

No. 1-12-1999

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. YT 755804
)	
FRANK VINCZE,)	Honorable
)	Timothy J. Chambers,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE HOWSE delivered the judgment of the court.
Justices Fitzgerald Smith and Lavin concurred in the judgment.

O R D E R

¶ 1 **Held:** We affirm defendant's conviction for driving while license revoked because the evidence sufficiently established defendant drove the subject car on a public highway.

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¶ 2 Following a May 2012 bench trial, defendant, Frank Vincze, was convicted of driving while license revoked (DWLR) (625 ILCS 5/6-303 (West 2012)) and sentenced to 180 days in jail. Defendant appeals, arguing the State failed to prove him guilty beyond a reasonable doubt because the evidence failed to establish he drove on a public highway. We affirm.

¶ 3 Defendant was charged with DWLR on Potter Road at Ballard Road and leaving the scene of an accident at the same place. These charges arose after defendant allegedly backed his car into a limousine in a parking lot. At defendant's trial, John Mathew, a limousine driver, testified that on March 5, 2012, at around 11 p.m., he parked his limousine in the parking lot of a grocery store at Potter and Ballard. When he exited the store, Mathew saw defendant backing a Mercedes Benz into his limousine. Mathew could not identify the color of the Mercedes because it was dark outside but believed it was "some cream color." Defendant tried to drive away, but Mathew ran toward him, waving his hands, and knocked on the glass of the Mercedes. When defendant stopped, he asked Mathew what happened, and Mathew told him that he hit his car. Mathew observed one male passenger in the Mercedes.

¶ 4 Mathew testified defendant parked his car and accompanied Mathew into the store. Defendant asked Mathew not to call the police, instead offering to fix the limousine. Mathew agreed but asked defendant for all of his information. Defendant then offered Mathew \$5, which Mathew refused to accept. Defendant handed Mathew what Mathew initially believed to be defendant's driver's license but later discovered was only a state identification. When Mathew requested defendant's insurance information, defendant indicated his proof of insurance was in the car. Thereafter, Mathew saw police lights blinking outside and, when he "approach[ed]" defendant, he saw defendant had departed. On cross-examination, Mathew explained that when he asked defendant for his insurance, defendant said it was at home; thereafter, the men stopped

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talking while Mathew wrote down defendant's name and information. When Mathew looked up, defendant was gone. Mathew called the police and, when they arrived on the scene, spoke to them about what had happened. Officer Murray testified Mathew gave him defendant's state-identification card.

¶ 5 Over defendant's objection, the trial court allowed Officer Murphy to testify that, approximately 45 minutes after the accident at Potter and Ballard, he observed defendant making a left-hand turn from Golf Road onto Greenwood Drive in a silver sport utility vehicle (SUV). As he made the turn, defendant looked to his right and "stared directly" at Murphy such that Murphy was able to view him for "two, three seconds." Murphy ran the SUV's license plate number, discovered it belonged to defendant, and recognized defendant's name from hearing it being given out earlier. He then looked at defendant's identification card, which he obtained from Officer Murray, and saw the picture matched the face of the driver he saw in the SUV. Afterward, the officers went to defendant's home.

¶ 6 The State admitted into evidence People's exhibit No. 1, a certified abstract indicating defendant's license was revoked on March 5, 2012. Thereafter, defendant made motions for directed findings, which the trial court granted as to the leaving-the-scene-of-an-accident charge and denied as to the DWLR charge.

¶ 7 Robert Szewerniak testified that on March 5, 2012, at around 11 p.m., he rode in a black Mercedes to a 7-Eleven with defendant, defendant's cousin, and defendant's friend. Defendant's cousin drove the vehicle and defendant sat in the backseat. When they arrived, Szewerniak went inside the store. He did not "remember exactly" who else went into the 7-Eleven. Szewerniak then got back into the Mercedes and defendant's cousin started to back up the car. Szewerniak

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did not remember whether defendant went back into the 7-Eleven and did not know if defendant spoke to a limousine driver.

