

No. 1-14-0907

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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. 13 CR 10018
)	
LUIS GONZALEZ,)	Honorable
)	Carol M. Howard,
Defendant-Appellant.)	Judge Presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Presiding Justice Mason and Justice Pucinski concurred in the judgment.

O R D E R

¶ 1 *Held:* We affirm defendant's conviction for driving while his license was suspended where the evidence at trial established each element of the offense beyond a reasonable doubt.

¶ 2 Following a bench trial, defendant Luis Gonzalez was convicted of driving while his license was suspended (DWLS) and was sentenced to two years' imprisonment. On appeal, defendant contends that he was not proven guilty beyond a reasonable doubt where DWLS requires the element of *mens rea* and the State failed to establish that he knew his driving privileges were suspended at the time of the offense. We affirm.

¶ 3 Defendant was charged by information with four counts of felony DWLS. The State proceeded on only one of the counts, which alleged that defendant drove a vehicle while his driver's license was subject to statutory summary suspension, in violation of section 6-303(a) of the Illinois Vehicle Code (Code) (625 ILCS 5/6-303(a) (West 2012)). According to the information, defendant's license had been suspended due to his refusal to submit to a drug or alcohol test following a traffic stop. 625 ILCS 5/11-501.1 (West 2012). The State sought to sentence defendant as a Class 3 felon in view of his 11 prior convictions for DWLS. 625 ILCS 5/6-303(d-4) (West 2012).

¶ 4 At trial, Officer Silva testified that about 7:30 p.m. on April 10, 2013, in Chicago, she observed defendant driving an SUV with unrestrained children in the rear compartment. Silva curbed defendant's vehicle and requested his driver's license, which he could not produce. After entering defendant's identifying information in the computer, Silva determined that defendant's license was suspended and that he had an outstanding traffic warrant.

¶ 5 The State admitted into evidence defendant's certified driving abstract from the Illinois Secretary of State, which showed that defendant had 11 prior convictions for DWLS.¹ The abstract also showed, *inter alia*, that defendant refused a "BAC" test following an arrest on June 15, 2007, and as a result, a statutory summary suspension was in effect for six months. Defendant again refused a "BAC" test following an arrest on May 25, 2012, and as a result, another statutory summary suspension was in effect from July 11, 2012, through July 11, 2015. A subsequent suspension for DWLS was in effect from February 9, 2013, through August 9, 2013, stemming from an arrest on August 24, 2009. The abstract stated that a "statutory

¹ Defendant asserts that he had 10 prior convictions for DWLS. The dispute is immaterial to the present appeal, as the same statutory provision applies whether defendant had 10 or 11 prior convictions for DWLS. 625 ILCS 5/6-303(d-4) (West 2012).

summary susp [*sic*] was in effect on 04-10-2013," but did not specifically mention the suspension from July 11, 2012, or the suspension from February 9, 2013. The abstract also noted that a "financial responsibility insurance suspension" was removed on November 2, 2012.

¶ 6 The State rested and the court denied defendant's motion for directed verdict.

¶ 7 Defendant testified that he was "stopped and charged for a DUI" on May 26, 2012, but the case was dismissed in October 2012. He denied having a conversation with anyone regarding his driving privileges following the dismissal of the case. Defendant then went to the Secretary of State's office, applied for a driver's license, and stated that he truthfully answered all the questions on the application. The application did not ask whether his license was suspended. The office rejected defendant's application because he did not have SR-22 insurance.² Defendant obtained the insurance, paid reinstatement fees, and was issued a driver's license on November 2, 2012. He testified that he had this license with him when he was arrested while driving his vehicle on April 10, 2013.

¶ 8 The court found defendant guilty of DWLS. After denying defendant's motion for new trial, the court sentenced him to two years' imprisonment.

