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No. 3--09--0600

Order filed February 17, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the Ninth Judicial Circuit Fulton County, Illinois
Plaintiff-Appellee,)	
v.)	No. 08--CF--251
ROBERT W. SCHNARR,)	Honorable Edward R. Danner,
Defendant-Appellant.)	Judge Presiding

JUSTICE LYTTON delivered the judgment of the court.
Presiding Justice Carter and Justice McDade concurred in the judgment.

ORDER

Held: (1) Information sufficiently stated a cause of action for reckless driving where it alleged that defendant knowingly operated his vehicle in a manner that caused it to strike another vehicle; (2) Evidence was sufficient to support a reckless driving conviction where two eyewitnesses testified that defendant purposely blocked a vehicle in a parking spot and then struck the vehicle when it attempted to exit.

Defendant, Robert W. Schnarr, was charged with two counts of

aggravated battery (720 ILCS 5/12--4(b)(8) (West 2008)) and one count of reckless driving (625 ILCS 5/11--503(a)(1) (West 2008)). A jury found him not guilty of aggravated battery but guilty of reckless driving. The trial court sentenced him to 30 days in jail. On appeal, defendant argues that his reckless driving conviction should be reversed because (1) the information charging him was deficient, and (2) the evidence does not support the conviction.

Defendant was charged by information with aggravated battery against Crystal Vigna and Kristy Hanson for causing his vehicle to strike a vehicle driven by Vigna and occupied by Hanson on December 28, 2008. Defendant was also charged with reckless driving. The information alleged:

"That on or about the 28th day of December 2008 *** Robert W. Schnarr *** drove his vehicle *** with a willful and wanton disregard for the safety of property in that said defendant, while operating said vehicle on East Main Street, in Cuba, Fulton County, Illinois knowingly operated said Ford Motor Vehicle in a manner which caused it to strike a 2008 Chevrolet Motor Vehicle."

Defendant's jury trial took place on May 19 and 20, 2009. Don Howard, a Cuba police officer, testified that he received a

call on December 28, 2008, at approximately 1:25 a.m., that there had been a motor vehicle accident on the corner of Main and Fourth Streets. When he arrived at the scene, he saw two vehicles, a Chevrolet and a Ford, facing each other in the eastbound lane of Main Street. Defendant was the driver of the Ford, and Debra Ridgeway was a passenger in that vehicle. Vigna was the driver of the Chevrolet, with Hanson as her passenger.

When Howard asked defendant what happened, he said he was traveling east on Main Street, the other vehicle was traveling north on Fourth Street, ran a stop sign and the vehicles hit each other.

When Howard processed the scene, he found debris indicating that contact between the vehicles was first made with the front passenger side of defendant's vehicle and Vigna's rear taillight. After he made his observations, he arrested defendant for reckless driving and took him to the Cuba Police Department.

At the police department, defendant told Howard that he wanted to tell him what really happened. Defendant said both he and Vigna were traveling east on Main Street and then collided. Vigna's car spun around facing his and then was sliding toward the telephone pole on the corner of Fourth and Main, so he pushed it down the road to keep it from hitting the telephone pole.

Vigna testified that she and Hanson went to Pottsie's, a bar

located at the intersection of Third and Main Streets, just after 11:00 p.m. on December 27, 2008. While she was there, her sister, Carissa Schnarr, became belligerent with her and was asked to leave. Vigna left Pottsie's at about 1:15 a.m. on December 28, 2008, with Hanson and Darrin Kamman. When she was walking across the street to her car, she heard an engine revving and saw that the noise was coming from defendant's vehicle.

Vigna and Hanson got in Vigna's car, which was parked across the street from Pottsie's, facing east on Main Street. Before pulling out of her parking space, she looked in her mirrors and did not see anything. As she took her foot off the brake, defendant "zoomed up next to [her]." Two times Vigna took her foot off the brake and edged forward a little bit. Each time she did that, defendant edged forward as well. The third time, she edged further, and defendant stayed where he was, so Vigna decided to pull out and leave. When she did that, defendant hit her rear bumper on the left side. Her car spun sideways and then defendant's vehicle pushed her vehicle down the road for at least 150 feet. When her vehicle came to a rest, it was facing the opposite direction.

Kristy Hanson testified that her husband is a Cuba police officer. She went to Pottsie's with Vigna on December 27, 2008, and left with Vigna and Kamman on December 28, 2008. As she

crossed the street to go to Vigna's car, she heard an engine revving. She saw it was coming from defendant's vehicle. Hanson and Vigna then got into Vigna's vehicle. Vigna started her vehicle and looked around. She did not see anyone, so she pulled out. As she did, defendant's car came up right next to them. She saw defendant and Deb Ridgeway in defendant's vehicle glaring at them.

