

2011 IL App (2d) 100133-U
No. 2-10-0133
Order filed September 26, 2011

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Kane County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 08-CF-68
)	
BRETT KRISTENSEN,)	Honorable
)	Thomas E. Mueller,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Justices Hutchinson and Burke concurred in the judgment.

ORDER

Held: The State proved defendant guilty beyond a reasonable doubt of leaving the scene of an accident involving a personal injury: the evidence showed that defendant was involved in an accident, that one of his passengers sustained a personal injury (even if it was not apparent to defendant), and that defendant left the scene without having provided reasonable assistance, in that defendant abandoned the passenger.

¶ 1 Following a bench trial in the circuit court of Kane County, defendant, Brett Kristensen, was found guilty of leaving the scene of an accident involving a personal injury (625 ILCS 5/11-401 (West 2008)) and was sentenced to an 18-month term of probation. Defendant argues that the State failed to meet its burden of proving his guilt beyond a reasonable doubt. We affirm.

¶ 2 Prior to trial, defendant pleaded guilty to a single count of driving under the influence of alcohol (DUI) (625 ILCS 5/11-501(a)(1) (West 2008)). At trial, Patricia Brown testified that on January 8, 2008, she left a St. Charles bar called Little Jim's with defendant and two of his friends, one of whom was named Andrew. Brown had known defendant for a few years. She testified that all she had to drink that night was one beer. The group first stopped at defendant's house and then left together in defendant's truck. While at his house, defendant brought some beer out to the truck. Defendant drove and Brown sat in the front passenger seat. Andrew was seated behind her. Sometime after they left defendant's house an accident occurred. Andrew helped Brown out of the truck. Meanwhile, defendant and the other passenger were leaving the scene on foot. Defendant indicated that he was going back to his house. Brown discovered that her head was bleeding and Andrew told defendant that Brown needed help. Brown asked defendant to tell her where they were so that she could arrange to have someone pick her up. Defendant did not respond. Brown and Andrew followed defendant and the other passenger, but the latter pair was a considerable distance ahead of them. Brown was drifting in and out of consciousness as they walked.

¶ 3 At one point, Brown and Andrew caught up with defendant and the other passenger and she asked again where they were. When the group resumed walking, Brown and Andrew were left behind. Eventually, Brown saw defendant and the other passenger with one or more police officers. Andrew walked ahead to join defendant, the police, and the other passenger. Brown stayed put, believing someone would come to help her. However, she heard police cars drive away and realized that defendant, Andrew, and the other passenger had left without her. She then used her cellular telephone to call 911. She was taken by ambulance to the emergency room at a nearby hospital where staples were used to close a wound to her head. On cross-examination, Brown acknowledged

that, before calling 911, she made more than one telephone call in an attempt to get a ride to the hospital.

¶ 4 Batavia police officer Eric Blowers testified that he responded to a report of a vehicle in a ditch along Main Street, east of Feece Drive. When he arrived, he observed an unattended pickup truck in the ditch on the north side of Main Street. Officer Blowers found a partially full case of beer and some empty beer cans in the truck. He also found a cellular telephone on the front passenger seat. The truck's airbags had been deployed. Officer Blowers learned that the truck was registered to defendant at an address in Batavia. Officer Blowers then had two other officers search for defendant, and anyone who might have been riding with him, in the area between the accident scene and the Batavia address. About 10 to 15 minutes later, defendant, Andrew O'Connell, and William Wilson were transported to the scene of the accident. Defendant told Officer Blowers that he had left the scene of the accident because, in Officer Blowers' words, "he made a bad decision." Defendant admitted that he had been driving the truck. A dispatcher advised Officer Blowers that a woman had called 911 and reported that she had been in a motor vehicle accident, that she was injured, and that she did not know where she was. An officer was sent to look for the woman. Officer Blowers was later advised that the woman had been located and taken to the hospital. When Officer Blowers asked defendant why he had not mentioned that there had been a fourth person in the truck, defendant responded that he was headed home because he needed to get help for her. Officer Blowers then placed defendant under arrest. Defendant later told Officer Blowers that Brown was walking and talking after the accident and that he did not notice that she was injured.

