

NOTICE
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2012 IL App (4th) 110061-U

Filed 7/18/12

NO. 4-11-0061

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	McLean County
DAVIE L. JONES,)	No. 10CF236
Defendant-Appellant.)	
)	Honorable
)	Rebecca Simmons Foley,
)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.
Justices Steigmann and Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court held that the State presented sufficient evidence to prove defendant guilty beyond a reasonable doubt.

¶ 2 In October 2010, a jury found defendant, Davie L. Jones, guilty of aggravated driving while license revoked (625 ILCS 5/6-303(d-4) (West 2010)), a Class 3 felony. In December 2010, the trial court sentenced defendant to three years' imprisonment and one year of mandatory supervised release (MSR).

¶ 3 Defendant appeals, arguing that he was not proved guilty beyond a reasonable doubt. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 In March 2010, the State charged defendant and on March 31, 2010, the McLean County grand jury indicted defendant for aggravated driving while license revoked (625 ILCS

5/6-303(d-4) (West 2010)), a Class 3 felony. The charges arose from events occurring on February 12, 2010.

¶ 6 Prior to trial, the parties stipulated that defendant's license was revoked on February 12, and he had previously violated the driving while license revoked statute nine times. The prior violations occurred once in 1998, once in 2002, once in 2005, once in 2006, once in 2007, three times in 2008, and once in 2009.

¶ 7 At the October 2010 jury trial, the State's evidence consisted of testimony by the arresting officer, McLean County deputy sheriff Brian Eggleston. On February 12, 2010, Eggleston was monitoring southbound traffic on Interstate 55. He was positioned approximately three-quarters of a mile north of the Towanda exit. Eggleston situated his vehicle in a manner that allowed him to use a light to the west so that as vehicles came past he could see into the vehicles. At approximately 3:59 a.m., he observed a single automobile traveling southbound at approximately 60 miles per hour in a 65 mile per hour zone. He believed this suspicious and positioned his vehicle as to pull out behind the automobile as it passed.

¶ 8 As the automobile passed, Eggleston observed two occupants in the vehicle. The larger occupant appeared to be male and was in the driver's seat, and the smaller one appeared to be female and in the passenger's seat. He did not notice any equipment violations such as a broken headlight or tail light. Once the vehicle passed, Eggleston immediately pulled out. Once behind the vehicle, Eggleston searched the vehicle's license plate number in the computer and as he did so lost sight of the vehicle for approximately a second-and-a-half. He was never more than 50 yards behind the automobile. The vehicle took the Towanda exit and stopped approximately three-quarters of the way up the exit ramp. When the vehicle pulled off to the

side, Eggleston stopped his patrol car to ask if they needed any kind of assistance. No other vehicles were on the exit ramp. The registration search identified the vehicle's owner was Davie Jones, who had a revoked driver's license. Eggleston never observed anyone kneel down beside the vehicle or move about within or outside of the vehicle. Eggleston approached the vehicle, noticed its motor was still running, and observed defendant sitting in the driver's seat and a female in the passenger's seat. Defendant never told Eggleston he had not been driving.

¶ 9 At the close of the State's evidence, the trial judge informed the jury the parties stipulated that on February 12, 2010, defendant's driver's license was and had been revoked by the Illinois Secretary of State.

¶ 10 Defendant testified that on February 12 he and his girlfriend of 2 1/2 years, Elisa Bowman, traveled on Interstate 55 from Chicago to Springfield in the early morning hours. They traveled in his 1995 Chevrolet Caprice. Defendant slept in the passenger's seat while Bowman drove. The automobile jerked and woke him up. He told Bowman to pull over. Defendant is a trained auto technician, and he immediately got out of the vehicle to inspect. He used a flashlight to check the right front tire and tire rod. Bowman exited the vehicle along with defendant, but quickly returned to the passenger's seat. Defendant returned to the driver's seat to "play with the wheel" and make further inspections. Approximately four to five minutes passed from the time defendant and Bowman pulled over to the time Deputy Eggleston approached the vehicle.

¶ 11 On cross-examination, defendant testified he inspected the front tire for approximately five to seven seconds. Additionally, he "played" with the steering wheel for approximately 10 seconds.

