

**IN THE COURT OF APPEALS OF IOWA**

No. 0-671 / 09-1883  
Filed November 24, 2010

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**MAWEA RIAL KOAT,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Story County, Timothy J. Finn,  
Judge.

Mawea Koat appeals from his conviction, judgment, and sentence for  
assault causing serious injury. **CONVICTION AFFIRMED; SENTENCE  
VACATED IN PART.**

Mark C. Smith, State Appellate Defender, and Theresa R. Wilson,  
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney  
General, Stephen Holmes, County Attorney, and Brendan Greiner and Timothy  
Meals, Assistant County Attorneys, for appellee.

Considered by Vogel, P.J., and Doyle and Mansfield, JJ. Tabor, J., takes  
no part.

**DOYLE, J.**

Mawea Koat appeals his conviction, judgment, and sentence following a jury verdict finding him guilty of assault causing serious injury. He contends the district court erred in denying his motion for judgment of acquittal, and, alternatively, he argues his trial counsel was ineffective for failing to challenge the weight of the evidence when counsel requested a new trial. He also asserts the district court erred in imposing a surcharge for a violation of Iowa Code chapter 708 (2009). Upon our review, we affirm Koat's conviction and vacate the surcharge part of his sentence.

***I. Background Facts and Proceedings.***

From the evidence presented at trial, a jury could have found the following facts: Rodney Ruddick, Joe Houser, Michael Huffman, and Scott Benson shared an apartment in Ames. On July 9, 2009, they held a party at their apartment. Several neighbors attended, including defendant Mawea Koat, who lived in an apartment in the building behind Ruddick's apartment building. Benson left the party between eight and nine p.m. and went to another neighbor's apartment. Around ten p.m., Nick Coffman and Taylor Eichinger, along with several friends, arrived at the party.

Some people at the party were drinking and playing beer pong. Others, including Koat and Eichinger, were sitting on the couch listening to music. A song with racist lyrics and references to using knives, guns, and fighting was played, and Eichinger sang along.<sup>1</sup> This offended Koat, the only African-American at the party, and he began arguing with Eichinger about the song.

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<sup>1</sup> The song was *We Be Steady Mobbin* by rap artist Lil Wayne.

Koat stood up and punched Eichinger in the head. Eichinger grabbed Koat's legs, and the two fell to the floor fighting. Tyler Peterson tried to pull Eichinger away from Koat, and Coffman restrained Koat, putting him in a wrestling hold with his arms under Koat's armpit and around his neck. While Coffman restrained Koat, Eichinger hit Koat a few more times before Eichinger was pulled away. After Koat stated that he could not breathe, Ruddick told Coffman to let Koat go. Coffman hesitated but complied. Ruddick told everyone to leave the apartment, and Koat left. A couple of witnesses heard Coffman ask Koat if he wanted "to take it outside," but others told him to "drop it." Peterson left to look for Koat, and Ruddick and Huffman stayed inside to start cleaning up. Eichinger did not immediately leave the apartment; he was bleeding from a cut on his forehead and was still angry over the incident. Eichinger later received eleven stitches to close the cut on his forehead.

After Koat left the apartment, Benson spoke to Koat from a nearby apartment deck. Koat appeared upset and told Benson that he "just got jumped." Benson stated that that did not make sense, so he asked Koat to go back to Ruddick's apartment with him so Benson could figure out what happened. Benson believed Koat was following him back to the Ruddick's apartment, but Koat had stopped by his own apartment. Benson ran into Peterson on the way back to Ruddick's apartment. Koat then caught back up with Peterson and told him he had a knife. Koat did not display the knife or make any verbal threats. Peterson told Koat that it would be best for him to go home. However, Koat continued towards Ruddick's apartment, where several people were coming out of the building.

Thereafter, a brief altercation ensued and, ultimately, Koat stabbed Coffman in the chest. Witnesses provided different accounts as to what exactly happened. Coffman testified that he saw Koat come from around the corner and walk toward him. He told Koat to “get out,” and he recalled Peterson pushing Koat back and telling Koat “don’t.” Coffman testified that Koat pushed Peterson and then Koat’s fist hit him in the chest before Koat ran off. Coffman testified that he did not realize Koat had stabbed him.

Another witness testified that he saw Coffman run at Koat while Coffman “threaten[ed] to kick [Koat’s] ass,” and Coffman looked as though he was getting ready to throw a punch at Koat. Another witness testified that Coffman pushed Koat and told him to leave Eichinger alone. Another witness testified that he heard Coffman tell Koat to leave, and when Koat did not move, Coffman pushed Peterson to the side, and Koat and Coffman came together.

After he was stabbed, Coffman returned to Ruddick’s apartment and was then taken to the hospital. His left lung had partially-collapsed, allowing air and fluid into his chest cavity, creating a substantial risk of death. Doctors performed a left chest tube thoracostomy to drain the air and fluid and allow his lung to re-expand. Coffman was discharged a few days later. The stab wound left Coffman with two small scars, continuing pain, and shortness of breath.

