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2015 IL App (3d) 130586-U

Order filed May 15, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

THE PEOPLE OF THE STATE OF)	Appeal from the Circuit Court
ILLINOIS,)	of the 12th Judicial Circuit,
)	Will County, Illinois,
Plaintiff-Appellee,)	
)	Appeal No. 3-13-0586
v.)	Circuit No. 12-CM-3334
)	
LAVELLE WATTS, JR.,)	Honorable
)	Domenica Osterberger,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Schmidt and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The defendant was proven guilty beyond a reasonable doubt of the charge of resisting or obstructing a peace officer.

¶ 2 Following a bench trial, the trial court found the defendant, Lavelle Watts, Jr., guilty of resisting or obstructing a peace officer (720 ILCS 5/31-1(a) (West 2012)). The defendant argues there was insufficient evidence to convict him of resisting or obstructing a peace officer. We affirm.

¶ 3

FACTS

¶ 4

The criminal complaint alleged the defendant resisted or obstructed a peace officer in that he "knowingly resisted the performance of Josh Sawyer of an authorized act within his official capacity *** in that he pulled away from Josh Sawyer while being handcuffed[.]"

¶ 5

At trial, Officer James Robertson testified that on September 11, 2012, he and Officer Josh Sawyer were parked side by side, facing opposite directions, in a parking lot outside the Will County courthouse. While the officers were in their squad cars, the defendant approached Robertson's squad car, looked in the passenger side window and said he was looking for someone. Then, the defendant walked over to Sawyer's passenger side window and had a conversation with Sawyer which Robertson could not hear. Sawyer drove his squad car forward and exited his vehicle. Robertson also exited his vehicle.

¶ 6

Robertson overheard the defendant tell Sawyer he had a civil case against Sawyer, but would drop the case if Sawyer apologized. Robertson described the defendant as in a "squared off" position when he spoke to Sawyer which meant the defendant was standing one foot in front of the other with his fists clenched at his waist. Sawyer told the defendant to step away at least twice and told the defendant he would be arrested. The defendant did not move and the officers took the defendant by his arms and pushed him over the squad car. The defendant tensed his muscles and tried to push himself off the car. The defendant was told to put his arms behind his back but continued to struggle and pull his arms apart. The defendant was eventually handcuffed.

¶ 7

Robertson prepared a report in connection with the defendant's arrest. Robertson did not personally write the report; instead, he called it in and another person wrote the report. On cross-examination, Robertson admitted that his report did not mention the fact that the defendant's legs

were in a "squared off" position when he told Sawyer he would drop his civil lawsuit if Sawyer apologized. Robertson's report also did not include the fact that the defendant was commanded to step away from Sawyer or that the defendant tensed his muscles and pushed off the squad car while the officers attempted to hold him down against the car. Robertson's report did not indicate the defendant was told he would be placed under arrest or to put his hands behind his back, or the fact that the defendant continued to struggle with the officers. Robertson testified that when he called the report in, he told the individual writing his report that the defendant "squared off" with Sawyer and Sawyer had advised the defendant to step away.

¶ 8 Sawyer testified that, on the day of the occurrence, he was parked in the courthouse parking lot side by side, driver's window to driver's window with Robertson. The defendant approached Sawyer's car and asked if he "remember[ed] [him]." Sawyer did not remember the defendant. The defendant continued to ask Sawyer if he remembered him and then hit Sawyer's window with a closed fist. At that time, Sawyer advised the defendant to step away from his car. Sawyer then pulled his car forward and exited his vehicle. After Sawyer exited his vehicle, the defendant walked toward him, clenched at least one fist, and asked Sawyer, "[d]on't you know who I am? Do you remember me? I am the one you—whose arm you tried to break." According to Sawyer, the defendant made additional aggressive statements toward him and told Sawyer if he apologized, the defendant would drop his lawsuit.

¶ 9 Sawyer also testified that he and Robertson commanded the defendant to put his hands on the squad car as the defendant approached Sawyer. The defendant refused and the officers pushed the defendant onto the car. The defendant was then told to put his hands behind his back but as the officers tried to put handcuffs on the defendant, he pushed back against the squad car and tried to pull his hands and wrists away.