¶ 12 Elisa Bowman testified that on February 12 she drove defendant's car from

Chicago to Springfield. She and defendant had dated for four years, and lived together for three years. She worked at the same restaurant in Springfield as defendant. As she was driving, Bowman felt a jerking in the steering wheel, and pulled off onto an exit ramp. She pulled behind a tractor-trailer truck. Defendant exited the vehicle and looked at the tire for approximately three to four minutes. He then went over to the driver's side, and started shaking the steering wheel.

¶ 13 On cross-examination, Bowman testified they were on the side of the road for five to seven minutes before the deputy approached the vehicle. Additionally, she testified she and defendant never spoke about the subject matter of the criminal trial since the incident.

¶ 14 At the conclusion of testimony, the trial judge informed the jury defendant was convicted of armed robbery in 2003.

¶ 15 In December 2010, the trial court sentenced defendant to three years' imprisonment and one year of MSR.

¶ 16 II. ANALYSIS

¶ 17 Defendant appeals, arguing that he was not proved guilty beyond a reasonable doubt. Specifically, defendant contends that the State did not prove he was driving on a highway. We disagree.

¶ 18 A. Standard of Review

¶ 19 When a court reviews a conviction for sufficiency of the evidence, it must determine 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. *People v. Beauchamp*, 241 Ill. 2d 1, 8, 944 N.E.2d 319, 322-23 (2011). "This means that we 'must allow all reasonable inferences from the record in favor of the prosecution.' "

Beauchamp, 241 Ill. 2d at 8, 944 N.E.2d at 323 (quoting *People v. Cunningham*, 212 Ill. 2d 274, 280, 818 N.E.2d 304, 308 (2004)).

¶ 20 A reviewing court will not retry a defendant when considering a sufficiency of the evidence challenge. *People v. Wheeler*, 226 Ill. 2d 92, 114, 871 N.E.2d 728, 740 (2007). The trier of fact has the responsibility to determine the credibility of witnesses and the weight given to their testimony, to resolve conflicts in evidence, and to draw reasonable inferences from that evidence. *People v. Burney*, 2011 IL App (4th) 100343, ¶ 25, 963 N.E.2d 430 (citing *People v. Jackson*, 232 Ill. 2d 246, 281, 903 N.E.2d 388, 406 (2009)).

¶ 21 B. Offense of Driving With Revoked License

¶ 22 Under section 6-303(a) of the Illinois Vehicle Code (Vehicle Code), driving while driver's license is revoked occurs when: "any person who drives or is in actual physical control of a motor vehicle on any highway of this State at a time when such person's driver's license * * * is revoked or suspended as provided by this Code * * *." 625 ILCS 6-303(a) (West 2010). Upon conviction of a tenth violation of section 6-303, a person is guilty of a Class 3 felony and is not eligible for probation or conditional discharge. 625 ILCS 6-303(d-4) (West 2010).

¶ 23 Section 1-126 of the Vehicle Code defines a "highway" as "[t]he entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel or located on public school property." 625 ILCS 5/1-126 (West 2010).

¶ 24 C. Evidence Here

¶ 25 Defendant contends he was not driving his vehicle when it passed the deputy, and he was in the driver's seat because he was attempting to diagnosis a steering problem.

Additionally, defendant asserts Eggleston was unable to immediately follow his vehicle, and there may have been an opportunity for him and Bowman to exchange seats. Defendant's argument is unpersuasive.

¶ 26 Here, the issue is whether defendant either drove or was in physical control of the vehicle at any time. Eggleston testified that he was able to see into the vehicle as it passed him and observed a male driving. Eggleston had positioned his patrol car in a manner to allow him to pull out immediately as the vehicle passed and did so. The deputy was approximately three-quarters of a mile from where the vehicle exited. Eggleston only lost sight of the vehicle for approximately 1 1/2 seconds, and at no time did he observe anyone outside the vehicle or move about inside. When the deputy approached the vehicle, defendant was in the driver's seat with the vehicle running. This evidence supports a reasonable inference that defendant was driving the vehicle when it passed deputy Eggleston. The jury had the responsibility to determine whether defendant's explanation for his presence in the driver's seat was a credible explanation, assess the credibility of the witnesses, and resolve inconsistencies in the evidence.

¶ 27 Viewing the evidence in the light most favorable to the prosecution, we find the jury could reasonably have found defendant guilty of the crime charged beyond a reasonable doubt.

¶ 28 III. CONCLUSION

¶ 29 For the reasons stated herein, we affirm the trial court's judgment. As part of our judgment we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 30 Affirmed.