – but at any rate, the two slept in the same bed that evening, with Stephanie turning in around 11:00 p.m.

When Stephanie did not show up for her scheduled work shift the following morning, a co-worker contacted Tanesha and Stephanie’s son, William Boyd, to inform them of her absence. Sensing something was amiss, Tanesha and William went to Stephanie’s apartment; Tanesha found her mother lying on the floor under a bed sheet, her feet and hands were bound and tied to the bed and a bra was wrapped around her neck. Tanesha also observed that Stephanie’s “eyes was [sic] rolled back and she had duct tape over her mouth and she was non-responsive.” Id. at 86. Upon removing the duct tape, Tanesha observed a pair of blood-stained socks in her mother’s mouth and removed them. Paramedics arrived several minutes later, and Stephanie was transported to Wishard Memorial Hospital; she ultimately survived the attack and identified Young as her attacker.

Later that afternoon, Officer Gary Morse of the Indianapolis Metropolitan Police Department found an intoxicated Young passed out in Stephanie’s vehicle near the intersection of 10th Street and Shannon Avenue. After arresting Young for public intoxication, Officer Morse searched Stephanie’s vehicle and seized Stephanie’s cellular phone and several of her credit cards, all of which had been removed from her apartment after she went to bed on the evening of August 12th. During a subsequent police interview, Young admitted he slept at Stephanie’s apartment on the evening of August 12th, but could not remember anything that occurred thereafter.

On August 16, 2007, the State charged Young with attempted murder and robbery, both Class A felonies. On August 12, 2008, the trial court presided over a bench trial,

hearing testimony from Stephanie and Tanesha, among others. Based on this evidence, the trial court found Young guilty as charged and entered judgments of conviction on both counts. With respect to the attempted murder finding, the trial court observed that

[s]ome attempted murder cases are difficult to determine what the intent actually was but when you have a situation where ligature is involved and a person is tied to a bed in two places, hands and feet, and socks are stuffed in her mouth to the point that there is blood on the socks, I think the intent to kill is very, very clear.

Id. at 207. Young now appeals.

Discussion and Decision

Young argues insufficient evidence supports his attempted murder and robbery convictions. We will address the sufficiency of the evidence supporting each conviction in turn, but first note that in reviewing such challenges, we do not reweigh evidence or judge witness credibility. Perez v. State, 872 N.E.2d 208, 213 (Ind. Ct. App. 2007), trans. denied. Instead, our review is limited to “whether a reasonable juror could have found the existence of each of the elements of the crime charged beyond a reasonable doubt.” Smith v. State, 636 N.E.2d 124, 126 (Ind. 1994). In conducting this review, we consider only the evidence most favorable to the verdict, as well as the reasonable inferences drawn therefrom. Id.

To convict Young of attempted murder, the State had to prove beyond a reasonable doubt that Young, acting with the specific intent to kill Stephanie, engaged in conduct that constituted a substantial step toward killing her. See Ind. Code §§ 35-41-5-1 and 35-42-1-1(1); Amos v. State, 896 N.E.2d 1163, 1171 (Ind. Ct. App. 2008), trans. denied. To convict Young of robbery as a Class A felony, the State had to prove beyond a reasonable doubt that Young knowingly or intentionally took property from Stephanie

either by putting her in fear or by using or threatening the use of force and that Stephanie sustained serious bodily injury as a result. See Ind. Code § 35-42-5-1; Gross v. State, 769 N.E.2d 1136, 1139 (Ind. 2002).

Young's sole challenge to the evidence supporting his attempted murder conviction is that such evidence does not support a reasonable inference that he specifically intended to kill Stephanie. Because criminal defendants rarely announce their intentions when committing a crime, we have observed that "[t]he element of intent may be proven by circumstantial evidence alone, and it is well established that knowledge and intent may be inferred from the facts and circumstances of each case." Lykins v. State, 726 N.E.2d 1265, 1270 (Ind. Ct. App. 2000). As mentioned above, the trial court concluded Young's intent to kill Stephanie was "very, very clear" based in part on evidence that she was bound by her hands and feet and tied to her bed and that socks were stuffed into her mouth "to the point that there [was] blood on the socks" Tr. at 207. We cannot say that a reasonable juror was incapable of reaching a similar conclusion. The doctor who attended to Stephanie's injuries testified that the bruising around her neck "appeared consistent with having a cord or some sort of ligature wrapped around it." Tr. at 135-36. The doctor further testified that the ligature was tight enough to rupture capillaries in Stephanie's eyes and that such rupturing was consistent with strangulation. When asked what would have happened had Stephanie remained bound, the doctor explained she would have experienced brain damage and ultimately death. Coupling this testimony with the evidence mentioned by the trial court, namely, that Young also placed a pair of socks in Stephanie's mouth and secured them with duct tape,

it becomes clear a reasonable juror could have concluded Young specifically intended to kill Stephanie.

Young's challenge to the sufficiency of the evidence supporting his robbery conviction is less clear; he appears to argue the conviction cannot stand because the evidence supports reasonable inferences that he either took Stephanie's belongings inadvertently or with her consent. Even assuming either inference negates Young's guilt, neither forecloses reasonable inferences to the contrary. Stephanie testified that when she went to bed on the evening in question, her cellular phone and credit cards were in her bedroom and that Young did not have permission to use these items or her vehicle. That Young was found in Stephanie's vehicle with these items supports a reasonable inference that he knowingly or intentionally took them from Stephanie. That Stephanie was found tied to her bed supports a reasonable inference that Young took these items by using force. Moreover, Stephanie testified regarding the severity of her injuries, and Young does not appear to argue this testimony precludes a finding that she sustained serious bodily injury. Accordingly, we conclude sufficient evidence supports Young's Class A felony robbery conviction.

Conclusion

Sufficient evidence supports Young's convictions for attempted murder and robbery.

Affirmed.

DARDEN, J., and BAILEY, J., concur.