¶ 10 Sawyer also prepared a report in connection with the defendant's arrest. Like Robertson, Sawyer did not personally write his report, but called in the report to be written by another individual. On cross-examination, Sawyer acknowledged the report did not mention the fact that the defendant struck his squad car window or that the defendant refused to put his hands behind his back.

¶ 11 The defendant did not testify or present any evidence on his own behalf. After trial, the court found the defendant guilty of resisting or obstructing a peace officer (720 ILCS 5/31-1(a) (West 2012)).

¶ 12 ANALYSIS

¶ 13 On appeal, the defendant contends there was insufficient evidence to convict him of resisting or obstructing a peace officer. Specifically, the defendant argues his conviction should be reversed because it is based on factually unreliable testimony. A person resists a peace officer if he or she knowingly resists or obstructs the performance by one known to the person to be a peace officer of any act within his or her official capacity. 720 ILCS 5/31-1(a) (West 2012). Viewing the evidence in the light most favorable to the State, we find a rational trier of fact could have found the essential elements of resisting a peace officer beyond a reasonable doubt.

¶ 14 When a defendant challenges the sufficiency of the evidence, we view the evidence in the light most favorable to the State and determine whether any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011); *People v. Collins*, 106 Ill. 2d 237, 261 (1985). It is not this court's function to retry a defendant who challenges the sufficiency of the evidence. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). Rather, in a bench trial, the trial court remains responsible for determining the credibility of witnesses, the weight to be given to their testimony,

and the reasonable inferences to be drawn from the evidence. *Id.* This court will not substitute its judgment for that of the trial court on these matters. *Id.* at 224-25. A conviction will only be overturned where the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt. *Beauchamp*, 241 Ill. 2d at 8.

¶ 15 Both officers testified consistently as to the underlying facts that constituted the defendant's resisting or obstructing a peace officer conviction. Sawyer testified the defendant walked toward Sawyer with at least one fist clenched in an aggressive manner. When the defendant continued to approach Sawyer, Sawyer commanded the defendant to put his hands on the squad car. The defendant refused and the officers took the defendant by the arms and pushed him over the squad car. The officers attempted to handcuff the defendant but he continued to struggle and pull his arms apart. Likewise, Robertson testified the defendant was told he was under arrest and the defendant resisted and continued to resist and pull his arms apart while the officers were attempting to put the defendant's wrists in handcuffs. The officers' above testimony establishes that the defendant knowingly resisted or obstructed the performance of one to be known to be a peace officer of any act within his or her official capacity. See 720 ILCS 5/31-1(a) (West 2012). Thus, viewing the evidence in the light most favorable to the State, the officers' testimony alone is sufficient to sustain the defendant's conviction for resisting or obstructing a peace officer. *Beauchamp*, 241 Ill. 2d at 8.

¶ 16 In reaching our conclusion, we reject the defendant's contention that the officers' testimony was factually unreliable because their testimony was impeached by the police reports they prepared in connection with the defendant's arrest. The defendant contends that if the police officers were aware of the facts omitted in their reports, they would have amended their reports prior to trial to accurately reflect the incident. We note the defendant had the opportunity to

cross-examine the witnesses to impeach their testimony with the facts omitted in their reports and the trial court had the opportunity to observe each witness and assess their credibility. Significantly, the trial court noted the discrepancies in the officers' reports but expressly found the consistencies in the officers' testimony "far outweigh[ed] the inconsistencies." The trial court is responsible for determining the credibility of witnesses, the weight to be given to their testimony, and the reasonable inferences to be drawn from the evidence. *People v. Slinkard*, 362 Ill. App. 3d 855, 857 (2005). We will not substitute our judgment for that of the trier of fact on this matter. *Id.*

¶ 17 We also reject the defendant's argument that the officers' testimony was factually unreliable because the officers' explanation for the discrepancies in their reports was not credible. Such an argument goes to the witnesses' credibility. Again, we defer to the trier of fact (*Slinkard*, 362 Ill. App. 3d at 857) and emphasize that these sought-after explanations are not elements, which are necessary to establish resisting or obstructing a peace officer. 720 ILCS 5/31-1(a) (West 2012).

¶ 18 CONCLUSION

¶ 19 The judgment of the circuit court of Will County is affirmed.

¶ 20 Affirmed.