

the parking lot to drop off a friend. She did not pull into a parking space, but rather parked in the middle of the aisle to let her backseat passenger out of her Dodge Dakota. While Wolfe was parked, defendant "backed up" his vehicle "very quickly, hit the front end of [Wolfe's] car[,] and peeled out and took off at a high rate of speed." Wolfe further testified:

"The impact was pretty good. I thought for sure it did substantial damage. My back seat [*sic*] passenger, she was just getting out and it knocked enough that the door came back and hit her in her arm and she had a pretty big bruise on her arm the next day. I thought for sure *** there would be a substantial amount of damage because it hit pretty hard."

Wolfe placed a call to 9-1-1 to report a hit-and-run and followed defendant's vehicle while she spoke with the 9-1-1 dispatcher. Wolfe followed defendant's vehicle until another officer stopped defendant near Interstate 74 in Urbana, Illinois. After police stopped defendant's vehicle, Wolfe exited her vehicle and checked for damages. Wolfe's car was not damaged, and she did not file an accident report. Wolfe left after she examined her vehicle.

¶ 5 Deputy Richard Coleman testified he responded to the dispatch call on May 1, 2010. Coleman stopped defendant's vehicle near Interstate 74 in the left lane of Cunningham. Coleman approached defendant's vehicle on the driver's side and spoke with defendant. Coleman testified he "noticed that [defendant] was actually movin' [*sic*] kind of slowly, had slurred speech. *** his eyes were actually bloodshot, and [Coleman] could detect a hint of alcohol on [defendant's] breath as *** he was speaking with [him]." Coleman was on-scene approximately 30 seconds before additional officers arrived. Once Officer Jeremy Hale and Officer Darren

McCartney arrived, Coleman turned the investigation over to them and assisted in directing traffic while the other officers finished conducting the stop.

¶ 6 McCartney testified he was the first officer to arrive after Coleman stopped defendant. McCartney pulled up behind Coleman's vehicle and activated his overhead lights. McCartney testified it was dark and "drizzling" out. McCartney approached defendant's vehicle on the passenger side while Coleman approached on the driver's side. McCartney testified defendant slurred his speech. McCartney did not conduct any field sobriety tests and handed the investigation over to Hale because the area where Coleman stopped defendant was in Hale's "beat."

¶ 7 Hale testified he was the last officer to arrive on the scene. When Hale approached defendant's vehicle on the driver's side, he noticed defendant had "watery eyes" and "slurred speech." He further testified, "even from outside the vehicle [he] could smell the strong odor of an alcoholic beverage coming from [defendant's] breath." Hale asked defendant if he was under the influence of drugs or alcohol and defendant responded "alcohol." Hale testified defendant told him he had five or six beers.

¶ 8 Hale had defendant perform several "pre-exit tests" prior to conducting field sobriety tests. These tests took place while defendant was still seated in his vehicle. The first test Hale instructed defendant to perform was the "finger dexterity" or the "finger countdown" test. This test required defendant to count from one to four while simultaneously touching his thumb to each of the other four fingers on his hand, one at a time. Defendant then had to count backward from four to one, again touching his thumb to his other four fingers. Defendant did not properly execute the test. Hale then instructed defendant to recite the alphabet from "G" to "T."

Defendant also failed this test. Finally, Hale had defendant count backward from 72 to 59.

Defendant completed part of the test but did not finish.

¶ 9 After the pre-exit tests, Hale asked defendant to get out of his vehicle to perform field sobriety tests. Hale testified defendant attempted to get out of his vehicle with his seat belt still on, and "fumbled with the release for the seat belt for approximately [10] seconds before actually getting the seat belt to release for him to be able to get out of the car." Defendant exited his vehicle and stood in the median with Hale. Hale testified the median was approximately 15 to 20 feet wide and 75 feet long and was "flat and level and free of defects." Hale instructed defendant to perform a "one-leg [*sic*] stand" and hold the position for 30 seconds. Defendant held the position for one second and refused to continue the test because he felt the weather was interfering with his performance. Hale then had defendant perform a "walk-and-turn" test. Hale instructed defendant to take 10 heel-to-toe steps in a straight line and to turn and take 10 steps in the opposite direction to return to where he started. Defendant was unable to properly perform this test. Hale then arrested defendant for driving under the influence, based on "several indicators of impairment" he observed during the pre-exit and field sobriety tests. Hale read defendant a "warning to motorist" explaining the consequences of refusing a test to determine his blood-alcohol level. Defendant declined the test.

¶ 10 Defendant testified he was a bartender and server at Crane Alley. On the evening of his arrest, defendant went to Crane Alley to have a drink with his friend, Jeremy Cannon, and celebrate the birth of defendant's daughter, who was five days old at the time. The bar was busy, so defendant helped the other employees behind the bar, serving drinks, bussing tables, and changing kegs. He was not drinking alcohol while he was helping the other employees. After

Cannon arrived, he and defendant each had four beers over the course of 3 1/2 hours. When he left, defendant did not know he had backed into anyone's vehicle.

