

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs February 17, 2016

STATE OF TENNESSEE v. JAMES PATTERSON

**Appeal from the Criminal Court for Knox County
No. 101404 Steven W. Sword, Judge**

No. E2015-01148-CCA-R3-CD-FILED-APRIL 1, 2016

The Defendant, James Patterson, was found guilty by a Knox County Criminal Court jury of attempt to commit aggravated rape, a Class B felony, and two counts of assault, Class A misdemeanors. *See* T.C.A. §§ 39-13-502 (2014) (aggravated rape), 39-12-101 (2014) (attempt), 39-13-101 (2010) (amended 2013) (assault). The trial court merged the assault convictions and sentenced the Defendant as a Range I, standard offender to concurrent terms of ten years for attempted aggravated rape and eleven months, twenty-nine days for assault, all to be served on probation. On appeal, the Defendant contends that the evidence is insufficient to support his attempted aggravated rape conviction. We affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed

ROBERT H. MONTGOMERY, JR., J., delivered the opinion of the court, in which THOMAS T. WOODALL, P.J., and ROBERT W. WEDEMEYER, J., joined.

J. Liddell Kirk (on appeal), and Scott A. Lanzon (at trial), Knoxville, Tennessee, for the appellant, James Patterson.

Herbert H. Slatery III, Attorney General and Reporter; Clarence E. Lutz, Senior Counsel; Randall E. Nichols, District Attorney General; and TaKisha Fitzgerald, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

This case relates to an assault between the Defendant and his then-girlfriend in August 2012. At the trial, the victim testified that at the time of the incident, she had known the Defendant four or five months. She said that in August 2012, she lived at various locations, including an abandoned trailer and her SUV. The victim said that on the evening of August 12, she and the Defendant talked to the Defendant's friend, Chuck Pryor, at a convenience store. She said Mr. Pryor told the Defendant that the victim and

the Defendant could stay at Mr. Pryor's apartment because the Defendant and the victim had nowhere to go. She said she worked for a cleaning service, although it paid little, at the time of the incident. She said that on August 15, she received a work-related telephone call about an additional cleaning job. The victim said that she realized she did not have sufficient gas to drive to the jobsite and that she called the Defendant to inquire about borrowing money. She said that initially the Defendant became angry and did not want to spend his "beer money" but ultimately gave her \$18 for gas. The victim said she bought gas but did not go to the jobsite because she learned her presence was not needed. She said she visited a friend instead because she did not want to go home.

The victim testified that when she arrived at Mr. Pryor's apartment, the Defendant was angry. She said the Defendant was drinking alcohol with Mr. Pryor and another man she identified as Brandon. She noted that the Defendant had been angry that morning because she refused to have sexual relations with him. She said that the Defendant told her that she was "going to f---" him while his friends were present but that she refused. The victim said that the Defendant continued drinking alcohol. She said that while she, the Defendant, and the Defendant's friends were in the living room, the Defendant yelled at her and that she left the room and walked to the bedroom. She said the Defendant followed her, continued yelling at her, grabbed her cell phone, and demanded to know who she was calling. She said the Defendant stated, "No one's going to save you," and walked to the living room with her cell phone. The victim said she also returned to the living room and began talking to Brandon.

The victim testified that the Defendant continued yelling and accused her of not going to work that day. She said that the Defendant correctly thought she obtained the job in an effort to leave the relationship and that she planned to leave the relationship as soon as possible. The victim said that because the Defendant would not stop yelling at her, she decided to go to bed. She said the Defendant told her that she was not going to sleep, that he was going to get her fired from her job, and that she was not going to work the next morning. The victim said she attempted to ignore the Defendant and looked at photographs of her children. She said that Mr. Pryor yelled from the living room for the Defendant and that the Defendant left the bedroom.

