

NOTICE
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2013 IL App (4th) 111027-U
NO. 4-11-1027
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
March 27, 2013
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Livingston County
JONATHON DRONENBERG,)	No. 10CF334
Defendant-Appellant.)	
)	Honorable
)	Mark A. Fellheimer,
)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.
Justices Knecht and Holder White concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court affirmed, rejecting defendant's claim that the State failed to prove him guilty of retail theft beyond a reasonable doubt.
- ¶ 2 Following a May 2011 bench trial, the trial court found defendant, Jonathon Dronenberg, guilty of retail theft (720 ILCS 5/16A-3(a) (West 2010)) on an accountability theory, apparently finding inculpatory the videotape of defendant standing within inches of his wife as she crouched below the front counter of their neighborhood convenience store to load her purse full of candy. In September 2011, the court sentenced defendant to 180 days in jail.
- ¶ 3 Defendant appeals, arguing that the State failed to prove him guilty of retail theft beyond a reasonable doubt because the State failed to present evidence that he aided or encouraged his wife in committing that crime. We disagree and affirm.

¶ 4

I. BACKGROUND

¶ 5 In December 2010, the State charged defendant with retail theft (720 ILCS 5/16A-3(a) (West 2010)) for his role in a retail theft that his wife, Kandis Dronenberg, committed at the "Fast Stop," the couple's neighborhood convenience store and gas station.

¶ 6 At defendant's May 2011 bench trial, the State presented evidence from Kandis' mother, Deborah Bridgeforth, that she drove Kandis and defendant to the Fast Stop. Bridgeforth testified that she remained in the vehicle while Kandis and defendant went into the store. The couple remained in the store for about 15 minutes. When they returned to the vehicle, Bridgeforth asked Kandis "what did you steal?"—which was "an ongoing joke" between her and Kandis—and Kandis responded that she stole a candy bar.

¶ 7 The police officer who responded to the retail-theft call testified that he reviewed a videotape of the alleged theft with Jennifer Ahmad, the cashier who was on duty at the time the couple came into the Fast Stop. The video, which the trial court viewed, depicted defendant approaching the counter and standing there for more than five minutes. While he is at the counter, Kandis walks up on defendant's right side, crouches down, and begins filling her purse with candy from below the counter. Kandis looks up occasionally to engage with Ahmad. After a minute or two, Kandis moves to defendant's left side and, although it is unclear from the videotape because defendant is blocking the camera, Kandis appears to put her purse down on the floor to fill it with more candy. While she is doing that, defendant looks down at her (and her purse) numerous times.

¶ 8 Ahmad testified that she was the cashier the night of the incident, noting that defendant and Kandis would come into the store from time to time. Defendant kept talking to

her about, among other things, brands of cigarettes, types of lighters, and his mother's having stolen \$40 from the Fast Stop. Ahmad added that defendant paid for the fountain drinks he bought with change, and while he was counting it out, Kandis kept moving up and down next to him. Suspicious of Kandis' actions, Ahmad reviewed the in-store security video the next day and saw Kandis taking the candy and putting it in her purse.

¶ 9 Kandis testified that she committed the theft that day. She said that she did not recall the incident, however, because she was intoxicated. Kandis added that defendant did not know that she had stolen the candy.

¶ 10 Defendant testified that he did not know that Kandis intended to steal the candy; he thought they were just going to the Fast Stop to purchase tampons and a couple of "soda pops." He said that he did not see Kandis put anything in her purse and, in fact, did not notice her moving from one side of him to the other. Defendant explained that he was having a conversation with Ahmad, so he did not notice what Kandis was doing. Defendant added that he did not hear Bridgeforth ask Kandis whether she had stolen anything when the couple returned to Bridgeforth's vehicle.