¶ 8 Defendant testified on March 5, 2012, his cousin drove defendant's car to a Pantry N' More store on Potter and Ballard. Defendant, defendant's brother-in-law, and defendant's friend all rode in the car. Defendant's friend, who was a mechanic, had recently fixed defendant's mirror and defendant wanted to purchase a couple of six-packs of beer for him. When the men arrived at the store, defendant and his friend went inside, purchased the beer, and then got into the backseat of the car. Defendant's cousin was backing up the car as Mathew came out of the store. Defendant denied that the car ever made contact with Mathew's limousine or caused any damage.

¶ 9 According to defendant, he went back into the store to talk to Mathew then returned to the car to get his insurance papers. He then realized his wife had his insurance card, so he left his identification card with his friend and Mathew and went to his house, located about 10 or 15 minutes away from the store. Defendant explained that he gave Mathew his identification card even though he was not driving because his cousin, who was visiting from Romania, had an international license and the car belonged to defendant and his wife. Defendant first stated he could not drive because he "had a big surgery," then stated he had not yet had surgery but he was taking an antibiotic and thought "maybe they gonna [sic] cut" his knee. Defendant's cousin did not look like him. An hour after the incident, police arrived at defendant's home and took him to the police station.

¶ 10 On this evidence, the trial court found defendant guilty of DWLR. Thereafter, the court sentenced him to 180 days in jail. This appeal followed.

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¶ 11 Defendant's sole assertion on appeal is that the State failed to prove him guilty beyond a reasonable doubt of DWLR because the evidence failed to establish he drove on a public highway.

¶ 12 Initially, we note, defendant asserts our standard of review should be *de novo* because his appeal does not contest the credibility of the State's witnesses, but rather whether their testimony, if believed, was legally sufficient to establish defendant's guilt beyond a reasonable doubt. We disagree that a *de novo* standard applies because defendant's appeal raises arguments concerning whether a trier of fact could infer he was behind the wheel of his car when it left the grocery store's parking lot. See *People v. Lattimore*, 2011 IL App (1st) 093238, ¶¶ 35-36 (declining to apply a *de novo* standard of review because the defendant's argument challenged the inferences the trial court drew from the evidence). Accordingly, we review defendant's assertions relating to whether he was the driver of the vehicle according to the standard set forth in *Jackson v. Virginia*, 443 U.S. 307 (1979).

¶ 13 Under the *Jackson* standard, this court 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. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson*, 443 U.S. at 318-19). We do not retry the defendant, and the trier of fact remains responsible for making determinations regarding witness credibility, the weight to be given their testimony, and reasonable inferences to be drawn from the evidence. *People v. Ross*, 229 Ill. 2d 255, 272 (2008). The same standard applies regardless of whether the evidence is direct or circumstantial, and circumstantial evidence meeting this standard is sufficient to sustain a criminal conviction. *People v. Jackson*, 232 Ill. 2d 246, 281 (2009). "We will not reverse a conviction unless the evidence is so improbable, unsatisfactory, or inconclusive that it

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creates a reasonable doubt of defendant's guilt.' " *People v. Lloyd*, 2013 IL 113510, ¶ 42 (quoting *People v. Collins*, 214 Ill. 2d 206, 217 (2005)).

¶ 14 A person commits DWLR when he "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 5/6-303(a) (West 2012). "Highway" is defined 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 2012).

¶ 15 Defendant asserts the State failed to prove beyond a reasonable doubt that he drove on a publicly maintained way because, even if accepted as true, the State's evidence established only that defendant drove his car in a grocery store parking lot, which is not a public highway. As defendant correctly notes, this court has long held that a privately owned parking lot that is not publicly maintained is not a "highway." See *People v. Kozak*, 130 Ill. App. 2d 334, 335-36 (1970). Here, the State presented no evidence showing the grocery store parking lot was publicly maintained. Accordingly, we agree that defendant's act of driving in the grocery store parking lot cannot support his DWLR conviction.