The victim testified that the Defendant eventually returned to the bedroom, that he continued yelling, and that he said, "You're going to f--- me tonight." The victim said she told the Defendant no. She said that she and the Defendant returned to the living room for a period of time, that she talked to Mr. Pryor, and that she returned to the bedroom and fell asleep. She said she woke to the Defendant's "shoving things in the door." She said she was unsure what the Defendant was doing but saw him stuffing a towel and a boot "in the doorjamb." She recalled the Defendant got on the bed and said,

“You’re going to f--- me.” She could not recall everything the Defendant said but remembered that at some point, the Defendant grabbed her throat, punched her on the left side of her head, and climbed on top of her. She said that they struggled, that she told the Defendant to stop, and that the Defendant did not stop. She said that her shirt was lifted to her throat and that the Defendant wrapped her shirt around his hand. She said that she unsuccessfully attempted to get the Defendant off her and that the Defendant inserted his penis into her vagina without her consent. She said that the Defendant “turned [her] face down to [her] throat” and made her watch during the incident and that the Defendant whispered something in her ear, but she could not determine what he said.

The victim testified that Mr. Pryor opened the bedroom door, that she was able to push the Defendant off her with her knee, and that Mr. Pryor restrained the Defendant against the wall. She said that as she dressed, the Defendant yelled, “Go ahead, f----- look[] at her. I don’t care.” She said that Mr. Pryor released the Defendant. She said that she told the Defendant she wanted to leave and that the Defendant responded, “No, no, no. You’re going to answer my question.” She said the Defendant was yelling about various things, including killing her and himself. She thought the Defendant mentioned a baby. She said that she unsuccessfully attempted to flee the bedroom and recalled the Defendant’s hitting or kicking her in the back. She said that Mr. Pryor restrained the Defendant against the wall again and that she ran out the door, got in her SUV, and drove to a friend’s house.

The victim testified that she called the police, spoke with a police officer, and was treated at a sexual assault crisis center. She recalled injuries to her head, eye, throat, and vaginal area. She said she had painful bruises in her vaginal area and a cigarette burn inflicted by the Defendant on the night of the incident, although she was unsure when the Defendant inflicted the burn. She identified photographs of her injuries, which included marks on the lower right cheek, legs, and arms and a burn on her leg. She said all of the injuries were sustained during the incident. She noted that she had never suffered the type of pain she felt in her vaginal area before the incident.

The victim testified that she wore a necklace at the time of the incident, that the necklace became tight around her neck during the incident, that the necklace broke, and that she left it behind when she ran. She said that as a result of the strangulation, her head, throat and jaw were sore. She noted her legs and vaginal area were sore, as well. Relative to the time of the trial, she said that she continued having problems with her throat, that her eye twitched, and that she had pain on the side of her face. She noted the bruises had healed.

The victim testified that after the incident, the Defendant left voicemail messages on her cell phone and that she provided the police with the audio recordings. The recordings were played for the jury. In the first recording, the Defendant said that his heart was breaking again and that he hoped there was a reason for “this.” The Defendant said, “Love you,” and ended the call.

In the second recording, the Defendant said, “I hate you.” He said that he was angry, that he hated the victim, and that he hoped the victim was “f----- dead.” The Defendant said that he was “tired of feeling this way” and that he hoped “this made [the victim] feel better.” In the third call, the Defendant said that he wanted to thank the victim for “f----- up [his] day.” In the fourth call, the Defendant discussed the victim’s ignoring his phone calls and said that the victim could return to him now or never. He said that if she chose not to return to him, she should “f----- hide” because the victim would not have a life in Knoxville. The Defendant said that he would make her life miserable and threatened to kill himself.

In the fifth recording, the Defendant asked why the victim waited until he went to sleep to leave. He said that he thought she would take him to work the next morning and demanded she call him. He cursed the victim and said his blood was on her hands. In the sixth recording, the Defendant said that the victim had abandoned him for the last time, that he had no transportation to work, and that she had lied to him for the last time. In the seventh recording, the Defendant said he appreciated the victim’s leaving him with no transportation to work and said that they had an agreement. He said that the victim was “f----- worthless.” In the eighth recording, the Defendant said he loved the victim and did not know what was wrong with him. He apologized for “going off” in his previous messages but said “f--- you” and told the victim to “stay . . . gone.” He said that he regretted his relationship with the victim and that he hated her.

