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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v DIANA FRANCIS SMITH, Defendant-Appellant.	UNPUBLISHED September 08, 2026 10:31 AM No. 375063 Wayne Circuit Court LC No. 24-005198-01-FH

Before: M. J. KELLY, P.J., and O'BRIEN and LIEVENSE, JJ.

PER CURIAM.

During a verbal altercation between defendant, Diana Smith, and the complainant, Cassandra Imus, defendant sprayed Imus with bear attack deterrent Defendant was charged with assault with a dangerous weapon (felonious assault), MCL 750.82 (Count I), using a self-defense spray device, MCL 750.224d(2) (Count II), and assault and battery, MCL 750.81 (Count III), and a jury convicted her as charged. On appeal, defendant challenges her convictions, arguing the prosecution failed to disprove beyond a reasonable doubt that she acted in self-defense. For the reasons set forth in this opinion, we affirm defendant's convictions.

I. FACTUAL BACKGROUND

Imus began working as the community/property manager at Metro Commons Mobile Home Park ("Metro Commons") in Romulus on March 1, 2023. At some point, Imus also began living at Metro Commons. Defendant had lived at Metro Commons for eight years, and Imus first saw defendant in March 2023 when defendant was evicted from Metro Commons. Despite her eviction, defendant at times returned to Metro Commons and interacted with Imus.

Defendant and Imus had contentious interactions at times over the next year, including in the fall of 2023, after defendant was evicted, when defendant purportedly threatened to shoot Imus while defendant attempted to access the mobile home she had been evicted from. Defendant

testified that Imus had made false accusations against her and was trying to get ownership of her home.

Eventually, on May 29, 2024, Imus was at Metro Commons and noticed that the locks on defendant's previous mobile home had been changed even though it should have been vacant. Imus returned to her office, contacted her manager, and went back to the home with a maintenance worker. They gained entry and discovered that someone had recently been in the home. The maintenance worker boarded up the entrance. Imus was in her office when she received a phone call from the defendant's mother. During the call, Imus informed defendant's mother that Imus could not enter the home or give anyone anything from inside the home.

About two to three hours later, Imus was leaving her office and walking toward the sidewalk with a coworker, Chloe Wilson, when she noticed a red vehicle inside Metro Commons that she did not recognize. She heard someone yelling from the vehicle and thought it was someone trying to ask her a question. The driver rolled down the front driver side window, at which point Imus saw defendant and immediately told her she needed to leave Metro Commons or Imus would call the police. Imus then stepped away to call the police and to inform her regional manager about defendant's presence on the property.

Imus then began interacting with defendant again and Wilson recorded what happened next on her cell phone; the video was played for the jury and provided to this Court. In the video, Imus is standing on a sidewalk, and defendant is seated in the driver's seat of the red vehicle. Defendant is using her left hand to record the interaction on her phone as well. Imus can be heard explaining to Wilson about defendant: "She's just mad because her mom bought a new sink and they want it back to take it back to Home Depot to get the money because she's broke as f*** and living in her truck and her mama don't want her at her house." Defendant interjects, saying "come close . . . my truck and say that." As Imus steps closer to the vehicle but before she leaves the sidewalk, defendant sprays a cloud of orange mist at Imus's face while saying "shut up b****, shut up b****."

Imus described smelling a "really strong smell of hot peppers. And everything started burning. My vision completely went out. I couldn't see." Imus called the police again to inform them she had been sprayed with an orange substance and was advised to rinse it off. She immediately did so, including by getting help from the maintenance worker and running home to shower. Imus also testified that she felt burning from the spray for the next three days.

When officers arrived at the scene, they found defendant inside her vehicle. The officers noticed a smell of possible mace around the vehicle and found a "orange-ish red" liquid consistent with mace on the vehicle's interior driver side door frame. Officers located a can of bear attack deterrent spray in the rear passenger floorboard of the vehicle. One of the officers spoke to Imus, who was panicked and who had been and was still dousing herself with water, and her face and upper body were "extremely red." Police officers watched the video of the incident at the scene and arrested defendant.

The jury also heard testimony from Imus that, while she was interacting with defendant and before defendant sprayed her, she was carrying an employer-issued key chain that had a teal cylindrical "key chain container" attached to it. Imus testified that the bottom of the container

twisted off and the container was hollow on the inside and was used to carry keys, and there was no "self-defense [s]pray" on the key chain. Defendant testified that she believed the teal object to be mace and that she was afraid Imus was going to spray her with it, and that Imus was waving the mace at her before Wilson began recording. Wilson's cell phone video shows Imus's hand holding onto a lanyard, with the teal object and the rest of the key chain dangling below. In the video, Imus did not hold the teal object itself in her hand or point it toward defendant before defendant sprayed her; the teal object remained dangling from the lanyard when defendant sprayed Imus.

Defendant was charged as noted above, and the case proceeded to a jury trial in January 2025. After hearing all of the evidence, the jury was instructed on the use of nondeadly force in self-defense, M Crim JI 7.22, and the jury found the defendant guilty on all three counts. Defendant was sentenced to two years of probation, with a deferred sentence of six months' jail time if defendant failed to comply with the terms of her probation.

This appeal followed.

II. THE JURY HEARD SUFFICIENT EVIDENCE TO DISPROVE A CLAIM OF SELF-DEFENSE BEYOND A REASONABLE DOUBT

Defendant challenges the sufficiency of the evidence to support her conviction. She argues that the prosecution failed to prove beyond a reasonable doubt that defendant did not act in self-defense when she sprayed Imus with bear repellant spray. We disagree.