¶ 16 However, the State also presented circumstantial evidence from which a reasonable trier of fact could infer defendant drove on the roads between the grocery store and his home. Circumstantial evidence is sufficient to sustain a criminal conviction if it satisfies proof beyond a reasonable doubt of the elements of the crime charged. *People v. Hall*, 194 Ill. 2d 305, 330 (2000). "Circumstantial evidence is proof of facts and circumstances from which the trier of fact may infer other connected facts which reasonably and usually follow according to common experience." (Internal quotation marks omitted.) *People v. Kiertowicz*, 2013 IL App (1st)

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123271, ¶ 20. The trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances. *Jackson*, 232 Ill. 2d at 281. Rather, it is sufficient if all of the evidence, when taken together, satisfies the trier of fact beyond a reasonable doubt that the defendant is guilty. *Id.*

¶ 17 Here, Mathew testified he saw defendant driving in the parking lot with one passenger and, after writing down defendant's information, Mathew looked up to discover defendant had departed. Defendant testified he and his wife owned the car involved in the altercation that night and that police arrested him about an hour after the incident at his home. Although Mathew did not see defendant when he departed, based on the testimony that (1) defendant was driving before the altercation with Mathew, (2) the car belonged to defendant, and (3) police found defendant at his home about an hour later, a reasonable trier of fact could have inferred defendant drove the car from the grocery store to his home.

¶ 18 Defendant asserts that because at least one person accompanied him to the grocery store, and because no witnesses saw defendant enter or leave the parking lot, the trier of fact could not determine beyond a reasonable doubt that defendant was the one who drove the car to or from the store. On this point, we find persuasive the Second District's decision in *People v. Slinkard*, 362 Ill. App. 3d 855 (2005). In *Slinkard*, an officer testified (1) the victim of a hit-and-run accident reported a dark-colored SUV hit his truck, (2) the officer subsequently responded to a call of a man burning a vehicle a few blocks away, and (3) when the officer arrived at the scene, he observed the defendant staggering in the side yard while a red SUV with extensive front-end damage emitted smoke. *Id.* at 856-57. The defendant's mother was also standing at the front door of the home. *Id.* at 856. The officer later learned defendant was the registered owner of the SUV. *Id.* at 856-57.

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¶ 19 The *Slinkard* court concluded, despite the defendant's contention that his mother drove the SUV, a rational trier of fact could have found the defendant guilty of driving while under the influence of alcohol, improper lane usage, and leaving the scene of an accident based on the officer's observations when he came upon the damaged SUV and the defendant's ownership of the SUV. *Id.* at 858. The court noted that " '[w]hile other people may drive an owner's vehicle, it is clear that the owner will do the vast amount of driving.' " *Id.* (quoting *People v. Barnes*, 152 Ill. App. 3d 1004, 1006 (1987)). Accordingly, the court concluded, when a vehicle's owner is standing near the vehicle after an accident, the trier of fact could reasonably infer the vehicle's owner was its driver. *Slinkard*, 362 Ill. App. 3d 858.

¶ 20 Here, defendant testified he and his wife owned the Mercedes that was being driven on the night of the accident. The fact that defendant owned the car, coupled with Mathew's observation that he saw defendant backing up the car earlier that evening, supports an inference defendant drove the car after leaving the grocery store that night. Notably, defendant left the scene before the police arrived and was later found at home. "When assessing circumstantial evidence, 'the trier of fact is not required to disregard inferences which flow normally from the evidence and to search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt.' " *Kiertowicz*, 2013 IL App (1st) 123271, ¶ 20 (quoting *People v. Hall*, 194 Ill. 2d 305, 332 (2000)). Viewing the evidence presented at trial in the light most favorable to the prosecution, we conclude the trier of fact could reasonably infer defendant drove his car from the grocery store to his home.

¶ 21 Finally, we find unpersuasive defendant's contention that the trial court's act of acquitting him of leaving the scene of the accident shows the court found the evidence insufficient to establish defendant drove his car from the grocery store. The court did not state its reason for

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granting defendant's motion for directed verdict on the leaving-the-scene-of-the-accident count, but it may have done so because defendant provided Mathew his identification card before leaving the grocery store. See 625 ILCS 5/11-403 (West 2012) ("The driver of any vehicle involved in a motor vehicle accident resulting in *** damage to any vehicle *** shall give the driver's name, address, registration number and owner of the vehicle the driver is operating[.]").

Accordingly, the court's dismissal of the leaving-the-scene-of-the-accident count does not lead us to conclude the court found the evidence insufficient to prove defendant drove the vehicle.

¶ 22 For the reasons stated, we affirm the trial court's judgment.

¶ 23 Affirmed.