¶ 9 On appeal, defendant contends that he was not proven guilty of DWLS beyond a reasonable doubt where the State failed to establish that he knew his driving privileges were suspended at the time of the offense. Defendant acknowledges this court has previously held that DWLS is a strict liability offense, but argues that our previous decisions did not analyze whether

² SR-22, or financial responsibility insurance, is required in Illinois for individuals whose licenses have been suspended or revoked for various safety or insurance violations. See Driver Services, *available at* http://www.cyberdriveillinois.com/departments/drivers/drivers_license/SR-22_uninsured_crashes/finressr22.html (last visited March 7, 2016); *People v. Crawford*, 2013 IL App (1st) 100310, ¶ 118 n. 9 ("This court may take judicial notice of information on a public website even though the information was not in the record on appeal.").

the legislature intended to omit a *mens rea* requirement. Consequently, defendant submits the State was required to prove *mens rea* as an element of DWLS. Defendant acknowledges that his license was suspended on July 11, 2012, but claims that he obtained a new license in good faith on November 2, 2012. Additionally, defendant claims the evidence does not show that he knew about the suspension imposed on February 9, 2013, as the Secretary of State's office may have entered that suspension without his knowledge. As a result, defendant contends that he had an "honest belief that he was licensed to drive" when he was arrested on April 10, 2013, and therefore, lacked the *mens rea* for DWLS.

¶ 10 The State maintains that DWLS is a strict liability offense with no *mens rea* requirement. Even if DWLS requires *mens rea*, the State contends that defendant had notice that he was prohibited from driving based on the three-year suspension imposed on July 11, 2012. The State further argues that defendant could have no reasonable belief the suspension was lifted on November 2, 2012, when he obtained a new license, as section 2-118.1(b) of the Code requires a judicial hearing to rescind a statutory summary suspension, and in this case, no hearing occurred.³ 625 ILCS 5/2-118.1(b) (West 2012). Alternatively, even if defendant's new license nullified the suspension imposed on July 11, 2012, the State argues that defendant again had notice that he could not drive due to the subsequent suspension of his license on February 9, 2013.

¶ 11 The standard of review on a challenge to the sufficiency of the evidence is whether, after reviewing all the evidence in the light most favorable to the State, any rational trier of fact could

³ In relevant part, section 2-118.1(b) of the Code proves that "[w]ithin 90 days after the notice of statutory summary suspension or revocation [is] served *** the person may make a written request for a judicial hearing," after which "the circuit court shall sustain or rescind the statutory summary suspension." 625 ILCS 5/2-118.1(b) (West 2012).

have found the essential elements of the crime beyond a reasonable doubt. *People v. Brown*, 2013 IL 114196, ¶ 48. A conviction will be reversed only if the evidence "is so improbable or unsatisfactory as to create a reasonable doubt of the defendant's guilt." *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225 (2009).

¶ 12 Section 6-303(a) of the Code sets forth the offense of DWLS. In relevant part, section 6-303(a) prohibits any person from driving a motor vehicle "on any highway of this State at a time when such person's driver's license, permit or privilege to do so or the privilege to obtain a driver's license or permit is revoked or suspended." 625 ILCS 5/6-303(a) (West 2012). The only elements necessary to prove the offense of DWLS are "(1) the act of driving a motor vehicle on the highways of this State, and (2) the fact of the revocation of the driver's license or privilege." (Internal quotation marks omitted.) *People v. Jackson*, 2013 IL 113986, ¶ 16 (quoting *People v. Close*, 238 Ill. 2d 497, 507-08 (2010), quoting *People v. Turner*, 64 Ill. 2d 183, 185 (1976)). Under section 6-303(d-4) of the Code, a tenth, eleventh, twelfth, thirteenth, or fourteenth conviction for DWLS constitutes a Class 3 felony if the "revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code *** or a statutory summary suspension or revocation under Section 11-501.1 of this Code." 625 ILCS 5/6-303(d-4) (West 2012).

¶ 13 Relevant to the present appeal, section 11-501.1 of the Code provides that an individual's refusal to submit to a drug or alcohol test results in the statutory summary suspension of his or her driver's license. 625 ILCS 5/11-501.1 (West 2012). On the first occasion an individual refuses to submit to testing, his or her license is subject to suspension for 12 months. 625 ILCS 5/6-208.1(a)(1) (West 2012). Subsequent refusals to submit to testing result in suspension for three years. 625 ILCS 5/6-208.1(a)(3) (West 2012). In the case at bar, defendant's abstract showed that he received a statutory summary suspension for six months following his refusal to

submit to a BAC test following an arrest on June 15, 2007. After refusing another BAC test on May 25, 2012, defendant received a statutory summary suspension in effect from July 11, 2012, through July 11, 2015. Because defendant had 11 prior convictions for DWLS, the present offense constitutes a Class 3 felony. 625 ILCS 5/6-303(d-4) (West 2012).

