

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-070183
	:	TRIAL NO. 06CRB-29285
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
ANGELA GARNER,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Plaintiff-appellant, Angela Garner, appeals from a conviction for attempted assault under R.C 2903.13(A) and 2923.02(A). She asserts a single assignment of error in which she contends that the evidence was insufficient to support her conviction. Specifically, she argues that the state failed to prove the required mental state. We find no merit in her argument, and we affirm her conviction.

The record shows that Keely Mills was a registered nurse working in the critical-care unit at University Hospital in Cincinnati. While Mills was on duty, Garner came to visit her sister, Saddy Sweeten, who was critically ill. Mills was assigned to care for Sweeten, as well as several other patients. Her duties included enforcing hospital rules.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

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Mills testified that hospital regulations permitted only two family members inside a patient's room in the critical-care unit, unless medical care had been withdrawn and a patient's death was imminent. Also, family members generally could only visit during certain hours, but special accommodations had been made for Sweeten's family. The hospital allowed them to visit throughout the night as long as no more than two people were in Sweeten's room at a time.

Garner and some other family members attempted to go into Sweeten's room when two family members were already there. Mills asked them to return to the waiting room and wait for one of the other family members to come out of the room. According to Mills, Garner's "response was heated." Mills again explained the hospital regulations, and other family members who had been there along with Garner complied with her request.

Garner refused to wait. Mills stretched out her arms to prevent Garner from going down the hall. Garner then grabbed her arm and shoved her against the wall as she tried to get past Mills. When Mills lost her balance, Garner grabbed another part of her arm and shoved her against the wall again. Mills stated that, in throwing her against the wall, Garner used "a pretty significant amount of force" and that she "put her weight into it."

To stop Garner, another nurse on duty placed himself between her and Mills. Garner's family members then escorted Garner to the waiting room. The police came and arrested her a short time later. Mills testified that she had red marks on her arm where Garner had grabbed it, and that her shoulder and neck were stiff the following day from the impact with the wall.

Garner testified that she believed that Sweeten's visitors were no longer limited to two family members because she was dying. She said that as she and some other family members went back to visit her sister, Mills stepped in front of her and said that they

could not go back to the room. Then, Mills pushed her with both hands, and she stumbled back toward the wall. She claimed that she never pushed Mills or left marks on her arm.

R.C. 2903.13(A) provides that “[n]o person shall knowingly cause or attempt to cause physical harm to another[.]” Garner contends that the state failed to prove that she had acted knowingly. “A person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist.”²

In this case, Garner’s actions went beyond just pushing her way past Mills.³ She forcefully shoved Mills into the wall, not once, but twice. The force she used caused red marks on Mills’s arm and stiffness in her shoulder and neck. Physical harm means “any injury, illness or other physiological impairment, regardless of gravity or duration.”⁴

If Garner’s intent was solely to go past Mills, she could have done so without twice grabbing her arm and shoving her into a wall. A person is presumed to intend the natural, reasonable, and probable consequences of his or her actions.⁵ The trier of fact could reasonably have inferred that Garner’s acts were not merely negligent or reckless but that she was aware that her conduct would probably cause physical harm. Thus, the evidence showed that she had knowingly caused or attempted to cause physical harm to Mills.⁶

Our review of the record shows that a rational trier of fact, after viewing the evidence in a light most favorable to the prosecution, could have found that the state had

² R.C. 2901.22(B).

³ See *In re Mark M.* (Feb. 4, 2000), 6th Dist. Nos. E-99-028 and E-99-046; *State v. Kelley* (Oct. 14, 1981), 1st Dist. Nos. C-800921 and C-800923.

⁴ R.C. 2901.01(A)(3).

⁵ *State v. Johnson* (1978), 56 Ohio St.2d 35, 381 N.E.3d 637; *State v. Heard* (Aug. 13, 1999), 1st Dist. No. C-980443.

⁶ See *State v. Guidugli*, 157 Ohio App.3d 383, 2004-Ohio-2871, 811 N.E.2d 567; *State v. Weber* (Oct. 9, 1998), 6th Dist. No. H-98-005.

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proved beyond a reasonable doubt all the elements of assault under R.C. 2903.13(A). Therefore, the evidence was sufficient to convict Garner of assault⁷ and certainly the lesser offense of attempted assault.⁸ We overrule Garner's assignment of error and affirm the trial court's judgment.

A certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on February 6, 2008
per order of the Court _____
Presiding Judge

⁷ See *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492; *Guidugli*, supra.

⁸ See R.C. 2923.02(E)(1).