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2011 IL App (3d) 100041-U

Order filed November 21, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF
ILLINOIS,

Plaintiff-Appellee,

v.

LONNIE PAGE,

Defendant-Appellant.

) Appeal from the Circuit Court
) of the 10th Judicial Circuit,
) Peoria County, Illinois,
)
) Appeal No. 3-10-0041
) Circuit No. 09-TR-23621
)
) Honorable
) Mark E. Gilles,
) Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Justice O'Brien concurred in the judgment.
Justice Wright dissented.

ORDER

- ¶ 1 *Held:* The evidence presented at the stipulated bench trial was sufficient for the trial court to find defendant was driving while his license was suspended or revoked.
- ¶ 2 Defendant, Lonnie Page, appeals from a stipulated bench trial where he was convicted of driving while driver's license was revoked (625 ILCS 5/6-303(a) (West 2008)). On appeal, defendant argues that the State failed to prove the *corpus delicti* of the offense because there was no evidence that defendant's license was suspended or revoked, apart from defendant's statement

to the police officer. We affirm.

¶ 3

FACTS

¶ 4 On January 25, 2009, defendant was charged with driving while driver's license was revoked (625 ILCS 5/6-303(a) (West 2008)) and operating an uninsured motor vehicle (625 ILCS 5/3-707(a) (West 2008)). On August 28, 2009, defendant filed a motion to quash the arrest and suppress evidence.

¶ 5 At the suppression hearing on September 25, 2009, defendant testified that on January 25, 2009, he was driving a vehicle with his nephew and the nephew's girlfriend in the backseat. Jennifer Heid, the owner of the vehicle, was in the passenger seat of the vehicle. As defendant was driving, he noticed a squad car approaching him. Thereafter, defendant turned down a street to drop off his nephew and girlfriend. After defendant turned down the street, the squad car made a U-turn in pursuit of the vehicle. When defendant got to the end of the street, he made a left turn, and noticed the squad car behind him.

¶ 6 Defendant pulled the vehicle over, and a police officer approached the vehicle. Defendant testified that he was not notified why he was pulled over, but the first thing the officer asked defendant was "if [he] had a license, [he] said no." Instead, defendant gave the officer his identification. The officer then asked Heid for her insurance and driver's license. Heid complied, and the officer went to his squad car. When the officer returned, defendant stated he received tickets from the officer and was told he could not drive the vehicle home, but that Heid would be allowed to drive.

¶ 7 Officer Richard Linthicum testified that on January 25, 2009, he encountered defendant when the officer approached an intersection in his squad car, and observed defendant take off at

a high rate of speed. He believed the vehicle took off in an attempt to avoid contact with the police, so he ran the license plate number. The vehicle came back with a National Crime Information Center warrant for a female, who was the registered owner of the vehicle. Officer Linthicum pursued the vehicle because of the warrant.

¶ 8 When Officer Linthicum walked up to the driver's side of the vehicle, he recalled that the passenger in the front seat said she was pregnant and that defendant was driving her to the hospital. Defendant quickly told the passenger to stop lying, and Officer Linthicum asked defendant for his driver's license and proof of insurance. Officer Linthicum testified that defendant's response was "my license is suspended." He then asked the female passenger in the front seat and the passenger in the backseat for their identification. There is contradicting testimony about whether there was one or two people in the backseat, and also which streets defendant took before he was pulled over. However, the record is clear that defendant was driving the vehicle, and was pulled over by Officer Linthicum.

¶ 9 Once Officer Linthicum gathered the identification information from all the passengers in the vehicle, he ran the information through dispatch. Dispatch informed him that the warrant on the owner of the vehicle was a nonextraditable warrant, and also that defendant had a nonextraditable warrant. In addition, Officer Linthicum stated he did not give defendant a ticket for speeding or take defendant to jail on the suspended license ticket because he had been cooperative during the stop.

¶ 10 In rebuttal, defendant testified that he was not speeding before the officer stopped the vehicle because speeding "would have put [him] in more trouble." Defendant further testified that the officer did not tell him he was speeding, but did say he was going to give him a break

and not take him to jail.