In the ninth recording, the Defendant said that if the victim wanted him dead, the victim should “take charges against [him]” for manslaughter for the “death of our son.” He said that the police would have to kill him. The Defendant suggested that they not contact each other and said that he was done with the victim’s lies, accusations, use, and abuse.

The victim testified that she received text messages from the Defendant following the incident. The victim produced her cell phone and identified an August 15, 2012 and an August 16 message from Mr. Pryor’s cell phone number. She said that the messages were from the Defendant, although they were sent from Mr. Pryor’s phone. She said that she had previously sent the Defendant messages to someone else’s phone, that the words contained in the message were words the Defendant used, and that the messages were

about topics she and the Defendant had previously discussed. She said she received a message from the Defendant on August 15, at 10:53 a.m., in which he said, "I don't understand. They knew you need to make it to the next job. I don't believe they will fire you or leave you there stuck. I will sell my stamps if I must. Why do I feel I'm being lied to. I love you. I feel you're using me."

On cross-examination, the victim testified that she had four children but denied that she lost custody of them because she told the Department of Children's Services inconsistent statements. She said she and the Defendant had been involved romantically for about two months at the time of the incident. She agreed the Defendant was upset with her regarding money. She agreed she did not mention during her preliminary hearing testimony that she went to a friend's house after she learned she did not have to go to another jobsite on August 15. She also agreed she did not mention at the preliminary hearing that the Defendant wanted her to perform sexual acts in his friends' presence.

The victim testified that she did not drink alcohol on the night of the incident but that she took "benzo" medication prescribed by her physician. She denied she was intoxicated from the medication. She did not think she told the Defendant that she went to her friend's house before arriving at Mr. Pryor's apartment. She agreed she had not previously mentioned that she talked to Mr. Pryor on the night of the incident. She agreed that she told the examining nurse that the Defendant attempted to penetrate her anus but that she did not mention this on direct examination or at the preliminary hearing.

The victim testified that although she was treated at a sexual assault crisis center, she did not seek treatment at a hospital for the pain she suffered in her vaginal area or her inability to swallow solid foods. She said that she previously alleged her former husband assaulted her. She did not remember accusing a former boyfriend of domestic assault.

Knoxville Police Detective Jeff Day testified that he received a telephone call from the victim in August 2012 regarding an alleged sexual assault and that he told the victim to go to the emergency room or to the sexual assault crisis center. On cross-examination, he stated that he received the victim's call around 9:00 p.m.

Knox County Sheriff's Lieutenant Steven Patrick testified that he maintained the records related to inmate telephone calls. He identified two telephone calls placed by the Defendant on September 10, and four calls placed on September 12. The recipient telephone number was later identified as the victim's cell phone number.

Tennessee Bureau of Investigation Special Agent Kim Lowe, an expert in serology and DNA examination, testified that she analyzed vaginal swabs obtained during the victim's examination, the victim's underwear, and buccal swabs from the victim and the Defendant. She said that the vaginal swabs did not reveal the presence of semen. She said, though, that the victim's underwear showed the presence of spermatozoa and that the DNA profile matched the Defendant's DNA profile obtained from the buccal swab. She said the probability of randomly selecting an unrelated individual who had the same DNA profile exceeded the world population.

Nurse Sally Helton, an expert in sexual assault nurse examination, testified that she performed the victim's examination at the Sexual Assault Center. Nurse Helton said the victim reported that the Defendant wanted to have sex the previous night but that the victim declined. The victim reported that the Defendant had been drinking, became angry, and ripped a necklace from her neck. The victim reported that the Defendant strangled her with two hands, punched her in the head, burned her leg with a cigarette, pushed her down, kicked her legs, hit her lower abdomen, punched her in the right ear, and "thrust his penis" into her vagina.