Vigna pulled her vehicle up a foot or two, and defendant moved his vehicle right next to it. Vigna pulled forward again, and defendant did too. The third time Vigna pulled forward, she proceeded to completely pull out of her parking spot. Defendant's vehicle then hit Vigna's vehicle and pushed it down the road. Vigna's vehicle spun completely around and ended up facing the opposite direction about half a block from where it started.

Darrin Kamman testified that he left Pottsie's with Vigna and Hanson during the early morning hours of December 28, 2008. As he walked to his truck, he heard a vehicle rev its engine. He did not know where the revving noise was coming from.

John Martin testified that he was walking home from Pottsie's with Carissa Schnarr when he heard a noise. When he turned and looked, he saw defendant's car traveling in the eastbound lane of Main Street and Vigna's car on the right side

of defendant's, not completely in a lane. Vigna's car was a few inches ahead of defendant's vehicle.

Debra Ridgeway left Pottsie's around 1:00 a.m. on December 28, 2008. When she left, she saw defendant's vehicle parked on Main Street. She knocked on his window and asked him to let her in. She got in defendant's vehicle and sat in the passenger seat. Defendant left his parking spot and drove east on Main so that he could pick up his wife, who was walking. As they drove, Vigna's vehicle came from the right and collided with them. According to Ridgeway, Officer Howard screamed and cursed at her in his vehicle for "a good hour" following the collision. He accused her of lying and threatened to take her to jail.

Vicky Delong was sitting in her vehicle in front of Pottsie's at approximately 1:15 a.m. on December 28, 2008. She saw defendant pull out of his parking spot and drive east in the driving lane on Main Street. She saw Vigna's vehicle moving east on Main Street in the parking lane. When she looked away, she heard a crash. When she turned to look, she saw the two vehicles together at the corner of Fourth Street. She never talked to the police about what she saw.

Defendant testified that he went to Pottsie's at 12:58 a.m. on December 28, 2008, to give his wife a ride home. He parked on Main Street. After a few minutes, he saw his wife and several of

her friends, including Ridgeway and Martin. Defendant rolled down his window to hear what they were saying. He heard Martin suggest that Carissa go for a walk with him to cool down. Ridgeway then knocked on his passenger window. He let her in and told her that he was going to pick up Carissa one block away.

He pulled out into the eastbound lane of traffic on Main Street. As he was driving, he saw Vigna's vehicle to his right still parked in a parking space. He then heard a loud noise, like a motor revving at full throttle. A few seconds later, a car struck the front right passenger side of his car. The other vehicle then spun completely around so that the front of it was facing the front of his vehicle. He saw Vigna and another woman in the other vehicle.

He called 9-1-1. Within about five minutes, Officer Howard arrived. He told Howard that Vigna sideswiped him. Howard called him a "f***ing liar." Howard asked Ridgeway to get out of the car, and he took her to his police car. Defendant could hear Howard yelling at Ridgeway, calling her a liar, using profanity and threatening to take her to jail.

Defendant refused to speak to Howard at the scene. Defendant was then arrested and taken to the Cuba police department. At the police department, defendant still refused to speak to Howard.

At trial, defendant denied driving his vehicle into Vigna's and denied pushing Vigna's vehicle with his vehicle. He said that Vigna sideswiped him.

The jury found defendant not guilty of both counts of aggravated battery but found him guilty of reckless driving. The trial court sentenced him to 30 days in jail. Defendant filed a posttrial motion, asking the court to overturn his conviction. The trial court denied the motion.

ANALYSIS

I. Sufficiency of Information

A charging instrument must set forth "the nature and elements of the offense charged." 725 ILCS 5/111--3(a)(3) (West 2008). The purposes of this requirement are to enable the defendant to fully prepare for his defense and to bar a subsequent prosecution for the same offense. *People v. Griffin*, 36 Ill. 2d 430, 432 (1967).

Section 503(a) of the Illinois Vehicle Code (625 ILCS 5/11--503(a) (West 2008)) sets forth what constitutes reckless driving. It provides: "A person commits reckless driving if he or she (1) drives any vehicle with a willful or wanton disregard for the safety of persons or property." 625 ILCS 5/11--503(a)(1) (West 2008).

Section 503 does not state what act or acts constitute the

driving of a vehicle with willful or wanton disregard for the safety of persons or property. *People v. Green*, 368 Ill. 242, 254 (1938). Reckless driving might include a multitude of different acts: driving while intoxicated, running through a stoplight, driving at an excessive speed, driving without brakes, lights or a horn, driving on the wrong side of the road or on the sidewalk, or without keeping proper lookout for children, "or any one of dozens of things which might constitute willful and wanton disregard for the safety of persons or property." *Id.* at 254-55. Therefore, a reckless driving complaint must specifically describe the act or acts constituting reckless driving. *Id.* at 253. "Unless a defendant is advised of the particular acts relied upon to sustain a charge of reckless driving, he is not advised of the 'nature and elements' of the offense, and he is not afforded the full protection against double jeopardy contemplated by the constitution." *Griffin*, 36 Ill. 2d at 433.

