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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-545

No. COA21-723

Filed 2 August 2022

Madison County, No. 19 CRS 50136

STATE OF NORTH CAROLINA

v.

SHADOW STEVEN CHRISTENSON

Appeal by defendant from judgment entered 30 June 2021 by Judge Joseph N. Crosswhite in Madison County Superior Court. Heard in the Court of Appeals 6 April 2022.

Attorney General Joshua H. Stein, by Assistant Attorney General Maria E. Bruner, for the State.

New Hanover County Public Defender, by Assistant Public Defender Max E. Ashworth III, for defendant.

DIETZ, Judge.

¶ 1 Defendant Shadow Steven Christenson challenges his conviction for assault by strangulation. He contends that there was insufficient evidence that he inflicted physical injury when he strangled the victim—an essential element of the charged offense.

¶ 2 As explained below, we reject this argument. The victim testified that

Christenson strangled her for approximately eight seconds. She further testified that, for two days following the strangulation, she experienced pain when she moved her neck and had difficulty eating. This testimony is sufficient to send the question of physical injury to the jury. We therefore find no error in the trial court's denial of Christenson's motion to dismiss for insufficient evidence.

Facts and Procedural History

¶ 3 In January 2019, a Mars Hill University student reported an incident involving Defendant Shadow Steven Christenson. The student reported to the university's security director that Christenson arrived at her dorm room late at night and their interaction resulted in Christenson strangling her.

¶ 4 At trial, the student testified to the events of the night. She explained that she had attended the same party as Christenson earlier in the night. Later that night, Christenson came to the student's dorm room while she was sleeping. Christenson entered the dorm room and attempted to pick up the student and carry her out of the room. The student told Christenson to put her down. Once Christenson put her down, she returned to her bed to try to sleep.

¶ 5 Then, Christenson approached the student again and put his right hand on her throat. He squeezed his hand around her throat until she could not breathe. Christenson continued to squeeze her throat for approximately eight seconds. The student testified that she tried to pry Christenson's hand off her throat but could not

do so. Eventually, the student pushed Christenson off and rolled away to escape from him.

¶ 6 The university security director investigated the allegations and provided a statement at trial. He testified to the student's description of the events:

> She told me that she had been in her room. That she had been asleep in her room and had been awakened by Christenson, who had approached her asking for sex. She said that during this incident, he had -- her words was "choked her," and it had scared her very bad, that no one had ever handled her like that.
> . . .
> She said that she grabbed her hands to try to push him off. She said again that she had never been treated like that. No one had ever pushed her, or no one had ever "handled her like that," I believe is the way she said it. She was able to push his hand off. Told him to leave. And she said that at that time, he did leave.

¶ 7 Additionally, the security director testified to his investigatory interview with Christenson. Christenson admitted to the events, namely that he arrived at the student's room and strangled her. Christenson stated that "he had taken his hand and he had put it along the base of the neck right here under the chin and he had held it down."

¶ 8 The State charged Christenson with assault by strangulation. Following a trial, the jury found Christenson guilty, and the trial court sentenced him to a term of 6 to 17 months in prison, suspended for 24 months of supervised probation. Christenson timely appealed.

Analysis

¶ 9 Christenson appeals the trial court's denial of his motion to dismiss for insufficiency of the evidence. Specifically, Christenson argues on appeal that there was insufficient evidence of a physical injury, an essential element of the charged offense under N.C. Gen. Stat. § 14-32.4(b).

¶ 10 This Court reviews the denial of a motion to dismiss *de novo*. *State v. Smith*, 186 N.C. App. 57, 62, 650 S.E.2d 29, 33 (2007). We examine whether there was "substantial evidence of each essential element of the crime" charged. *State v. Kemmerlin*, 356 N.C. 446, 473, 573 S.E.2d 870, 889 (2002). In doing so, we "view the evidence in the light most favorable to the State, making all reasonable inferences from the evidence in favor of the State." *Id.*

¶ 11 The State charged Christenson with assault by strangulation. This offense has three essential elements: that the defendant (1) assaults another person, (2) and inflicts physical injury, (3) by strangulation. N.C. Gen. Stat. § 14-32.4(b). Christenson challenges the sufficiency of the evidence concerning the second element—that he inflicted physical injury to the victim.

¶ 12 The statute does not expressly define "physical injury" and this phrase therefore must be given its ordinary meaning. *State v. Braxton*, 183 N.C. App. 36, 41, 643 S.E.2d 637, 641 (2007). Dictionaries define injury as "hurt, damage, or loss" and define physical as "of or relating to the body." *Merriam-Webster's Collegiate*

Dictionary (11th ed. 2003). Thus, a "physical injury" is hurt, damage, or loss to one's body.

¶ 13 At trial, the student testified that Christenson strangled her for eight seconds. She further testified that, after that strangulation, she experienced pain when turning her neck and neck soreness that caused her difficulty while eating. These conditions lasted two days.

¶ 14 This testimony is substantial evidence that Christenson inflicted a physical injury. Christenson contends that the student did not suffer any protracted injuries; never lost consciousness; did not report any pain or discomfort immediately after the strangulation; and did not seek medical attention for her injuries. But none of these factors is a necessary component of a physical injury.

¶ 15 Indeed, the preceding section of the statute governs a different form of assault, not involving strangulation, and requires proof of "serious bodily injury," which the statute defines as "bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization." N.C. Gen. Stat. § 14-32.4(a). This statutory distinction between "serious bodily injury" and "physical injury" demonstrates that "physical injury" does not require the sort of severe or lasting injury that Christenson contends is absent in this record.

¶ 16 In sum, the student testified that she experienced pain when she moved her neck and neck soreness for two days after the strangulation and, during that time, also experienced difficulty eating. This evidence, viewed in the light most favorable to the State, is sufficient to survive a motion to dismiss and permit the jury to assess whether Christenson's actions inflicted "physical injury." We therefore find no error in the trial court's judgment.

Conclusion

¶ 17 We find no error in the trial court's judgment.

NO ERROR.

Judges DILLON and HAMPSON concur.

Report per Rule 30(e).