

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2839

September Term, 2015

KARLA YANIRA BARAHONA AYALA

v.

STATE OF MARYLAND

Krauser, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 7, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Accused of second degree assault for punching her seven-year-old daughter in the face and stomach, Karla Ayala, appellant was convicted of that offense following a bench trial, upon an agreed statement of facts, in the Circuit Court for Frederick County. Ayala raised a single issue in her principal brief: whether the evidence was sufficient to support her conviction for second degree assault because the State failed to prove that the assault was not justified as reasonable parental discipline. Upon a review of the briefs and record, we ordered the parties to file supplemental memoranda, addressing two additional issues: (1) whether the agreed statement of facts contained a significant dispute of material fact that required, for its resolution, the trial court to make credibility determinations, and (2) if so, whether that required appellant’s conviction be reversed, and her case remanded under *Taylor v. State*, 388 Md. 385 (2005). For the reasons that follow, we reverse the judgment of the circuit court and remand the case for further proceedings.

In analyzing the sufficiency of the evidence admitted at a bench trial to sustain a defendant’s convictions, we “review the case on both the law and the evidence,” but will not “set aside the judgement . . . on the evidence unless clearly erroneous.” Maryland Rule 8-131(c). “We review sufficiency of the evidence to determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *White v. State*, 217 Md. App. 709, 713 (2014) (internal quotation marks and citation omitted).

In *Taylor v. State*, 388 Md. 385, 398 (2005), the Court of Appeals held that a plea proceeding where the defendant enters a not guilty plea on an agreed statement of facts

“may not be used” if “there are material disputes of fact that hinge on credibility determinations in that circumstance.” Specifically the Court stated:

[W]here (1) material evidence is in conflict, (2) resolution of that conflict depends on a determination of the credibility of the witnesses through whom the conflicting evidence is presented, and (3) there are no factors apparent in the record that would enable a finder of fact reliably to judge the credibility of the witnesses, any determination made by the trier of fact is necessarily arbitrary and cannot stand.

Id. at 398-99 (citing *Barnes v. State*, 31 Md. App. 25, 33 (1976)). A judgment of guilt by the trial court under those circumstances is “clearly erroneous” because “there [i]s no proper way to resolve the evidentiary conflicts in order to determine ultimate facts which would be sufficient in law to sustain a verdict of guilty.” *Barnes*, 31 Md. App. at 35.

Here, the agreed statement of facts proffered by the State demonstrated that, during an interview with police, Ayala’s daughter:

[A]dvised that her mother and father had been speaking on the phone, that she had . . . told her . . . father that her mother leaves her and her . . . sister alone sometimes. She stated that her mother was angry with her. And at that time [appellant] struck her in the face, and struck her in the stomach, because [appellant] does not like when [she] tells Alexander what goes on in her home.

Moreover, the officer who interviewed Ayala’s daughter noticed swelling on the side of her face. However, the agreed upon statement of facts then continued in relevant part:

[The officers] then spoke with [appellant]. She advised that she had been on the phone with Alexander that night. She said that . . . she and [her daughter] had gotten into a fight, that [her daughter] was crying and screaming for her father. However, she stated that she did not strike [her daughter] in any way. She was asked about any slaps to the face. She stated that she does . . . slap her lightly on the lips when she speaks back to her, but that she strikes her very softly.

[When asked why her daughter accused her of punching her in the face appellant] said that she did not know. She then said that she had smacked [her daughter] on the leg in the day in question. She said that she hits [her daughter] because [her daughter] is always telling Alexander what is going on in the home, and she is always arguing with her, and she has to enforce her authority.

Here, Ayala did not specifically argue in the circuit court that her conduct was justified as reasonable parental discipline. But, when there is “some evidence” presented that would support all the elements of an affirmative defense “the burden shifts to the State to show, beyond a reasonable doubt, that the defense does not apply.” *See McMillan v. State*, 428 Md. 333, 355-56 (2010).

The agreed upon statement of facts proffered by the State contained statements by Ayala that (1) she did not hit her daughter in the face or stomach, as her daughter had claimed; (2) she had only “smacked” her daughter in the leg on the day in question; and (3) she only hits her daughter because “[her daughter] is always arguing with her, and she has to enforce her authority.” Viewed in a light most favorable to appellant, these statements, if believed, were sufficient to establish the defense of parental discipline. *See Fisher v. State*, 367 Md. 218, 275 (2001) (noting that for the parental discipline privilege to apply, the force used must be “reasonable” and “used in the exercise of domestic authority by way of punishing or disciplining the child – for or the betterment of the child or promotion of the child’s welfare” (citation omitted)). Consequently, for the trial court to convict Ayala under the agreed statement of facts, it was required to find that the State had disproven the defense of parental discipline beyond a reasonable doubt. To make such a finding, however, the court would have had to weigh the credibility of the conflicting

statements made by Ayala and her daughter as to material issues before it. Because there are no factors apparent in the record that would have enabled the trial court to reliably judge the credibility of those witnesses, its finding of guilt was “clearly erroneous.” Accordingly, we reverse Ayala’s conviction and remand the case to the circuit court for further proceedings consistent with this opinion. *See Taylor*, 388 Md. at 403.

**JUDGMENT OF THE CIRCUIT
COURT FOR FREDERICK
COUNTY REVERSED AND
REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT
WITH THIS OPINION. COSTS TO
BE PAID BY FREDERICK COUNTY.**