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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVEN ALSOBROOK,

Defendant and Appellant.

B257235

(Los Angeles County
Super. Ct. No. MA062347)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Rand S. Rubin, Judge. Affirmed.

Michele A. Douglass, under appointment by the Court of Appeal, for
Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant
Attorney General, Lance E. Winters, Assistant Attorney General, Steven D.
Matthews and David E. Madeo, Deputy Attorneys General, for Plaintiff and
Respondent.

Defendant and appellant Steven Alsobrook was charged by information with two counts of attempted murder (Pen. Code, §§ 664/187, subd. (a)),¹ two counts of assault with a deadly weapon (a knife) (§ 245, subd. (a)(1)), and two counts of battery with serious bodily injury (§ 243, subd. (d)). It was further alleged that appellant personally used a deadly weapon (§ 12022, subd. (b)(1)) and that he personally inflicted great bodily injury (§ 12022.7, subd. (a).) A jury acquitted appellant of the attempted murder counts and the lesser included offense of attempted voluntary manslaughter, but convicted him of the remaining counts and found true the weapon and great bodily injury allegations. The trial court sentenced appellant to a term of seven years. In this appeal, appellant challenges one of his convictions for battery with serious bodily injury. He contends that there is insufficient evidence that the victim suffered serious bodily injury. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Prosecution Evidence

On March 7, 2014, around 6:30 p.m., James Endsley and his friend Johnny Delarosa met at a Black Angus restaurant in Lancaster for drinks and food. Delarosa's girlfriend, Susan Heidebrink, met them there at 8:45 p.m. Delarosa was angry at Heidebrink for arriving so late and began yelling and swearing at her. One of the restaurant's managers told Delarosa to calm down. Endsley, Delarosa, and Heidebrink sat down together at the bar.

Appellant approached Heidebrink and asked her why she tolerated Delarosa's abusive treatment. Appellant and Delarosa began arguing. Restaurant employees told them all to leave, so Endsley, Delarosa, and Heidebrink went to the

¹ Further unspecified statutory references are to the Penal Code.

parking lot, got in their cars, and started to leave. Appellant and his son, Andrew Alsobrook (Andrew) also exited the restaurant.

When Delarosa saw appellant, he got out of his car and approached appellant in the parking lot. Delarosa and appellant began fighting and punching each other. Delarosa saw that he was bloody and realized that appellant had stabbed him.

Endsley tried to stop Delarosa and appellant from fighting, so he grabbed appellant and pushed him off Delarosa. Endsley felt a sharp stabbing pain in the back of his left shoulder. He felt blood running down his back, and someone told him he had been stabbed.

Endsley was taken to the hospital, where he received two staples to close the stab wound. Endsley remained at the hospital for approximately six hours. He experienced pain in the area for several months and still had pain and scarring at the time of trial.

Defense Evidence

Appellant testified that when he and Andrew exited the restaurant, Delarosa charged toward them, yelling obscenities and challenging them to fight. Appellant stepped in front of Andrew to protect him. Appellant motioned for his son to stay back, grabbed his “work pocketknife” from his pocket, and opened it. When appellant saw that Delarosa did not have a weapon, he turned the knife sideways but did not have time to close it. He did not intend to stab Delarosa, but the knife was in his hand when he punched him.

Appellant testified that Delarosa was much bigger than him and so controlled the fight. After appellant broke free from Delarosa, Endsley attacked him. Appellant did not have the knife in his hand at that time. Appellant was on

the ground in pain and saw Andrew coming over. When Andrew came over, Endsley backed away.

Andrew helped appellant up, and they left, appellant limping badly. Appellant subsequently was treated for a broken leg. When detectives arrived at appellant's home, he told them where the knife was.

DISCUSSION

Appellant contends the evidence is insufficient to support his conviction for felony battery of Endsley because Endsley did not suffer serious bodily injury within the meaning of the statute. We conclude that the evidence is sufficient to sustain the conviction.

“When the sufficiency of the evidence to support a conviction is challenged on appeal, we review the entire record in the light most favorable to the judgment to determine whether it contains evidence that is reasonable, credible, and of solid value from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] ‘Conflicts and even testimony which is subject to justifiable suspicion do not justify the reversal of a judgment, for it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends.’ [Citation.] Unless it describes facts or events that are physically impossible or inherently improbable, the testimony of a single witness is sufficient to support a conviction. [Citation.]” (*People v. Elliott* (2012) 53 Cal.4th 535, 585.)

In reviewing for sufficiency of the evidence, “we review the evidence in the light most favorable to the prosecution and presume in support of the judgment the existence of every fact the [trier of fact] could reasonably have deduced from the evidence. [Citation.]” (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.) “‘We

resolve neither credibility issues nor evidentiary conflicts; we look for substantial evidence. [Citation.]’ [Citation.]” (*Ibid.*)

“A battery is ‘any willful and unlawful use of force or violence upon the person of another.’ (§ 242.) ‘If, however, the batterer not only uses unlawful force upon the victim but causes injury of sufficient seriousness, then a *felony* battery is committed. For this second category of battery, “serious bodily injury” is required. (§ 243, subd. (d).)’ [Citation.] The statute provides that ““Serious bodily injury” means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.’ (§ 243, subd. (f)(4).)” (*People v. Wade* (2012) 204 Cal.App.4th 1142, 1147-1148.)

Appellant contends that Endsley’s wound did not require “extensive suturing” because it was closed with only two sutures. (§ 243, subd. (f)(4).) However, the statute expressly states that serious bodily injury includes, *but is not limited to* the listed injuries, such as “extensive suturing.” (§ 243, subd. (f)(4).) Extensive suturing thus is not a requirement for conviction.

Appellant further argues that there is no evidence of the severity of the pain Endsley felt. To the contrary, Endsley testified that he felt a sharp stabbing pain in his shoulder and that he continued to experience pain for several months. Moreover, the statute does not require that the victim experience severe pain. Instead, serious bodily injury is defined as “a serious impairment of physical condition.” (§ 243, subd. (f)(4).)

“““A fine line can divide an injury from being significant or substantial from an injury that does not quite meet the description.”” [Citations.] Where to draw that line is for the jury to decide.” (*People v. Cross* (2008) 45 Cal.4th 58, 64.)

“““If there is sufficient evidence to sustain the jury’s finding of great bodily injury, we are bound to accept it, even though the circumstances might reasonably be reconciled with a contrary finding.”” [Citation.]” (*People v. Escobar* (1992) 3 Cal.4th 740, 750; see also *People v. Saez* (2015) 237 Cal.App.4th 1177, 1189 [“[D]etermining whether a victim has suffered physical harm amounting to great bodily injury is not a question of law for the court but a factual inquiry to be resolved by the jury.’ [Citation.]”].)

Endsley was stabbed in the back and required two staples to close the wound, resulting in scarring and pain that persisted at the time of trial. A photograph of the scar was shown at trial. The evidence is sufficient to sustain the jury’s finding of serious bodily injury for the battery conviction, as well as great bodily injury for the section 12022.7 enhancement. (See *People v. Flores* (2013) 216 Cal.App.4th 251, 262 [sufficient evidence of serious bodily injury where victim suffered extensive bleeding, was taken to the emergency room by ambulance, and suffered two puncture wounds, one requiring four sutures].)

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DISPOSITION

The judgment is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

COLLINS, J.