¶ 5 Batavia police officer Troy Wallace testified that he met with Officer Blowers at the accident scene. Officer Blowers advised him that the truck was registered to defendant. Officer Wallace was

personally acquainted with defendant. Officer Wallace proceeded toward defendant's address. While en route, Officer Wallace spotted defendant and two other individuals traveling on foot on Bernadette Lane. Another squad car arrived later. Defendant and his two companions were driven back to the scene of the accident. Defendant never indicated that anyone else had been traveling with them. After they arrived at the scene of the accident, Officer Wallace learned of the 911 call described above in the discussion of Officer Blowers' testimony. Officer Wallace returned to Bernadette Lane and found a woman lying on a nearby bicycle trail. Her face had cuts and scrapes and was bleeding. He testified that "[i]t was obvious that she needed medical attention." The woman appeared to be intoxicated. According to Officer Wallace, "[s]he had a strong amount of alcoholic beverage coming off her breath" and her speech was slurred.

¶6 Andrew O'Connell testified for the defense that on the evening in question he arrived at Little Jim's at about 6 p.m. or 6:30 p.m. and he left at around midnight with defendant, Wilson, and a woman named Trish. O'Connell drank 8 to 12 beers that night. Trish was at Little Jim's when O'Connell arrived. She drank six to eight beers. After the accident, Trish got out of defendant's truck unassisted. She did not indicate that she was injured or that she needed medical attention. The group headed to defendant's house on foot. Their route took them through a field, and they had to climb over two fences. Trish had no trouble doing so. While they were walking through the field, O'Connell noticed that Trish "had a little bit of blood on her" but she was not bleeding profusely. When they reached Bernadette Lane, defendant and Wilson were walking about 30 feet in front of O'Connell and Trish. A police car came along and defendant and Wilson walked over to it. O'Connell testified that, when he told Trish the police were there, "she turned around and ran back the way we had come." In O'Connell's opinion, Trish was intoxicated.

¶ 7 Wilson testified that he had at least six beers at Little Jim's, but was not intoxicated. After leaving, he dropped his car off at defendant's house and then left with defendant, O'Connell, and a woman named Trish in defendant's truck. The truck went off the road and struck a culvert. Nobody needed assistance exiting the vehicle. Trish was bleeding but did not appear to have suffered a severe injury. She had a small abrasion, and Wilson thought she must have bumped her head on the dashboard or the windshield. Trish wanted to go to defendant's house and get a ride from there. She wanted to avoid contact with law enforcement officials.

¶ 8 Defendant testified that he saw Brown at Little Jim's from the time he arrived at about 6 p.m. or 6:30 p.m. They had several beers from 9 p.m. until they left at about midnight. Defendant drove Brown and O'Connell to his house. Wilson followed in another vehicle, which he left at defendant's house. Wilson then joined the others in defendant's truck. After the accident, O'Connell asked if everyone was alright, and everybody responded affirmatively. Defendant saw a cut on Brown's head, but it appeared to be superficial. Brown did not request medical treatment. Defendant testified that they started to walk to his house to get help for Brown. Defendant had suggested that Brown could get help at a fire station near the scene of the accident but, according to defendant, "she was not interested in that." Defendant testified that they crossed a muddy field. He was walking with Wilson, and Brown was walking with O'Connell. Defendant testified that he had no idea where Brown was when he and Wilson encountered Officer Wallace. According to defendant's testimony it was raining hard and the temperature was about 45 degrees when the accident occurred.

¶ 9 The trial court concluded that Brown was intoxicated at the time of the accident and that her testimony was not credible. The trial court credited evidence that Brown wished to avoid contact with the police. However, the trial court concluded that, once defendant left the scene of the

accident, he was legally obligated to obtain care for Brown. The court further concluded that defendant did not fulfill that obligation.

¶ 10 A reviewing court will not set aside a criminal conviction unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). When reviewing a challenge to the sufficiency of the evidence, “the relevant question 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.” (Emphasis in original.) *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

¶ 11 Defendant was charged with violating section 11-401(a) of the Illinois Vehicle Code (Code) (625 ILCS 5/11-401(a) (West 2008)), which provides:

“The driver of any vehicle involved in a motor vehicle accident resulting in personal injury to or death of any person shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until the requirements of Section 11-403 have been fulfilled. Every such stop shall be made without obstructing traffic more than is necessary.”

