

NOTICE
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2012 IL App (4th) 110239-U

Filed 6/6/12

NO. 4-11-0239

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Macon County
DAMITA Y. PARSLEY,)	No. 10CF216
Defendant-Appellant.)	
)	Honorable
)	Timothy J. Steadman,
)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Presiding Justice Turner and Justice Cook concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed defendant's conviction for burglary, rejecting her argument that the State failed to prove her guilty beyond a reasonable doubt.

¶ 2 In February 2010, the State charged defendant, Damita Y. Parsley, with burglary (720 ILCS 5/19-1(a) (West 2010)), alleging that she knowingly entered a pharmacy with the intent to unlawfully possess a controlled substance. Following a November 2010 bench trial, the trial court found defendant guilty. In January 2011, the court sentenced defendant to three years in prison.

¶ 3 Defendant appeals, arguing that the State failed to prove her guilty beyond a reasonable doubt. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 In February 2010, the State charged defendant with burglary, alleging that on

January 16, 2010, she knowingly entered a pharmacy with the intent to commit therein the offense of unlawful possession of a controlled substance.

¶ 6 A. Defendant's November 2010 Bench Trial

¶ 7 At defendant's November 2010 bench trial, Wole Adeoye, owner of the pharmacy and a registered pharmacist, testified that on January 16, 2010, an unidentified individual dropped off a prescription for hydrocodone, purportedly written by Dr. Patrick Garrity for Charles Aspen. Adeoye suspected that the prescription was not authentic for the following reasons: (1) Adeoye was familiar with Garrity's signature and the signature authorizing the subscription did not belong to Garrity; (2) the prescription was for 120 hydrocodone pills, which was unusually high for that drug; (3) the prescription allowed three refills which was unusual for emergency room prescriptions; and (4) hydrocodone is typically prescribed with another medication. Adeoye notified the police and informed Elizabeth Halihan, the pharmacist on duty that day, of the suspect prescription.

¶ 8 Halihan testified that on January 16, 2010, she was the pharmacist on duty when defendant came in to pick up the prescription written for Aspen. When Halihan requested identification, defendant presented her driver's license. While defendant waited for the prescription, Halihan called the police, who arrived shortly thereafter. Halihan noted that defendant was very forthcoming with her in presenting her identification.

¶ 9 In a written stipulation, both parties agreed that (1) Garrity did not authorize a prescription for Aspen and (2) Garrity's signature was forged.

¶ 10 Detective Steve Chabak testified that he and Detective Tim Carlton responded to Halihan's call. Upon arriving at the pharmacy, Chabak and Carlton approached defendant and

asked for her identification. Defendant complied, informing the detectives that she (1) was picking up a prescription for a friend of a friend, (2) did not know who the prescription was for, and (3) was asked by someone with the last name of Smith to pick up the prescription. Chabak explained that defendant told him that she had walked to the pharmacy while on her way downtown. During that conversation, defendant was very nervous, stumbled over her words, and delayed her responses. Chabak testified defendant possesses \$60. (According to Adeoye, the hydrocodone prescription at issue cost \$40).

¶ 11 Chabak acknowledged that a person being questioned by the police might be nervous, adding that defendant acted surprised upon being told the prescription was forged and said, "Oh, my Lord" repeatedly.

¶ 12 Carlton testified that after arriving at the pharmacy, he and Chabak confronted defendant regarding the fraudulent prescription. Carlton corroborated Chabak's testimony, noting that defendant presented her identification immediately upon request and appeared surprised when they told her she was being questioned for forgery.

¶ 13 Detective Bryan Kaylor testified that approximately one month after the pharmacy incident, defendant came to the police station and informed him that on January 16, 2010, her classmate, Tia Parker, gave her a ride from school and on the way to her house, Parker dropped her off at the pharmacy to purchase the prescription. Kaylor explained that defendant (1) came to the police station voluntarily and (2) told him an employee at the pharmacy named, "Janice," may also have been involved.

¶ 14 Defendant did not present any evidence in her defense.