Nurse Helton testified that when she examined the victim for injuries related to strangulation, she noted the victim's shoulders were sore. The victim reported being strangled only once for five to ten seconds. Nurse Helton said the victim reported that the Defendant said, "Die, b----. You're going to give me some f----- p----." The victim also reported that she had difficulty breathing, had a raspy and hoarse voice, had been coughing, had difficult and painful swallowing, had neck pain, had vomited twice, and had a headache. The report noted that the victim urinated on herself. The victim reported ringing in her ears and thinking she was going to die.

Nurse Helton identified photographs she took during the examination and testified that although the victim did not have significant visible injuries, half of strangulation cases did not result in visible external injuries. She noted that deep bruises were not always visible and said visible bruising varied between individuals. She noted the victim had visible bruises on the left breast, right abdomen, the elbows, right knee, and the legs. Nurse Helton identified a burn on the victim's upper thigh.

Nurse Helton testified relative to the internal examination that she found a "[p]oint five centimeter abrasion," which was tender, at the "posterior fourchette." She said the abrasion was caused by blunt force trauma and was consistent with the victim's report that a penis was thrust into her vagina. Nurse Helton said that the cervix and vaginal wall did not show any injuries, although the victim complained of pain and tenderness in the vaginal area.

On cross-examination, Nurse Helton testified that her role was to document injuries, not to determine whether an injury was caused in the manner reported by a patient. She agreed a penis was not the only object that might cause an abrasion to the vagina. Nurse Helton said that nothing in her report showed the victim said her injuries were inflicted because she would not perform sexual acts in the presence of other people. Nurse Helton agreed the victim refused laboratory analyses.

On redirect examination, Nurse Helton testified that she did not believe the victim was lying about how her injuries were inflicted. Nurse Helton said that if a patient's injuries were inconsistent with the patient's account of how the injuries were inflicted, she would note her conclusion in her report. She said that the external genitalia was red and that the injury was "fresh," or inflicted within the previous twenty-four hours. Relative to the laboratory analyses performed during the examination, Nurse Helton said the Sexual Assault Center only tested for HIV and syphilis.

Knoxville Police Detective Charlie Lee testified that on August 16, 2012, he responded to the Sexual Assault Center and spoke to the victim. He said the victim identified voicemail messages from the Defendant on her cell phone. Detective Lee noted that telephone records obtained after the Defendant's arrest showed the Defendant called the victim's cell phone. The inmate call log showed that the Defendant called the victim's cell phone nine times between September 3, 2012, and September 12, 2012.

On cross-examination, Detective Lee testified that he responded to the Sexual Assault Center during the early evening hours, although he could not recall the time. He said that based upon the time of year, he believed it was 8:00 or 9:00 p.m.

Charles Pryor testified for the defense that in August 2012, he had known the Defendant about one and one-half years and that he offered the Defendant and the victim a place to stay when Mr. Pryor talked to the Defendant around August 12. Mr. Pryor said that before the Defendant and victim began staying at his apartment, he had never met the victim. Mr. Pryor said that before the incident, he saw the Defendant and the victim argue and that their arguments were usually non-violent and involved money.

Mr. Pryor testified that on August 15, 2012, the victim and the Defendant argued about money. Mr. Pryor noted that the victim wanted gas money from the Defendant and that the argument continued into the evening hours. Mr. Pryor said that the victim was "messed up on something," although he did not smell alcohol, when she arrived at his apartment. Mr. Pryor believed the victim was intoxicated because she had slurred speech and stumbled when she walked. He said that the Defendant and the victim began arguing and that Mr. Pryor and the Defendant asked the victim to leave. Mr. Pryor said the victim

and the Defendant were yelling at each other. Mr. Pryor said the victim did not talk to him about a concern that something might happen with the Defendant.