¶ 12 For purposes of section 11-401, “personal injury” is “any injury requiring immediate professional treatment in a medical facility or doctor's office.” 625 ILCS 5/11-401 (West 2008). In this case there was evidence sufficient to prove beyond a reasonable doubt that Brown suffered an injury requiring immediate professional treatment. Officer Wallace testified that it was obvious that Brown needed medical attention. Moreover, the treatment Brown received—closure of her wound with staples—could have been administered only by a health care professional.

¶ 13 Section 11-403 of the Code provides, in pertinent part, as follows:

“The driver of any vehicle involved in a motor vehicle accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give the driver’s name, address, registration number and owner of the vehicle the driver is operating and shall upon request and if available exhibit such driver’s license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.” 625 ILCS 5/11-403 (West 2008).

¶ 14 To sustain a conviction for a violation of section 11-401(a), “the State must establish that the defendant was involved in an accident, the accident resulted in injury or death to a person, and the defendant left the scene of the accident without rendering aid or leaving the information required by section 11-403.” *People v. Villanueva*, 382 Ill. App. 3d 301, 306 (2008). A motorist who knows that an accident has occurred, but who does not stop to determine if anyone has been hurt, cannot assert as a defense that he or she was unaware that the accident resulted in an injury. *Id.* at 307; *cf. People v. Janik*, 127 Ill. 2d 390, 399 (1989) (“to support a conviction, the prosecution is required to prove that the accused had knowledge that the vehicle he was driving was involved in an accident or collision and that he left the scene of that accident, though not necessarily that defendant was aware he caused an injury or death”).

¶ 15 Defendant argues that the evidence shows that Brown did not request assistance and, indeed, actively avoided assistance that would have been available at the fire station and from police.

However, there is evidence suggesting that Brown's judgment may have been impaired as a result of alcohol consumption, and it was not necessarily reasonable to accede to her wishes. Defendant further argues that, because it was not *apparent* that Brown's injuries required immediate professional treatment, he was not required to provide reasonable assistance. Although defendant, O'Connell, and Wilson each testified that Brown's injuries appeared to be minor or superficial, the evidence shows that each had consumed a significant amount of alcohol, and it would appear that the trial court gave little weight to their testimony about the severity of Brown's injuries. While explaining its finding of guilt, the trial court remarked, "[defendant, O'Connell, and Wilson were] all drunk. They have all testified to that. So now we have lay diagnoses from drunks that she doesn't need medical attention. It doesn't hold up. It doesn't make sense." In contrast to defendant, O'Connell, and Wilson, Officer Wallace testified that it was obvious that Brown needed medical attention.

¶ 16 In any event, the requirement that the driver of a vehicle provide "reasonable assistance" to an injured person is not limited to cases where the injured person requests professional treatment or the need for professional treatment is apparent. In such cases, reasonable assistance entails a specific duty to "carry[] or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment." 625 ILCS 5/11-403 (West 2008). By the express terms of the statute, however, reasonable assistance must be given to "*any person* injured in such accident." (Emphasis added.) *Id.* Thus, even assuming, *arguendo*, that it was not apparent that Brown needed medical or surgical treatment, defendant was still obligated to provide reasonable assistance. Whether it was enough for defendant to lead Brown by foot, in the dark and rain, through fields, and over fences, to his house—where home treatment would be available—is a question we

need not reach. Defendant did not take Brown to his house. They became separated and, when defendant encountered the police, he abandoned Brown; he rode with police back to the scene of the accident without mentioning that a member of his traveling party who apparently had been drinking heavily was bleeding from the head, and was possibly lost. A rational trier of fact could find that the State proved, beyond a reasonable doubt, facts giving rise to a duty to provide reasonable assistance. A rational trier of fact could further find that the State proved beyond a reasonable doubt that defendant did not satisfy that obligation. Accordingly, the State met its burden of proof.

¶ 17 For the foregoing reasons, the judgment of the circuit court of Kane County is affirmed.

¶ 18 Affirmed.