2015 IL App (2d) 130748-U
No. 2-13-0748
Order filed March 24, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Winnebago County.
Plaintiff-Appellee,	)	
v.	)	No. 13-CM-305
CHARLES FREEMAN,	)	Honorable John S. Lowry,
Defendant-Appellant.	)	Judge, Presiding.

PRESIDING JUSTICE SCHOSTOK delivered the judgment of the court.
Justices McLaren and Birkett concurred in the judgment.

ORDER

¶1 *Held*: The State proved defendant guilty beyond a reasonable doubt of resisting a peace officer: the officers' testimony did not necessarily suffer from the weaknesses that defendant asserted, and in any event those weaknesses pertained to tangential points and thus did not preclude the jury from crediting the officers' testimony establishing defendant's guilt of the offense.

¶2 Following a jury trial, defendant, Charles Freeman, was found guilty of resisting a peace officer (720 ILCS 5/31-1(a) (West 2012)). He appeals, contending that he was not proved guilty beyond a reasonable doubt, because the arresting officers' testimony was inconsistent and incredible. We affirm.

¶3 Defendant was charged with physically resisting officers who were attempting to serve an arrest warrant on him. At trial, officer Jesse Washington testified that he and officer D'eyvron Boone went to defendant's house at around 6 a.m. on January 25, 2013. Washington knocked on the door. Defendant answered and identified himself. Washington told him that they had a warrant for his arrest. Defendant asked to see a copy of the warrant. Washington explained that he did not have a paper copy but could show him a "hit confirmation" on his car's computer screen. Washington asked defendant to come to the car, but defendant refused to comply unless he was first shown a paper copy.

¶4 Washington testified that defendant then attempted to close the door but was unable to do so because Washington had placed his boot in the doorway to keep the door ajar. Washington then grabbed defendant's right hand and told him that he was under arrest. Boone grabbed defendant's left hand at the same time. Defendant pulled both officers inside the residence, falling face-down on a couch. Boone put his knee into the back of defendant's left shoulder as Washington handcuffed defendant's right arm. At some point, defendant turned toward Washington and the officer delivered two knee strikes to defendant's chest.

¶5 Boone testified that he was standing on the stairs behind Washington as the latter was talking to defendant. Defendant closed the door on Washington's foot. Washington was able to open the door and the officers grabbed defendant. Boone forced defendant's hand off the doorknob and defendant fell backward onto the couch. Washington was able to get one of defendant's arms behind his back while Boone used his knee to pin defendant's shoulder blade to the couch and punched him in the lower back.

¶6 Aleijah Batista, defendant's 13-year-old stepdaughter, testified that she was sleeping on the couch when the officers arrived. Defendant opened the door and had a conversation with

them. One officer was asking questions, but would not answer defendant's questions. One officer grabbed one of defendant's hands and the other officer grabbed the other. One of the officers kneed defendant and hit him in the back. Defendant fell onto the couch. Defendant appeared confused because the second officer "just barged in" without saying anything.

¶7 The jury found defendant guilty. The trial court sentenced him to 3 days in jail and 12 months of conditional discharge. Defendant timely appeals.

¶8 Defendant contends that he was not proved guilty beyond a reasonable doubt, because the officers' testimony was inconsistent and inherently incredible. We disagree.

¶9 Where a defendant challenges on appeal the sufficiency of the evidence, we ask whether, after viewing all the evidence in a light most favorable to the prosecution, a rational trier of fact could have found the elements of the offense beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). It is the jury's function to resolve factual disputes, to reconcile conflicts in the testimony, to assess the credibility of the witnesses, and to determine the weight to be given their testimony (*People v. Bradford*, 106 Ill. 2d 492, 502 (1985)), and we may not substitute our judgment for that of the trier of fact on questions involving the weight of the evidence, the credibility of the witnesses, or the resolution of conflicting testimony (*People v. Campbell*, 146 Ill. 2d 363, 375 (1992)).

¶10 Defendant was convicted of violating section 31-1 of the Criminal Code of 2012, which provides that one who "knowingly resists or obstructs the performance by one known to the person to be a peace officer *** of any authorized act within his official capacity commits a Class A misdemeanor." 720 ILCS 5/31-1(a) (West 2012). "Generally, 'authorized act' means simply an act of a type that an officer is authorized to perform." *People v. Jones*, 2015 IL App

(2d) 130387,¶11. Generally, a person is not privileged to resist an arrest even if he believes that it is unlawful. *Id.*, citing *City of Champaign v. Torres*, 214 Ill. 2d 234, 241-42 (2005).

¶11 Preliminarily, defendant argues that, given that the officers did not bring a paper copy of the warrant, he was "well within his rights to dispute the validity of his arrest." This may be, but defendant was not charged with resisting based on his demand to see a copy of the warrant. He was charged with physically resisting the officers' attempts to handcuff him. Thus, this argument is beside the point.

¶12 Defendant contends that the officers' testimony was fatally flawed because it was inconsistent on several points. He argues that the officers testified that defendant closed the door on Washington's foot, yet, although "logic would seemingly dictate that the door remained only slightly opened," the officers also testified that they almost simultaneously reached through the door to grab defendant's hands. Defendant then claims that Washington "contradicted himself" by claiming that the door was wide open when the officers reached through.

¶13 Defendant's recitation of the evidence on this point is highly selective, ignoring completely Boone's testimony that, after defendant tried to close the door, Washington was able to open it again before the officers reached for defendant. Boone's testimony completely explains the alleged contradiction.

¶14 Defendant further complains that Washington testified implausibly that defendant pulled both officers into the house, "only to lose his balance and fall face down on the couch." Defendant fails to explain why he finds this sequence of events "puzzling." Washington's characterization of defendant "pulling" both officers into the house is perhaps inaccurate, as Boone's testimony implies that he entered the house of his own volition while trying to grab defendant's arm. However, it is undisputed that both officers entered the house at some point.

Boone further testified that defendant's hand came off the doorknob as Boone tried to grab his arm. It is not "contrary to human experience," as defendant suggests, that defendant could lose his balance in that situation and fall onto the couch.

¶15 Finally, defendant questions the testimony that he managed to turn around and face Washington while Boone had his knee against defendant's back. We do not find it contrary to human experience that defendant could turn around while an officer had one knee against his back. There was no evidence that defendant was restrained in any other way at that point, and he could simply have turned the upper portion of his torso around.

¶16 In any event, all these points are collateral to the central issue of defendant's guilt. Minor inconsistencies in testimony collateral to the central issue do not require us to find that the evidence was insufficient to prove beyond a reasonable doubt defendant's guilt. *People v. Bofman*, 283 Ill. App. 3d 546, 553 (1996).

¶17 It is undisputed that both officers entered the house at some point and grabbed defendant's arms. Even Batista, defendant's stepdaughter, agreed with the officers on these points. The precise way they entered the house and grabbed defendant's arms is immaterial to the central issue of defendant's guilt. The officers testified consistently that defendant resisted their efforts to handcuff him. Thus, the jury was well within its prerogative to find the officers credible.

¶18 The judgment of the circuit court of Winnebago County is affirmed.

¶19 Affirmed.