¶ 11 On this evidence, the trial court found defendant guilty of retail theft on an accountability theory. The court began by noting that no question existed as to whether the underlying theft occurred in this case. Kandis filled her purse with candy and left the Fast Stop without paying for it. The court discounted Kandis' testimony regarding what defendant knew about her intentions, however, given that she admitted that she could not recall what happened that day. As for defendant, the court found him unbelievable and not credible based on the court's review of the videotape of the crime, outlining its findings as follows:

"Regarding the theft to [defendant's] right, there is absolutely no doubt in my mind that he knew she was stealing something from *** those racks in front of him. Why do I say that? She is literally inches away from him. He is looking at her for about 14 seconds while she is grabbing things off the shelf and putting them into her purse while his head is looking at her for 14 seconds. This is all in a very compressed area here within inches of each other.

The second one, Kandis goes down on his left side at ***. Once again, I think she is even closer to his leg on this one than the one on the right side, within inches or a foot or so of *** defendant. Starting at that time, *** he is looking right at her direction. His head is faced [that] direction. ***.

Once again, regarding this second incident, there is *** absolutely no doubt in my mind that *** defendant knew exactly what Kandis was doing just as she ha[d] done [on] the right side of him. [J]ust *** looking at the tape, looking at his body motion, looking at where his head is faced, there is no way he could possibly miss what she is doing. This was not a case where someone just snapped a candy bar up. I mean, this is a long time. *** So I don't find either Kandis or *** defendant credible as it related to whether *** defendant knew or in his case claims he

didn't know that she was stealing this at that point in time. I mean,
it is just clear as day to the court."

The court thereafter turned to whether defendant assisted Kandis in the theft. It found that he did, focusing on the following facts: (1) defendant appeared to engage Ahmad from time to time to distract her; (2) defendant appeared to be looking out the window to make sure no new customers were pulling up to the store; (3) the theft took a relatively extended period of time to complete; and (4) the couple left the Fast Stop as soon as Kandis completed the theft.

¶ 12 In September 2011, the court sentenced defendant to 180 days in jail.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 Defendant argues that the State failed to prove him guilty of theft beyond a reasonable doubt because the State failed to present evidence that he aided or encouraged his wife in committing that crime. After reviewing the record, including the videotape of the crime, we emphatically disagree.

¶ 16 We review a challenge to the sufficiency of the State's evidence under the familiar refrain that we must view the evidence in the light most favorable to the prosecution to decide whether *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Price*, 2011 IL App (4th) 100311, ¶ 16, 958 N.E.2d 341. In so doing, we must draw all reasonable inferences from the record in favor of the prosecution. *Id.* "This same standard of review applies regardless of whether the evidence is direct or circumstantial." *People v. Cooper*, 194 Ill. 2d 419, 431, 743 N.E.2d 32, 40 (2000). Indeed, we will not overturn a criminal conviction " 'unless the evidence is so improbable or unsatisfactory

that it creates a reasonable doubt of the defendant's guilt.' " *Price*, 2011 IL App (4th) 100311, ¶ 16, 958 N.E.2d 341 (quoting *People v. Givens*, 237 Ill. 2d 311, 334, 934 N.E.2d 470, 484 (2010)).

¶ 17 In this case, the record shows that during Kandis' commission of the offense of retail theft, and with intent to promote or facilitate Kandis' commission of that offense, defendant aided and abetted Kandis in the commission that offense. See 720 ILCS 5/5-2(c) (West 2010) ("A person is legally accountable for the conduct of another when *** either before or during the commission of an offense, and with the intent to promote or facilitate that commission, he or she solicits, aids, abets, agrees, or attempts to aid that other person in the planning or commission of the offense"). The videotape of the crime in this case unequivocally supports the trial court's view that defendant watched Kandis repeatedly load her purse with candy as she crouched below the front counter of the Fast Stop, out of the view of Ahmad. The videotape further supports the court's finding that defendant acted as a "look out" and attempted to distract Ahmad by engaging her in conversation as Kandis committed the theft. Indeed, to say the videotape is damning is an understatement.

¶ 18 Accordingly, viewed in the light most favorable to the prosecution, we conclude that a rational trier of fact could have found defendant guilty of retail theft beyond a reasonable doubt.

¶ 19 III. CONCLUSION

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

¶ 21 Affirmed.