Mr. Pryor testified that when the Defendant arrived home the day of the incident, the Defendant was tired, wanted to drink a beer, and appeared to be in a good mood. He said that after the victim arrived home, the Defendant and the victim argued and attempted to stay away from each other but that the apartment was small. Mr. Pryor said that about two hours passed, that the Defendant and the victim began arguing in their bedroom, and that Mr. Pryor heard a “thump.” Mr. Pryor said that he became concerned and that he “walked around” to learn what was happening. He thought the victim threw her shoe against the wall. Mr. Pryor told them to be quiet.

Mr. Pryor said that he did not hear anyone yell for his assistance but that the Defendant came out of the bedroom and told Mr. Pryor, “That b---- has got to go.” Mr. Pryor admitted he told the victim to gather her belongings and to leave. He said that the victim left the apartment and that he and the Defendant talked for the remainder of the evening. He noted that at one point, the Defendant had his hands on the victim’s shoulder. Mr. Pryor said that the Defendant did not shove the victim but “was just giving her encouragement” to leave the apartment. Mr. Pryor recalled the Defendant’s telling the victim to “[g]et the f--- out.” Mr. Pryor said that he became concerned the argument would become heated and that he pinned the Defendant against the wall. Mr. Pryor said that at time he pinned the Defendant against the wall, the victim was fully dressed, wearing shoes, and holding her backpack. He said he did not witness the Defendant strike the victim or commit any type of sexual assault. He noted the Defendant and the victim’s bedroom door was not barricaded.

Mr. Pryor testified that before the incident, he, the Defendant, and the victim did various things together. He recalled one occasion in which the trio were traveling in the victim’s SUV. Mr. Pryor said that the victim was driving and that while stopped at a traffic light, the victim “nodd[ed] out with a cigarette.” Mr. Pryor said he grabbed the cigarette from the victim’s hand because she burned her leg without realizing it. He said that he had no negative feelings toward the victim and that he would have intervened had he witnessed any violence the night of the incident.

On cross-examination, Mr. Pryor testified that on August 15, he returned home from work between 3:00 and 6:00 p.m. and that he and the Defendant began drinking alcohol a couple hours after Mr. Pryor arrived home. Mr. Pryor said that the Defendant brought a twelve pack of beer home and that Mr. Pryor drank one or two beers during a two-hour period. He said the victim left the apartment between 10:00 and 11:00 p.m. and that after she left, he and the Defendant each drank a couple more beers and went to bed.

Mr. Pryor testified that he did not remember calling the victim after she left the apartment but admitted he and the victim exchanged text messages later that night. He did not have the cell phone or evidence of the message exchange. Although Mr. Pryor did not recalled sending the victim a text message stating, "I'm sorry he is that. But you know me. Not so much. Right? I stopped it as quick as possible," he did not dispute sending it. Mr. Pryor identified his voice in a voicemail message played from the victim's cell phone, although the record does not reflect the content of the message. He agreed he probably sent the victim a text message stating that he loved her but said he told everyone, including the Defendant, that he loved them. Mr. Pryor said that at some point on the night of the incident, the Defendant had possession of Mr. Pryor's cell phone and probably sent the victim text messages.

Mr. Pryor testified that he did not send the victim a text message on August 17, 2012, stating, "Have a great day. Cheer up. It's pay day. Love lost but money gained, so therefore the heart isn't so strained" Mr. Pryor later said, though, that he must have sent the message. He said that he probably sent the message because of his telling the victim to leave the apartment without knowing if she had a place to live. He said he would have told the Defendant to leave the apartment that night if the Defendant had a vehicle. Mr. Pryor denied wanting a sexual relationship with the victim.