Officers talked to Coffman about the incident at the hospital. Thereafter, a search warrant was issued to search Koat’s apartment. Officers seized from the kitchen counter a knife block that was missing two knives and a knife sharpener.

Koat’s girlfriend drove Koat to the hospital because she believed Koat was injured. On the way there, Koat ripped up his shirt to make “himself look better.”

Koat also threw a knife out the car window on the way to the hospital. Koat did not tell his girlfriend that he had stabbed anyone, but stated that he used the knife to scare people away.

At the hospital, Koat complained of pain in his head and ribs. Koat had no swelling or visible injuries, other than a small scratch on his abdomen. The emergency physician found no injuries.

Officers spoke with Koat at the hospital. Koat stated Eichinger first pushed and punched him. Koat said Coffman then put him in a choke hold. Koat stated that he got away and ran outside, and a short time later, Coffman ran at him with a knife and swung and missed. Koat told the officers that the knife fell to the ground and he picked it up and struck back. Koat stated he left the knife at the scene, but admitted later to taking both knives with him and disposing of them. Koat maintained that he acted in self-defense. Officers found a small paring knife with apparent blood on the blade on a bathroom window sill behind blind's in Koat's girlfriend's apartment. Another officer found the other knife Koat threw out the car window on the way to the hospital.

On July 20, 2009, the State filed a three-count trial information against Koat. Count I charged Koat with willful injury, based upon his actions against Coffman; count II charged Koat with going armed with intent; and count III charged Koat with assault causing bodily injury, based upon his actions against Eichinger. Koat pled not guilty and filed a notice of a self-defense defense.

A jury trial began on September 15, 2009. At the close of State's evidence, Koat moved for a judgment of acquittal on all counts. As to count I, he asserted the evidence produced by the State was insufficient to generate a jury

question or to be able to overcome the presumption beyond a reasonable doubt that Koat specifically intended to cause a serious injury to Coffman. He argued the wound Coffman suffered was defensive in nature and that there was no real evidence to the contrary. Additionally, he argued there was no evidence that a serious injury was caused. Koat further argued the State had not disproved Koat's asserted justification defense. The court found there was evidence sufficient to generate a jury question on all counts and denied Koat's motion. Koat renewed his motion for a judgment of acquittal at the close of his evidence. The court denied the motion and submitted the case to the jury.

The jury acquitted Koat on counts II and III. On count I, the jury found Koat guilty of assault causing serious injury, a lesser-included offense of willful injury, for Koat's stabbing of Coffman.

Koat appeals, contending the district court erred in denying his motion for judgment of acquittal, and, alternatively, arguing his trial counsel was ineffective for failing to challenge the weight of the evidence when counsel requested a new trial. He also asserts the district court erred in imposing a surcharge for a violation of Iowa Code chapter 708.

## ***II. Discussion.***

### ***A. Justification.***

Koat first asserts the trial court erred in denying his motion for judgment of acquittal, claiming the State failed to prove he did not act with justification. Review of a district court's ruling on a motion for judgment of acquittal is for correction of errors at law. *State v. Corsi*, 686 N.W.2d 215, 218 (Iowa 2004). We will uphold a district court's denial of a motion for judgment of acquittal if

there is substantial evidence to support the defendant's conviction. *State v. Kirchner*, 600 N.W.2d 330, 333 (Iowa Ct. App. 1999). Evidence is substantial if it would convince a rational trier of fact the defendant is guilty beyond a reasonable doubt. *Id.* We review the evidence in the light most favorable to the State, including legitimate inferences and presumptions that may fairly reasonably be deduced from the evidence in the record. *State v. Webb*, 648 N.W.2d 72, 76 (Iowa 2002).

To prove Koat guilty of assault causing serious injury, the State was required to prove:

1. On or about the 9th day of July, 2009, [Kcoat] did an act which was meant to cause pain or injury, result in physical contact which was insulting or offensive, or place Nicholas Coffman in fear of an immediate physical contact which would have been painful, injurious, insulting or offensive to Nicholas Coffman.
2. [Kcoat] had the apparent ability to do the act.
3. [Kcoat's] act caused a serious injury to Nicholas Coffman.
4. [Kcoat] did not act with justification.

See Iowa Code §§ 708.1(1), 708.2(4). "A person is justified in the use of reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any imminent use of unlawful force." *Id.* § 704.3. Once a defendant raises this defense and presents substantial evidence in support of it, the State has the burden to prove that the defendant acted without justification. *State v. Ceaser*, 585 N.W.2d 192, 193-94 (Iowa 1998), *overruled on other grounds by State v. Bruegger*, 773 N.W.2d 862, 871 (Iowa 2009). The State must prove beyond a reasonable doubt that the alleged justification did not exist. *State v. Rubino*, 602 N.W.2d 558, 565 (Iowa 1999). The State may meet its burden by proving any one of the following elements:

1. The defendant started or continued the incident which resulted in injury.
2. An alternative course of action was available to the defendant.
3. The defendant did not believe [he or] she was in imminent danger of death or injury and the use of force was not necessary to save [the defendant].
4. The defendant did not have reasonable grounds for the belief.
5. The force used by the defendant was unreasonable.