¶ 11 After hearing all arguments, the trial court denied defendant's motion to suppress. The trial court based this decision, in part, on the credibility of Officer Linthicum's testimony. The trial court further stated that when Officer Linthicum asked defendant for his driver's license, defendant's answer revealed that he was driving without a driver's license because he told the officer his license was suspended.

¶ 12 Following a recess, the trial court stated the charges against defendant, and the parties agreed to a stipulated bench trial. The parties further agreed to use the evidence presented at the suppression hearing as the stipulated set of facts for the bench trial. Upon such evidence, the trial court found defendant guilty of both charges; however, the court and the parties agreed to drop the charge for driving an uninsured vehicle if defendant presented his insurance card at sentencing.

¶ 13 At the sentencing hearing on December 4, 2009, the court heard and denied defendant's motion for a new trial. Thereafter, the trial court sentenced defendant to one year of conditional discharge and 300 hours of public service work for driving while his driver's license was revoked. Defendant appeals.

¶ 14 ANALYSIS

¶ 15 On appeal, defendant alleges that the State failed to prove the *corpus delicti* of driving while driver's license is revoked because there was no evidence that defendant's license was suspended or revoked, apart from defendant's statement to the police officer.

¶ 16 To sustain a charge for driving while license is revoked, the State must prove that: (1) defendant drove a motor vehicle on any highway of Illinois; and (2) defendant's driver's license

was suspended or revoked at the time he was driving. 625 ILCS 5/6-303(a) (West 2008). When a defendant challenges the sufficiency of the evidence, a reviewing court must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the elements of the crime beyond a reasonable doubt. *People v. Collins*, 214 Ill. 2d 206 (2005).

¶ 17 In the instant case, defendant asserts that the State failed to prove he was driving while his license was suspended because the State relied solely on defendant's statement to the police officer to show defendant committed the *corpus delicti* of the offense. The *corpus delicti* is the body of the offense and must be proven in order to find defendant guilty beyond a reasonable doubt. *People v. Bell*, 233 Ill. App. 3d 40 (1992); *People v. Lambert*, 104 Ill. 2d 375 (1984). In cases where a defendant's statement is part of the proof of the *corpus delicti*, the State may not rest exclusively on defendant's extrajudicial statement. *People v. Furby*, 138 Ill. 2d 434 (1990). Rather, the State must present independent evidence that tends to show the commission of the offense and is corroborative of the facts in defendant's statement. *Id.* Such independent evidence need not prove commission of the offense beyond a reasonable doubt; rather, it need only tend to inspire belief in defendant's statement that the offense occurred. *Id.*

¶ 18 In the instant case, defendant is incorrect when he claims the State failed to prove the *corpus delicti* of the offense through independent evidence. See *Furby*, 138 Ill. 2d 434 (holding it is not necessary that the independent evidence disproves every possible alternative or that every detail corresponds to the statement made by defendant). The stipulated evidence at the bench trial established that when Officer Linthicum asked defendant if he had a driver's license, defendant said "my license is suspended." While an extrajudicial confession alone is insufficient

to prove the *corpus delicti*, corroborating evidence need only consist of facts tending to confirm the truth of the confession. *People v. Jendrzejak*, 98 Ill. App. 2d 313 (1968). The reason corroborative evidence is needed is due to the inherent mistrust of extrajudicial confessions due to the existence of coerced confessions through police interrogation and persons with mental health problems confessing to crimes that they did not commit. *Furby*, 138 Ill. 2d 434.

