

IN THE COURT OF APPEALS OF IOWA

No. 6-152 / 05-0537
Filed April 26, 2006

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ELTON RICHARD RENAUD,
Defendant-Appellant.

Appeal from the Iowa District Court for Davis County, Daniel P. Wilson,
Judge.

Elton Renaud appeals convictions for domestic abuse assault and child
endangerment. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Patricia Reynolds,
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Mary E. Tabor, Assistant Attorney
General, and Rick Lynch, County Attorney, for appellee-State.

Heard by Vogel, P.J., and Zimmer and Vaitheswaran, JJ.

VAITHESWARAN, J.

A jury found Elton Renaud guilty of domestic abuse assault and child endangerment resulting in bodily injury.¹ See Iowa Code §§ 236.2(2)(a) 708.1(2), 708.2A(4), 726.6(1)(B) (2003). On appeal, Renaud contends there was insufficient evidence to support the findings of guilt and the district court should have granted his motion for judgment of acquittal. He also argues trial counsel provided ineffective assistance in two respects.

I. Sufficiency of the Evidence

A. Domestic Abuse Assault. The State charged Renaud with domestic abuse assault on his wife, Colleen. The jury was instructed that, to prove this crime, the State would have to establish the following elements:

1. On or about the 16th day of July, 2004, the defendant did an act which was meant to cause pain or injury or result in physical contact which was insulting or offensive or place Colleen Renaud in fear of immediate physical contact which would have been painful, injurious, insulting or offensive to her.
2. The defendant had the apparent ability to do the act.
3. The act occurred between family or household members who resided together at the time of the incident.

Renaud admits that he struck Colleen, but contends that he was justified in doing so “because she started the incident and because he had the right to defend himself.”

When a defendant raises justification as a defense, the State is required to prove the absence of justification. *State v. Shanahan*, ___ N.W.2d ___, ___ (Iowa 2006). The jury was instructed that the State could meet its burden by establishing that “the defendant started or continued the incident which resulted

¹Judgment was entered for domestic abuse assault (enhanced), based on a prior conviction for domestic abuse assault.

in injury.” In assessing the evidence on this issue, we are obliged to view the record in a light most favorable to the State. *State v. Randall*, 555 N.W.2d 666, 671 (Iowa 1996). The jury’s verdict binds us if supported by substantial evidence. *Id.*

It is undisputed that Colleen initiated the fight. Specifically, the jury heard evidence that Colleen became upset with Renaud, took his car keys to prevent him from leaving, and pushed him. Notwithstanding this evidence, the jury could have found that Renaud continued the incident and committed an assault before any need for self-defense arose. After Colleen pushed Renaud, Renaud came towards her. By Renaud’s own admission, he “went to hit Colleen” but Colleen’s daughter got in the way and Renaud ended up striking and injuring the daughter. Colleen’s son became involved in the fight, as did Colleen. During the ensuing scuffle, Renaud struck Colleen “in the back of the head” with such force that “it felt like a rock.” This amounts to substantial evidence of an assault, without justification.

B. Child Endangerment. The jury was instructed that, to prove child endangerment, the State would have to establish the following elements:

1. On or about the 16th day of July, 2004, the defendant was the parent or person having custody or control of his stepchild, [B.B].
2. [B.B.] was under the age of 14 years.
3. The defendant intentionally committed an act, committed a series of acts, or used unreasonable force, torture or cruelty that resulted in bodily injury to [B.B.].

Renaud contends he lacked the intent to commit this crime. A jury could have concluded otherwise based on evidence that B.B. insulted Renaud, Renaud

threw a chair at her (although he testified this was an accident), and B.B. sustained an injury to the back of her ear when he punched her.

We recognize that Renaud disputed some of this evidence. However, as the Iowa Supreme Court recently reiterated, it is the jury's function to weigh the evidence and place credibility where it belongs. *Shanahan*, ___ N.W.2d at ___ .

We conclude the district court did not err in denying Renaud's motion for judgment of acquittal.

II. Ineffective Assistance of Counsel

Renaud contends his attorney should have (1) requested a jury instruction stating he was not required to leave his home and (2) objected when the prosecutor asked him if the State's witnesses were lying. He argues that these omissions amounted to ineffective assistance of counsel. We preserve these claims for postconviction relief to allow trial counsel to explain his actions. *State v. Coil*, 264 N.W.2d 293, 296 (Iowa 1978).

AFFIRMED.