A complaint that is cast in the language of the statute and does not allege specific acts of recklessness is insufficient and should be dismissed. See *Griffin*, 36 Ill. 2d at 431 (defendant "did on Main Street in Mason City, Illinois drive his vehicle with a willful and wanton disregard for the safety of persons or property"); *Green*, 368 Ill. at 252 (defendant "did then and there drive a vehicle *** within the corporate limits of the city of

Chicago aforesaid, with a willful and wanton disregard for the safety of persons or property."); *People v. Larson*, 296 Ill. App. 3d 647, 648-49 (1998) (defendant "operated a car *** upon Hyacinth Terrace *** with willful and wanton disregard for the life, limb and safety of the public"); *People v. Podhrasky*, 197 Ill. App. 3d 349, 351-52 (1990) ("defendant drove a 1977 Ford *** on Lebanon Ave. *** with a wanton disregard for the safety of persons or property.").

Where a complaint designates the precise reckless conduct, it is sufficient to support a charge of reckless driving. See *People v. Pena*, 170 Ill. App. 3d 347, 353 (1988) (defendant "drove 95 miles per hour weaving through traffic"); *People v. Stropoli*, 146 Ill. App. 3d 667, 670 (1986) (defendant "drove his vehicle *** at a high rate of speed[,] drove the vehicle in reverse at a high rate of speed, squealing the tires, and then drove forward at a high rate of speed *** in wrong lane"); *People v. Adolphson*, 73 Ill. App. 3d 611, 612 (1979) (defendant's vehicle "left the roadway and hit a steel post"); *People v. Burch*, 19 Ill. App. 3d 360, 363 (1974) (defendant "passed three cars in a reckless manner while on a residential two-lane highway with oncoming traffic present"); *People v. Parr*, 130 Ill. App. 2d 212, 219 (1970) (defendant drove at a high rate of speed and spun his wheels).

Here, the information charging defendant with reckless driving recited the language of the statute, stating that defendant "drove his vehicle *** with a willful and wanton disregard for the safety of property." However, the information went on to allege specific conduct by defendant: knowingly operating his vehicle in a manner that caused it to strike another vehicle.

The descriptive language in defendant's information is similar to the descriptive language contained in the defendant's complaint in *Adolphson*, which stated that the defendant's vehicle "left the roadway and hit a steel post." *Adolphson*, 73 Ill. App. 3d at 612. This court found the description in the complaint in *Adolphson* to be "a sufficiently precise designation of the act which may have constituted the offense of reckless driving." *Id.* at 614. Likewise, in this case, we find that the information alleging that defendant knowingly operated his vehicle in a manner that caused it to strike Vigna's vehicle adequately informed defendant of the specific conduct with which he was charged.

II. Sufficiency of Evidence

The credibility of the witnesses, the weight to be given testimony and the inferences to be drawn from the testimony are matters within the province of the jury. *People v. Tuell*, 97

Ill. App. 3d 849, 852 (1981). A jury's verdict will not be disturbed unless the evidence is so unreasonable, improbable or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. *Stropoli*, 146 Ill. App. 3d at 672.

To sustain a conviction for reckless driving, the State must show either willful or wanton conduct by the defendant. *People v. Hasprey*, 194 Ill. 2d 84, 86 (2000). Willful is synonymous with knowing and intentional. See 720 ILCS 5/4--5 (West 2008); *Parr*, 130 Ill. App. 2d at 221. It is for the trier of fact to determine whether the allegations and evidence constitute willful and wanton misconduct by the defendant. *Tuell*, 97 Ill. App. 3d at 852. A conviction of reckless driving may be based solely on the testimony of a single witness. *Id.*

Here, the testimony at trial was conflicting. Vigna and Hanson both testified that defendant pulled his vehicle next to Vigna's so that Vigan could not pull out of her parking space and then when she did, defendant intentionally struck Vigna's vehicle with his own and then pushed Vigna's vehicle for many feet. On the other hand, defendant and Ridgeway both testified that defendant was driving down the road when Vigna's vehicle came out of nowhere and sideswiped defendant's. Howard's observations supported Vigna and Hanson's version of events.

It was the province of the jury to weigh the evidence and

determine the credibility of the witnesses. See *Tuell*, 97 Ill. App. 3d 849, 852. The jury obviously believed Vigna and Hanson's testimony that defendant purposefully struck Vigna's vehicle with his own. Evidence that a defendant intentionally collided with another vehicle is sufficient to support a reckless driving conviction. See *People v. Riddle*, 14 Ill. App. 2d 261 (1957). We affirm defendant's conviction.

CONCLUSION

The judgment of the circuit court of Fulton County is affirmed.

Affirmed.