¶ 15 B. The Trial Court's Verdict and Defendant's Sentence

¶ 16 On this evidence, the trial court found defendant guilty of burglary, noting as follows:

"I think the key of the case is the defendant's explanations about where she got the *** bogus prescription. She told *** Chabak it was somebody named Smith who wanted her to fill the prescription for a friend, and then later on *** told *** Kaylor a different explanation mentioning this Tia Parker. I mean, it seems to me that if, in fact, she was an innocent messenger trying to pick up a prescription for somebody, she would have said the same names twice about who it was who wanted her to help fill the prescription."

¶ 17 In January 2011, the trial court sentenced defendant to three years in prison.

¶ 18 This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 Defendant argues that the State failed to prove beyond a reasonable doubt.

Specifically, defendant contends that the State failed to prove that she entered the pharmacy with the intent to commit unlawful possession of a controlled substance. We disagree.

¶ 21 A. The Standard of Review

¶ 22 When the sufficiency of the evidence for a criminal conviction is in dispute, we must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the defendant guilty beyond a reasonable doubt.

People v. Wheeler, 226 Ill. 2d 92, 114, 871 N.E.2d 728, 740 (2007) (citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). It is not the appellate court's function to retry the defendant. *People v. Collins*, 106 Ill. 2d 237, 261, 478 N.E.2d 267, 277 (1985). For a reviewing court to set aside a criminal conviction on grounds of insufficient evidence, the evidence submitted must be "so unreasonable, improbable, or unsatisfactory as to create a reasonable doubt of the defendant's guilt." *People v. Rowell*, 229 Ill. 2d 82, 98, 890 N.E.2d 487, 496-97 (2008).

¶ 23 The offense of burglary may be proved by circumstantial evidence and inferences drawn therefrom. *People v. Maggette*, 311 Ill. App. 3d 388, 398, 723 N.E.2d 1238, 1245 (2000). "In determining whether the evidence is sufficient to permit the inference of intent, the relevant circumstances include the time, place, and manner of entry into the premises; the defendant's activity within the premises; and any alternative explanations offered for his presence." *Id.* It is the function of the fact finder to assess the credibility of witnesses, weigh evidence presented, resolve conflicts in the evidence, and draw reasonable inferences from the evidence, and its determination is entitled to great deference. *People v. Moss*, 205 Ill. 2d 139, 164-65, 792 N.E.2d 1217, 1232 (2001).

¶ 24 B. The Sufficiency of the Evidence in This Case

¶ 25 A person commits burglary when she enters a building without authority with the intent to commit therein a felony. 720 ILCS 5/19-1(a) (West 2010). The evidence at trial established that an unknown person presented a forged prescription to the pharmacy and several hours later, defendant arrived at the pharmacy to pick up the prescription.

¶ 26 In this case, the parties do not dispute that defendant was forthcoming in providing identification, and that it is also plausible defendant may have made up the first story

to protect her friend. However, our task is to view the evidence in the light most favorable to the State and determine whether any reasonable trier of fact could have found defendant guilty. See *Wheeler*, 226 Ill. 2d at 114, 871 N.E.2d at 740. Here, viewed in the light most favorable to the State, the evidence shows that defendant entered the pharmacy and attempted to pick up the forged prescription. When questioned by the police, she delayed responses to questions and stumbled over her answers. She concocted a story to excuse her criminal act when she told the police that she had walked to the pharmacy and was asked to pick up the prescription for a friend of a friend by someone with the last name Smith. Approximately one month later, defendant changed her story, informing the police that Parker, gave her a ride to the pharmacy to pick up the prescription and implied that Parker and a pharmacy employee were behind the forged prescription. On this evidence, the experienced trial judge in this bench trial found defendant guilty and explained his reasons for doing so. We conclude that a rational trier of fact could have found defendant guilty beyond a reasonable doubt.

¶ 27

III. CONCLUSION

¶ 28 For the reasons stated, 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.

¶ 29 Affirmed.