

2012 IL App (2d) 101199-U
No. 2-10-1199
Order filed May 23, 2012

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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 Winnebago County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 10-CF-908
)	
JOHN H. SMITH,)	Honorable
)	Gary V. Pumilia,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE BOWMAN delivered the judgment of the court.
Justices Schostok and Hudson concurred in the judgment.

ORDER

Held: Where there was sufficient evidence that the damaged property was supported by State funds - an essential element of the offense of criminal damage to property - the trial court properly denied defendant's motion for a directed verdict. For the same reason, there was sufficient evidence of defendant's guilt beyond a reasonable doubt, and his conviction was affirmed.

¶ 1 Following a jury trial, defendant, John H. Smith, was convicted of criminal damage to government supported property (720 ILCS 5/21-4(1)(a) (West 2010)) and sentenced to two years' probation and 180 days in jail. He was also ordered to pay restitution of \$142, plus fines and court costs. Defendant appeals, arguing that the State failed to prove an essential element of the offense;

namely, that the damaged property was supported in part with State funds. As a result, defendant argues that the trial court erred by denying his motion for a directed verdict and that there was insufficient evidence to convict him of the offense. We affirm.

¶ 2

I. BACKGROUND

¶ 3 On April 21, 2010, a grand jury indicted defendant on one count of criminal damage to government supported property and one count of domestic battery. The criminal damage count alleged that defendant knowingly damaged, without consent, a Rockford Police Department squad car, located at 4342 Sunbury Drive (defendant's residence) in Rockford, "which property is supported in part with State of Illinois funds," causing damage less than \$500. The domestic battery count, which alleged that defendant made contact of an insulting or provoking nature with a family member, was dismissed.

¶ 4 A trial ensued on the criminal damage count, and the following evidence was adduced. Rockford Police Officer Dan Basile had worked for the police department for 10 years. On March 23, 2010, he responded to a call at defendant's residence in Rockford around 2 a.m. As a result of the incident, Officer Basile arrested defendant, handcuffed him, and placed him in the back of his squad car. Defendant, who was intoxicated, was angry at being arrested. As Officer Basile completed paperwork in the squad car, defendant's wife motioned for Officer Basile to exit the car so that she could talk to him. Upon doing so, defendant used his head to bang on the rear driver's side window of the squad car to the point where the window and the rubber portion of the frame came out of the track. Officer Basile identified two photos of the damage.

¶ 5 When asked if the Rockford Police Department was funded in part by State funds, Officer Basile answered yes, and he testified that his squad car was the property of the Rockford Police

Department. On cross-examination, defense counsel asked Officer Basile how much of the Rockford Police Department property was supported by State funds, and he responded that he did not know. When asked the basis for his opinion regarding State funds, Officer Basile said that he knew that the squad cars were funded by State funds; it was “just common knowledge *** where we get our squad cars from.” Officer Basile said that this information was told to him by his commander or supervisor. At this point, defense counsel objected on the basis of hearsay, and the trial court overruled the objection. Officer Basile admitted that he assumed that this information was correct; he never did any independent research on the subject.

¶ 6 Officer Robert Trout, who had been with the police department for five years, also responded to the scene and testified consistently with Officer Basile. Officer Trout’s squad car was the property of the Rockford Police Department. When asked if he knew whether State funds were used to fund in part the Rockford Police Department, Officer Trout said yes. On cross-examination, defense counsel inquired as to the source of Officer’s Trout’s information regarding State funding. Officer Trout testified that it was “[j]ust general knowledge”; “[j]ust [his] experience.” When asked about the amount of State funds used to fund the department, he admitted that he did not know the amount. On redirect, Officer Trout explained that he knew that “some” funds come from State funds, but he did not know the exact amount.

¶ 7 Jerry Hacker had been a senior auto technician for the City of Rockford for 26 years, and his duties included repairing damaged police cars and routine maintenance. Hacker repaired the window that had been pushed out of Officer Basile’s squad car. The cost of the repair was \$142.50

¶ 8 The State rested, and defendant moved for a directed verdict. Defense counsel argued, among other things, that the State had failed to show that the damaged property was supported in part

with State funds. According to defense counsel, there was no basis for the officers' opinions that the squad car was supported with State funds. The State countered that the officers testified that the damaged squad car was property of the Rockford Police Department, which was funded in part by State funds. With respect to Officer Basile in particular, the State pointed out that his supervisor had communicated that information to him before, and that it was general knowledge of the Rockford Police Department. The trial court found defendant's argument "interesting" but denied the motion because it went to the weight of the evidence, and there was sufficient evidence of that element to submit it to the jury.

¶ 9 Defendant, the only defense witness, testified next. After he was handcuffed, he tried to get the officers' attention because the handcuffs were too tight on his wrists. As a result, he raised his leg up and used his feet to hit the window or the door of the squad car to get their attention. Defendant did not intend to damage the car, and he never beat his head against the window.

¶ 10 Defense counsel then renewed his motion for a directed verdict, which the trial court denied. The jury found defendant guilty of criminal damage to government supported property. Defendant moved for a new trial, and this motion was also denied. Defendant was sentenced to two years' probation and 180 days in jail, plus restitution, fines, and costs. Defendant timely appealed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, defendant argues that there was no competent evidence that he damaged property supported with State funds. Defendant frames this argument in the context of the trial court's denial of his motion for a directed verdict and also in the context that there was insufficient evidence to prove him guilty of the offense beyond a reasonable doubt.