*State v. Shanahan*, 712 N.W.2d 121, 134 (Iowa 2006).

From the testimony presented at trial, a rational trier of fact could have found that Koat, after retreating to his home after the initial fight, returned armed to continue the altercation. Testimony from Coffman supports his contention that Koat rushed towards him and stabbed him without provocation. Given the evidence presented, a rational trier of fact could find sufficient evidence demonstrated Koat instigated or provoked a fight, or had the ability to retreat at any point during the altercation, but failed to do so. While the evidence was in conflict as to who instigated the second fight, we defer to the jury to sort out the facts and determine the more credible witnesses. *State v. McPhillips*, 580 N.W.2d 748, 753 (Iowa 1998) (explaining it is the jury's duty to determine what weight to give testimony). We find the court did not err in denying Koat's motion for judgment of acquittal, as sufficient evidence was presented for the jury to decide that the State proved Koat did not act with justification.

***B. Ineffective Assistance of Counsel.***

Koat alternatively argues his trial counsel was ineffective for failing to challenge the weight of the evidence when counsel requested a new trial. We review claims of ineffective assistance of counsel de novo. *State v. Bergmann*,



600 N.W.2d 311, 313 (Iowa 1999). To establish a claim of ineffective assistance of counsel, a defendant must show (1) the attorney failed to perform an essential duty and (2) prejudice resulted to the extent it denied defendant a fair trial. *State v. Carroll*, 767 N.W.2d 638, 641 (Iowa 2009). To show prejudice, a defendant must demonstrate “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *State v. Reynolds*, 746 N.W.2d 837, 845 (Iowa 2008) (citations omitted). Absent evidence to the contrary, we assume the attorney’s conduct falls within the wide range of reasonable professional assistance. *State v. Hepperle*, 530 N.W.2d 735, 739 (Iowa 1995).

A court may grant a new trial pursuant to Iowa Rule of Criminal Procedure 2.24(2)(b)(6) when “the verdict is contrary to law or evidence.” The language “contrary to . . . evidence” means “contrary to the weight of the evidence,” rather than unsupported by sufficient evidence. *State v. Ellis*, 578 N.W.2d 655, 659 (Iowa 1998). Under this standard, the district court “may weigh the evidence and consider the credibility of witnesses.” *Id.* at 658. In contrast, under a sufficiency-of-the-evidence standard, the court is required to view the evidence in a light most favorable to the State. *Id.*

Here, the jury determined that Koat assaulted Coffman causing serious injury without justification. Although there was conflicting evidence, as previously addressed, sufficient evidence was introduced to support the jury’s verdict. Furthermore, Koat’s account of the story changed numerous times, lessening his overall credibility. We conclude this record does not support that a motion for new trial would have been successful as the evidence does not “preponderate[]

heavily against the verdict.” *Id.* at 659. Therefore, Koat’s counsel was not ineffective for failing to challenge the weight of the evidence when counsel requested a new trial.

### **C. Surcharge.**

Finally, Koat claims the district court erred in imposing an illegal sentence when it ordered that he “pay a \$125 Law Enforcement Initiative surcharge.” He contends the surcharge is not authorized by law because Iowa Code section 911.3(1) does not permit imposition of the surcharge for a violation of Iowa Code chapter 708. Our review of challenges to the legality of a sentence is for correction of errors at law. *State v. Valin*, 724 N.W.2d 440, 444 (Iowa 2006); *Tindell v. State*, 629 N.W.2d 357, 359 (Iowa 2001).

In this case, the State concedes the surcharge portion of Koat’s sentence was not authorized under section 911.3(1) and states it should be vacated. See Iowa Code § 911.3(1); *Tindell*, 629 N.W.2d at 359 (noting that an “illegal” sentence is one not authorized by statute). We agree. We conclude the Law Enforcement Initiative surcharge imposed on Koat’s conviction must be vacated.

### **III. Conclusion.**

We find the court did not err in denying Koat’s motion for judgment of acquittal, as sufficient evidence was presented for the jury to decide that the State proved Koat did not act with justification. Additionally, we conclude the record in this case does not support a successful motion for new trial as the evidence does not preponderate heavily against the verdict, and therefore Koat’s counsel was not ineffective for failing to challenge the weight of the evidence when counsel requested a new trial. However, we find the Law Enforcement

Initiative surcharge imposed on Koat's conviction was not authorized under section 911.3(1), and we therefore vacate the Law Enforcement Initiative surcharge imposed on Koat's conviction.

**CONVICTION AFFIRMED; SENTENCE VACATED IN PART.**