¶ 19 It is not evident from the record that defendant was either coerced into making an admission or suffered from a psychological problem which contributed to him telling the officer his license was revoked. Instead, defendant directly testified in court to telling the officer that he did not have a license, and instead gave the officer his identification. See *People v. Manske*, 399 Ill. 176 (1948) (holding that defendant's direct testimony on the witness stand is proof of facts used to establish the *corpus delicti*). Furthermore, defendant never denied telling the officer that his license was revoked. Compare *Jendrzejak*, 98 Ill. App. 2d 313 (finding that the *corpus delicti* of driving under the influence (DUI) was proven because, in part, defendant never denied on the stand to telling the officer that he was driving the car; furthermore, the trial court did not find defendant and his wife credible on the stand), and *People v. Jefferson*, 1 Ill. App. 3d 484 (1971) (finding that the *corpus delicti* of DUI was not proven where defendant denied on the stand to telling the officer that he was driving; furthermore, the officer's testimony was weakened on cross-examination and the trial court found defendant's testimony credible). Additional evidence that tends to inspire truth in defendant's admission that his license was revoked is that after Officer Linthicum processed the information through dispatch, he told defendant he could not drive home. See *Jendrzejak*, 98 Ill. App. 2d 313. Moreover, even though defendant's testimony at trial denied he was speeding, his reasoning for not speeding was that it

"would have put [him] in more trouble."

¶ 20 While this evidence is not sufficient by itself to prove the offense beyond a reasonable doubt, such evidence need only tend to show the commission of the offense and corroborate the facts of defendant's statement. See *Furby*, 138 Ill. 2d 434. The record on appeal contains a partial driving abstract from the Illinois Secretary of State showing defendant's license revoked for DUI at the time in question. The State argues that this also helps establish the *corpus delicti*. Defendant correctly argues that the abstract was never offered into evidence in the trial court. We must note that had the State admitted the Illinois Secretary of State's driving abstract into evidence, we would not be addressing whether the evidence presented at trial was sufficient to prove the *corpus delicti*. Everything the dissent says about the ease with which the abstract could have been placed into evidence is correct. We, too, are perplexed as to why it was not offered into evidence. However, this argument misses the mark. The issue before us is not whether proof positive was readily available; it is whether defendant's out-of-court confession was corroborated by other evidence sufficient to inspire belief that defendant was not convicted of an offense he did not commit. However, despite the failure to admit this document into evidence, the stipulated evidence tends to inspire truth in defendant's admission that he was driving while his license was suspended or revoked. See *Jendrzewak*, 98 Ill. App. 2d 313. Therefore, we conclude that defendant's statement to the police officer considered together with the corroborating evidence, viewed in the light most favorable to the State, was sufficient for a rational trier of fact to find that defendant was driving while his license was suspended or revoked.

¶ 21

CONCLUSION

¶ 22 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 23 Affirmed.

¶ 24 JUSTICE WRIGHT, dissenting:

¶ 25 As the majority observes, the State may not rest exclusively on a defendant's statement to prove the offense charged. *People v. Furby*, 138 Ill. 2d 434 (1990). Rather, the State must present independent evidence that tends to show the commission of the offense and is corroborative of the facts in defendant's statement. *Id.* However, unlike the majority, I do not find any independent evidence in this record which supports defendant's conviction other than the uncorroborated statement of this defendant to the officer that his license was suspended. Therefore, I respectfully dissent.

¶ 26 Our lawmakers have made it very easy for the State to electronically obtain and then introduce independent evidence concerning the status of any person's driver's license. Section 2-123(g)6 of the Illinois Motor Vehicle Code provides as follows:

"Any certified abstract issued by the Secretary of State or transmitted electronically by the Secretary of State pursuant to this Section, to a court or on request of a law enforcement agency, for the record of a named person as to the status of the person's driver's license shall be prima facie evidence of the facts therein stated and if the name appearing in such abstract is the same as that of a person named in an information or warrant, such abstract shall be prima facie evidence that the person named in such information

or warrant is the same person as the person named in such abstract and shall be admissible for any prosecution under this Code and be admitted as proof of any prior conviction or proof of records, notices, or orders recorded on individual driving records maintained by the Secretary of State." 625 ILCS 5/2-123(g)6 (West 2008).

¶ 27 In this case, the independent evidence necessary to support this conviction was literally an electronic click away from the prosecutor's hands. With very little effort, the prosecutor could have corroborated defendant's admission for the court's consideration. The prosecutor did not, and the case law does not allow us to ignore this inexplicable omission.

¶ 28 For these reasons, I respectfully dissent.