¶ 13 Section 115-4(k) of the Code of Criminal Procedure of 1963 provides:

“When, at the close of the State’s evidence or at the close of all of the evidence, the evidence is insufficient to support a finding or verdict of guilty the court may and on motion of the defendant shall make a finding or direct the jury to return a verdict of not guilty, enter a judgment of acquittal and discharge the defendant.” 725 ILCS 5/115-4(k) (West 2010).

A motion for a directed verdict asserts only that as a matter of law, the evidence is insufficient to support a finding or verdict of guilty. *People v. Cazacu*, 373 Ill. App. 3d 465, 473 (2007). The motion requires the trial court to determine only whether a reasonable mind could fairly conclude the guilt of the accused beyond a reasonable doubt, considering the evidence most strongly in the State’s favor. *Id.* The defendant, when moving for a directed verdict, admits the truth of the facts stated in the State’s evidence for purposes of the motion. *Id.* Because the court’s ruling on a motion for a directed verdict presents a question of law, our review is *de novo*. *Id.*

¶ 14 Conversely, when reviewing a challenge to the sufficiency of the evidence, we consider whether, viewing the evidence in the light most favorable to the State, any reasonable trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *People v. Amigon*, 239 Ill. 2d 71, 77 (2010). The critical inquiry is whether the record evidence could reasonably support a guilty finding, regardless of whether the evidence is direct or circumstantial, and whether the trial was by bench or by jury. *People v. Lissade*, 403 Ill. App. 3d 609, 612 (2010). Because the trier of fact is best positioned to judge the credibility of the witnesses and resolve disputes in the evidence, its decision is entitled to great deference. *Id.* We will reverse the defendant’s conviction only where the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant’s guilt. *Id.*

¶ 15 The offense of criminal damage to government supported property occurs when a person “[k]nowingly damages any property supported in whole or in part with State funds, funds of a unit of local government or school district, or Federal funds administered or granted through State agencies.” 720 ILCS 5/21-4(1)(a) (West 2010). The State is required to prove each and every element of the crime charged beyond a reasonable doubt (*People v. Phillips*, 215 Ill. 2d 554, 574 (2005)), and proof that damaged property is supported by State funds is not a technical point, but rather an essential element of the offense of damage to State-supported property (*People v. Henderson*, 223 Ill. App. 3d 131, 134 (1991); *People v. Bartlett*, 175 Ill. App. 3d 686, 691 (1988)). Still, a conviction can be sustained upon circumstantial evidence as well as upon direct, and to prove guilt beyond a reasonable doubt does not mean that the jury must disregard the inferences that flow normally from the evidence before it. *People v. Patterson*, 217 Ill. 2d 407, 435 (2005).

¶ 16 At the outset, we note that defendant is not arguing that there was *no* proof on the issue of whether the damaged squad car was supported by State funds. In this way, the case at bar is distinguishable from *Bartlett*, where the reviewing court reversed the defendant’s conviction based on the State’s failure to present *any* evidence that the damaged property, a holding cell, was supported by State funds. *Bartlett*, 175 Ill. App. 3d at 691. Rather, defendant’s argument here is that neither Officer Basile nor Officer Trout had personal knowledge of the squad cars being supported by State funds; thus, they were incompetent to testify as such.

¶ 17 Though not on all fours, *People v. Morgan*, 301 Ill. App. 3d 1026 (1998), is instructive on this issue. In *Morgan*, the defendant was convicted of unlawful possession and delivery of a controlled substance within 1,000 feet of a public park. *Id.* at 1027. The defendant argued that the State failed to prove beyond a reasonable doubt that the park at issue satisfied the legal status of a

public park. *Id.* at 1031. According to the defendant, the police officer who testified that the park was open to the public was a layperson and thus unqualified to testify as to whether the area was in fact a public park; instead, the State was obligated to call a city or park district official or produce a certified copy of a plat of survey. *Id.* The reviewing court, noting that the issue was whether the officer's testimony was sufficient, found that it was because the officer was a 10-year veteran of the department who was familiar with the nature of the park and had made over 100 arrests there. *Id.* at 1031-32. In reaching this conclusion, the reviewing court specifically rejected the defendant's assertion that the State had to produce recorded plats of survey to establish that the park was a legally dedicated park. *Id.* at 1032.

¶ 18 We reach the same conclusion here. Like the officer in *Morgan*, Officer Basile had worked for the Rockford Police Department for 10 years, and Officer Trout's history at the department was 5 years. Both officers testified that their squad cars belonged to the Rockford Police Department, and that they were supported in part by State funds. In fact, both officers testified that it was simply "general knowledge" or "common knowledge" that State funds helped fund the department and thus the squad cars. Just as the officer in *Morgan* was not required to have personal knowledge of a plat designating the park as public in order to testify that it was indeed public, it was not necessary for Officers Basile and Trout to have personal knowledge of State funding, or the exact amount of State funding.

¶ 19 Moreover, as the State points out, defendant's argument based on hearsay applies only to Officer Basile's testimony that he was told of State funding by his commander or supervisor. But Officer Basile's testimony to this effect was not the only testimony regarding State funding; as previously mentioned, both officers testified that State funding was common knowledge, and Officer

Trout testified that State funding was “[j]ust [his] experience” in the department. Therefore, the officers’ knowledge of State funding was premised on more than just hearsay.

¶ 20 Based on the officers’ experience and general knowledge within the department, the trial court did not err by denying defendant’s motion for a directed verdict, and it was reasonable for the jury to believe that the damaged squad car was supported in part by State funds. Accordingly, we reject defendant’s arguments to the contrary and affirm defendant’s conviction of criminal damage to government supported property.

¶ 21

III. CONCLUSION

¶ 22 For the reasons stated, the judgment of the circuit court of Winnebago County is affirmed.

¶ 23 Affirmed.