¶ 11 Defendant testified he was nervous when Coleman pulled him over. Defendant said the median where he performed the field sobriety tests was uneven, and he was distracted by the emergency lights on the squad cars, the weather, and the traffic passing by. Defendant did not believe his ability to drive was impaired. Defendant refused the blood-alcohol level test because he felt "hopeless."

¶ 12 Cannon testified he and defendant each had four beers on the night defendant was arrested. Cannon did not believe defendant was intoxicated, slurring his words, or stumbling when they left Crane Alley. Cannon did not see defendant drive out of the parking lot.

¶ 13 The jury convicted defendant of driving under the influence. As this was defendant's fourth such conviction in nine years, the trial court sentenced defendant to five years in prison. Defendant filed a motion to reconsider sentence. The court denied defendant's motion.

¶ 14 This appeal followed.

¶ 15 **II. ANALYSIS**

¶ 16 On appeal, defendant argues the State did not prove him guilty of aggravated driving under the influence beyond a reasonable doubt. More specifically, defendant argues the results of the field sobriety tests, without other evidence, were insufficient to prove defendant's ability to operate a motor vehicle was impaired by consumption of alcohol. The State argues the evidence was sufficient to convict defendant.

¶ 17 When reviewing the sufficiency of the evidence, "the relevant inquiry is 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. Campbell*, 146 Ill. 2d 363, 374, 586 N.E.2d 1261, 1266 (1992). The trier of fact has the responsibility to assess the credibility of witnesses, weigh the evidence, and draw reasonable inferences, and we will not substitute our judgment for that of the trier of fact. *Campbell*, 146 Ill. 2d at 375, 586 N.E.2d at 1266. We will only reverse a defendant's conviction "if the evidence is so unreasonable, improbable, or so unsatisfactory as to justify a reasonable doubt of the defendant's guilt." *Campbell*, 146 Ill. 2d at 375, 586 N.E.2d at 1266.

¶ 18 The State must show, to prove defendant was under the influence of alcohol, defendant was "less able, either mentally or physically, or both, to exercise clear judgment, and with steady hands and nerves operate an automobile with safety to himself and to the public." *People v. Bostelman*, 325 Ill. App. 3d 22, 34, 756 N.E.2d 953, 962 (2001) (quoting *People v. Seefeldt*, 112 Ill. App. 3d 106, 108, 445 N.E.2d 427, 429 (1983)). A conviction for driving under the influence can be based solely on the credible testimony of the arresting officer, and the State need not present scientific evidence of intoxication to sustain such a conviction. *People v. Gordon*, 378 Ill. App. 3d 626, 632, 881 N.E.2d 563, 568 (2007). Jurors may rely on their life experiences and common observations in concluding a person who does not properly execute a field sobriety test may be so mentally or physically impaired his ability to think and act with ordinary care is diminished. *People v. Hires*, 396 Ill. App. 3d 315, 319-20, 920 N.E.2d 1083, 1086 (2009).

¶ 19 Coleman testified when he approached defendant's vehicle, defendant was moving slowly, had slurred speech and bloodshot eyes, and his breath smelled of alcohol. McCartney also testified defendant had slurred speech. Hale testified defendant had watery eyes, slurred

speech, and his breath smelled of alcohol. When defendant tried to exit his vehicle, he forgot he still had his seat belt on and fumbled to remove it. Hale also said defendant told him he had five or six beers and believed himself to be under the influence of alcohol. Hale testified defendant failed three pre-exit tests and two field sobriety tests. Based on the evidence, we conclude the jury could reasonably conclude the State proved defendant was driving under the influence of alcohol.

¶ 20 Defendant cites numerous scientific studies attacking the reliability of field sobriety tests. Based on these studies, defendant contends field sobriety tests are insufficient, standing alone, to justify a finding of intoxication. This court has previously rejected such contentions on appeal. See *Hires*, 396 Ill. App. 3d at 319-20, 920 N.E.2d at 1086 (rejecting the defendant's contentions that field sobriety tests are unreliable and insufficient on their own to justify an intoxication finding).

¶ 21 Finally, defendant argues the conditions under which he was tested affected his ability to perform the field sobriety tests, and therefore the tests were unreliable evidence of his intoxication. Defendant argues the rain, the condition of the median upon which he performed the tests, and traffic passing by at a high rate of speed, all interfered with the tests.

¶ 22 Coleman testified there was a "slight drizzle" on the night he stopped defendant. He also testified he would sometimes take people indoors to perform field sobriety tests when there was "inclement weather." McCartney testified it was dark and "drizzling" out. Hale testified "by the time of these tests it was barely misting at all" and the weather did not justify moving defendant inside for testing. He said the median upon which defendant stood was "flat and level and free of defects." Hale demonstrated the field sobriety tests before requiring

defendant to perform them and was not affected by the traffic passing by. Defendant testified the median was uneven, and he was distracted by the emergency lights on the squad cars, the weather, and the traffic passing by. The jury had the duty to resolve these inconsistencies and draw reasonable inferences from the evidence. We conclude the jury reasonably inferred the tests were reliable and the testing conditions did not affect defendant's ability to perform the tests.

¶ 23

III. CONCLUSION

¶ 24 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.

¶ 25 Affirmed.