¶ 14 A person may be guilty of an offense without having a culpable mental state as to each element of the offense if (1) "the offense is a misdemeanor which is not punishable by incarceration or by a fine exceeding \$1,000," or (2) "the statute defining the offense clearly indicates a legislative purpose to impose absolute liability for the conduct described." 720 ILCS 5/4-9 (West 2012). Because the present offense is a felony, we must consider whether the legislature intended to impose absolute liability for DWLS.

¶ 15 In answering this question, our decision in *People v. Manikas*, 106 Ill. App. 2d 315 (1969) is instructive. In *Manikas*, the defendant filed a petition for rehearing on his appeal from his conviction for DWLS, arguing that the State had failed to prove the element of *mens rea*. *Id.* at 324. We rejected defendant's argument, finding that "[t]he terms of section 6-303(a) do not indicate the implication of a mental state requirement." *Id.* at 329. In support of this conclusion, we noted that the statute required the Secretary of State's office to automatically extend the period of suspension for defendants convicted of DWLS. *Id.* at 328. We explained:⁴

"[The statute] clearly manifests a legislative intent to further restrict the erring driver and to protect the safety of the public by the additional restrictions therein imposed. Such provision manifests a legislative purpose to impose absolute liability for the conduct described in sub-section 6-303(a).

⁴ The relevant provision, 625 ILCS 5/6-303(b), has since been amended and renumbered as 625 ILCS 5/6-303(b-1), (b-2) (West 2012).

* * *

We conclude that the violation of section 6-303 of the Motor Vehicle Act is an offense which involves absolute liability and that the mental state of the offender is not an essential element of the offense of driving while license is revoked." *Id.* at 328-29.

¶ 16 In subsequent decisions, this court has consistently held that DWLS does not require the element of *mens rea*. *People v. Ciechanowski*, 379 Ill. App. 3d 506, 511 (2008) ("driving on a suspended or revoked license is *** a strict liability offense"); *People v. Van Cura*, 49 Ill. App. 3d 157, 159 (1977) ("[i]n cases of driving a motor vehicle while operator's license is revoked *** there is absolute liability"); *People v. Espenscheid*, 109 Ill. App. 2d 107, 111 (1969) (DWLS "involves absolute liability"); see generally, *People v. Studley*, 259 Ill. App. 3d 556, 559 (1994) ("Generally, offenses relating to the operation of motor vehicles upon the public highways are absolute liability offenses, meaning that a defendant's intent or knowledge is immaterial to the question of guilt."). Because a conviction for DWLS only requires proof that a defendant drove while his or her privileges were suspended, "evidence of the defendant's actual receipt of notice or knowledge of suspension is immaterial." *People v. Johnson*, 170 Ill. App. 3d 828, 832 (1988).

¶ 17 Turning to the present case, the evidence was sufficient to sustain defendant's conviction for DWLS. Officer Silva and defendant both testified that defendant was driving on April 10, 2013, and the certified driving abstract indicated that his license was subject to two suspensions on that date. The State established each element of DWLS (*Jackson*, 2013 IL 113986, ¶ 16), irrespective of whether defendant had notice that either suspension was in effect. *People v. Stevens*, 125 Ill. App. 3d 854, 856 (1984) ("due process does not require that a defendant convicted [of DWLS] receive actual notice of suspension."). Moreover, defendant has failed to provide a compelling basis that requires this court to deviate from precedent by finding that the

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offense of DWLS includes the element of *mens rea*. Consequently, the evidence at trial proved defendant guilty of DWLS beyond a reasonable doubt.

¶ 18 For the foregoing reasons, we affirm the judgment of the trial court.

¶ 19 Affirmed.