Mr. Pryor testified relative to the night of the incident that he did not recall the Defendant's pushing the victim against the wall. Mr. Pryor agreed that he became concerned the Defendant was about to strike the victim because the Defendant and the victim's argument was heated. Mr. Pryor said the Defendant was intoxicated. Mr. Pryor initially said the Defendant was not violent that night, but when confronted with his previous statement, Mr. Pryor admitted he saw the Defendant push the victim, causing her to fall on the floor. Mr. Pryor said that the Defendant's pushing the victim was "encouragement" for her to move toward the apartment door and to leave. Mr. Pryor clarified that he did not see the Defendant throw the victim on the floor and that it looked as though the victim's falling was intentional because the Defendant did not push the victim very hard.

Mr. Pryor testified that on August 17, 2012, Detective Lee came to his apartment, that Mr. Pryor was intoxicated, and that he did not recall telling Detective Lee that he heard the victim calling his name from the bedroom. Relative to the victim's burning herself with a cigarette, he could not recall when the event occurred but said the victim burned her upper leg. He did not recall his previous testimony in which he stated that he saw a red mark on the victim's arm and that he never saw any additional bruises or injuries.

On redirect examination, Mr. Pryor testified that he received text messages from the victim after the August 15, 2012 incident and that he and the victim had a good relationship. Relative to the Defendant's behavior on the night of the incident, Mr. Pryor said he saw the Defendant angry, not violent. Mr. Pryor believed that the victim's intoxication caused her to fall on the floor, that the victim knew he was in the bedroom, and that the victim wanted the fall to "look good." He denied witnessing the Defendant "rape" the victim.

On recross-examination, Mr. Pryor testified that the victim was not assaulted in his apartment, that the walls were "paper thin," and that he would have known if the victim were being assaulted. He agreed the victim left shoes at his apartment that she never returned to retrieve.

Missy Headrick, the victim's cousin, testified that she had known the victim since the victim's birth and that the victim had a reputation in the community for being "a liar." On cross-examination, Ms. Headrick stated that she last saw the victim two years previously in 2011 and that before the 2011 meeting, she had not seen the victim for five to seven years.

The victim testified on rebuttal that she was not intoxicated on the day of the incident and that she did not fall after the Defendant pushed her because she was intoxicated. She denied arguing with the Defendant in the living room and said the Defendant yelled at her. She said she went to the bedroom to avoid the Defendant. She denied communicating with Mr. Pryor following the incident and said the burn on her leg shown in the photographs occurred on the night of the incident and was inflicted by the Defendant. Relative to her reputation, the victim disputed Ms. Headrick's testimony that the victim was untruthful and said she did not know Ms. Headrick well and had only seen Ms. Headrick three times.

On cross-examination, the victim testified that Mr. Pryor's testimony was false, although her preliminary hearing testimony showed that she said she was "running out of the room and that's when [she] dove off the bed. . . . But [she] missed and . . . rolled off the side." She denied the photograph of the burn on her leg showed a healing wound and said the burn was fresh on the night of the incident.

Upon this evidence, the Defendant was convicted of two counts of assault and attempt to commit aggravated rape. The trial court merged the assault convictions and sentenced the Defendant to an effective ten years' probation. This appeal followed.

The Defendant contends that the evidence is insufficient to support his attempt to commit aggravated rape conviction. The Defendant argues based upon the jury's finding him guilty of attempt to commit aggravated rape, a lesser included offense of aggravated rape, the jury concluded that the State failed to prove unlawful sexual penetration or bodily injury. The State responds that the evidence is sufficient. We agree with the State.

In determining the sufficiency of the evidence, the standard of review is “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.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see State v. Vasques*, 221 S.W.3d 514, 521 (Tenn. 2007). The State is “afforded the strongest legitimate view of the evidence and all reasonable inferences” from that evidence. *Vasques*, 221 S.W.3d at 521. The appellate courts do not “reweigh or reevaluate the evidence,” and questions regarding “the credibility of witnesses [and] the weight and value to be given the evidence . . . are resolved by the trier of fact.” *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997); *see State v. Sheffield*, 676 S.W.2d 542, 547 (Tenn. 1984).