We review a challenge to the sufficiency of the evidence de novo. *People v Xun Wang*, 505 Mich 239, 251; 952 NW2d 334 (2020). When evaluating a claim regarding the sufficiency of the evidence, this Court reviews the evidence in a light most favorable to the prosecution to determine whether any trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt. *People v Prude*, 513 Mich 377, 385; 15 NW3d 249 (2024). It is the jury's task to weigh the evidence and decide which testimony to believe, therefore we do not interfere with the jury's determinations regarding the weight of the evidence and the credibility of the witnesses. *People v Unger*, 278 Mich App 210, 222; 749 NW2d 272 (2008). Circumstantial evidence and reasonable inferences arising therefrom may be sufficient to prove all the elements of an offense beyond a reasonable doubt. *People v Harrison*, 283 Mich App 374, 378; 768 NW2d 98 (2009).

In cases involving nondeadly force, the Self-Defense Act, MCL 780.971 *et seq*., provides in relevant part:

> An individual who has not or is not engaged in the commission of a crime at the time he or she uses force other than deadly force may use force other than deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if he or she honestly and reasonably believes that the use of that force is necessary to defend himself or herself or another individual from the imminent unlawful use of force by another individual. [MCL 780.972(2).]

Once the defendant produces some evidence from which a reasonable factfinder could find self-defense, the prosecution bears the burden of disproving the defense beyond a reasonable doubt. *People v Reese*, 491 Mich 127, 156-157; 815 NW2d 85 (2012). The focus of a nondeadly force self-defense claim is whether the defendant reasonably feared an imminent threat of unlawful force and reacted proportionately. *People v Ogilvie*, 341 Mich App 28, 44-45 989 NW2d 250 (2022). The reasonableness of a claim of self-defense, which is a determination made on the basis of the weight and credibility of evidence as well as the inferences to be drawn from the evidence, are matters for the jury to resolve. *People v Anderson*, 322 Mich App 622, 632-633; 912 NW2d 607 (2018).

At trial, the jury heard testimony from defendant, Imus, and three police officers. The testimony included accounts of what occurred leading up to and after the incident. The jury also watched a cell phone video of the incident before deliberating and reaching a guilty verdict.

While defendant claimed she honestly and reasonably believed Imus was holding mace and was about to spray her with it, the video of the incident clearly shows Imus holding her lanyard, with the teal object believed to contain mace dangling below it, alongside the rest of her keychain. Even if defendant thought Imus was carrying mace, the mere possession of a weapon by another does not mean there was insufficient evidence supporting the jury's verdict. See *People v Truong*, 218 Mich App 325, 337-338; 553 NW2d 692 (1996) (refusing to find the defendant acted in self-defense where a victim possessed a gun but had not removed it from his waistband before the defendant shot him).

Further, Imus approached defendant because defendant told her to "come close to my truck . . . . " Evidence that the defendant asked or urged the victim to come closer weighs against a claim that the defendant honestly and reasonably believed that the use of force was necessary. See *People v Allen*, ___ Mich App ___, ___; ___ NW2d ___ (2025) (Docket No. 308761); slip op at 6 (acknowledging that "the fact that defendant assertively asked the victim to meet him outside shows that there may have been no fear of imminent death or great bodily harm at that precise moment").

Defendant primarily relies on her contentious history with Imus to argue that she had an honest and reasonable fear of Imus. In support of her argument, she cites two cases where the reputation of the victim was relevant to the self-defense inquiry: *People v Cooper*, 73 Mich App 660; 252 NW2d 564 (1977); and *People v Harris*, 458 Mich. 310, 583 NW2d 680 (1998).

In *Harris*, the defendant stabbed his longtime friend to death and asserted self-defense, among other defenses. *Id.* at 312. The trial court excluded certain character evidence of the victim, including evidence of past violent acts of the victim which were not known at the time by the defendant and past violent tendencies that the defendant had been told about, but did not witness. *Id.* at 314-315. Our Supreme Court held that the trial court erred in excluding certain character evidence of the victim, and that such exclusion was not a harmless error. *Id.* at 320-321. The case was remanded for a new trial. *Id.* at 321.

In *Cooper*, the defendant was convicted of second degree murder. This Court reversed and remanded the trial court's conviction of the defendant because: (1) the jury instructions suggested that only actual necessity, rather than a reasonable but mistaken belief in necessity, would justify

self-defense, *Cooper*, 73 Mich App at 662-663; and (2) evidence of the victim's reputation for violence was erroneously excluded. *Id.* at 663-664.

But both *Harris* and *Cooper* are distinguishable. Here, the trial court did admit some evidence of the parties' prior interactions and Imus's reputation as known to defendant. Moreover, in neither *Harris* nor *Cooper* did the court reverse a jury verdict based on insufficient evidence to disprove a claim of self-defense.

As depicted in the cell phone video of the incident, defendant called Imus over to her vehicle, Imus walked closer to defendant, and defendant sprayed her. In these circumstances, where defendant could have driven away but instead suggested that Imus come closer, there is sufficient evidence for the jury to have found beyond a reasonable doubt that defendant did not honestly or reasonably believe that the use of force was necessary to defendant herself.

Affirmed.

/s/ Michael J. Kelly
/s/ Colleen A. O'Brien
/s/ Andrew J. Lievense