“A crime may be established by direct evidence, circumstantial evidence, or a combination of the two.” *State v. Hall*, 976 S.W.2d 121, 140 (Tenn. 1998); *see also State v. Sutton*, 166 S.W.3d 686, 691 (Tenn. 2005). “In the absence of direct evidence, a criminal offense may be established exclusively by circumstantial evidence.” *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011). “The standard of review ‘is the same whether the conviction is based upon direct or circumstantial evidence.’” *Id.* (quoting *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009)).

Aggravated rape, in relevant part, is “unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by . . . bodily injury to the victim[.]” T.C.A. § 39-13-502(a)(2). Sexual penetration, in relevant part, “means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body . . . into the genital or anal openings of the victim’s . . . body, but emission of semen is not required[.]” *Id.* § 39-13-501(7) (2012) (amended 2013). “‘Bodily injury’ includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty[.]” *Id.* § 39-11-106(a)(2) (Supp. 2011) (amended 2014). A defendant is guilty of criminal attempt

who acting with the kind of culpability otherwise required for the offense . . . [a]cts with intent to complete a course of action or cause a result that would constitute the offense, under the circumstances surrounding the

conduct as the person believes them to be, and the conduct constitutes a substantial step toward the commission of the offense.

Id. § 39-12-101(a)(3). A defendant’s “entire course action [must be] corroborative of the intent to commit the offense,” and completion of the offense is not a defense.” *Id.* § 39-12-101(b), (c) (2014); *see State v. Thorpe*, 463 S.W.3d 851, 863 (Tenn. 2015) (concluding that evidence that a defendant completed an offense “does not shield a defendant from a conviction for criminal attempt of the crime allegedly completed”).

In the light most favorable to the State, the record reflects that the victim and the Defendant argued on August 15, 2012 about money and that the argument continued into the evening hours after the Defendant and the victim returned to Mr. Pryor’s apartment. The argument escalated in the bedroom, where the Defendant demanded the victim engage in sexual intercourse. The victim expressed she did not want to have sexual relations with the Defendant. The victim testified that at some point, the Defendant grabbed her throat, punched her in the head, and climbed on top of her. The victim and the Defendant struggled, the victim told the Defendant to stop, and the Defendant penetrated the victim’s vagina with his penis. The victim’s report to the examining nurse at the Sexual Assault Center was generally consistent with her trial testimony. The victim reported being strangled, punched in the head, pushed, kicked, and hit. The victim had difficulty breathing and swallowing following the incident and experienced neck pain, vomiting, and headaches. Photographs of the victim’s injuries reflect bruises on the victim’s arms, legs, breast, and abdomen and a burn on her thigh. Relative to the victim’s vaginal area, the internal examination showed a “[p]oint five centimeter abrasion,” and the examining nurse concluded that the abrasion was caused by blunt force trauma and that the victim’s report that a penis was thrust into her vagina was consistent with the injuries. Further, DNA analysis revealed the presence of spermatozoa and the Defendant’s DNA on the victim’s underwear.

We conclude that a jury could have found beyond a reasonable doubt that the Defendant attempted to penetrate the victim’s vagina with his penis without her consent and caused bodily injury to the victim. The incident began with the Defendant’s demanded sexual intercourse from the victim, and when she refused, the Defendant grabbed her throat, punched her in the head, and climbed on top of her. The victim and the Defendant struggled, and the Defendant penetrated the victim’s vagina with his penis. Although the defense offered Mr. Pryor to show the Defendant did not attempt to sexually assault the victim, the verdict reflects that this proof was rejected by the jury. Further, questions regarding the credibility of witnesses and conflicts in the testimony were resolved by the jury. The evidence is sufficient, and the Defendant is not entitled to relief on this basis.

In consideration of the foregoing and the record as a whole, we affirm the judgments of the trial court.

ROBERT H. MONTGOMERY, JR., JUDGE