

NOTICE

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2016 IL App (4th) 140055-U

NO. 4-14-0055

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

January 19, 2016

Carla Bender

4th District Appellate

Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

v.

VERNON SEAY,

Defendant-Appellant.

) Appeal from
) Circuit Court of
) Woodford County
) No. 10CF72
)
) Honorable
) John B. Huschen,
) Judge Presiding.

JUSTICE POPE delivered the judgment of the court.

Presiding Justice Knecht and Justice Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* The State failed to present sufficient evidence to convict defendant of obstructing the prosecution of Robert Derrickson.

¶ 2 In January 2011, a jury found defendant, Vernon Seay, guilty of obstruction of justice. Defendant argues the State failed to prove he was guilty of obstructing justice because his action of furnishing false information to a police detective did not impede Robert Derrickson's prosecution. In the alternative, defendant argues the trial court abused its discretion in sentencing him. We reverse.

¶ 3 I. BACKGROUND

¶ 4 On July 1, 2010, a grand jury indicted defendant on two counts of obstructing justice (720 ILCS 5/31-4(a) (West 2008)). Both counts of the indictment alleged defendant knowingly furnished false information to Officer Robert Gillson when defendant stated he was

not with Robert Derrickson at any time on March 8, 2010. The first count alleged defendant was trying to obstruct the prosecution of Robert Derrickson. The second count alleged defendant was trying to obstruct his own prosecution.

¶ 5 Defendant was tried by a jury in January 2011. Robert Gillson, a detective with the Woodford County sheriff's office, testified he was dispatched to a residence in Germantown Hills on March 9, 2010, because of a possible residential burglary. The residence in question was still under construction. At the construction site, Gillson saw a red Chevy truck covered in mud, stuck in the ditch. Gillson testified someone had entered the house through the front door, which had been forced open. A water heater had been removed from the basement and moved to the garage. Gillson believed the perpetrators were going to load the water heater into a vehicle.

¶ 6 Gillson checked the registration on the truck but was unable to contact the registered owner of the vehicle. Gillson impounded the truck. Later that day, the truck's owner contacted the police. She told the police her fiancé, Robert Derrickson, had been driving the truck the night before, March 8, 2010.

¶ 7 The police interviewed Derrickson regarding the pickup truck and why it was in front of the house. Derrickson disclosed he and defendant went to the house to steal the hot water heater, which they planned to sell for scrap to get money for drugs.

¶ 8 After Derrickson's confession, the police located defendant and interviewed him at the Woodford County sheriff's office on March 10 or 11, 2010. Defendant denied any involvement in the case and said he was never with Derrickson on the night of March 8, 2010. Defendant volunteered potential alibi information for himself to Gillson. Gillson contacted the alibi witnesses, who lived with defendant. The alibi witnesses told Gillson defendant was not home on the night of March 8. They were not sure what time he got home, but they were in bed

when he did so. Gillson confronted defendant with this information. Defendant said he had been out for a while that evening but came home early. According to defendant, his roommates went to bed early.

¶ 9 Defendant continued to deny being with Derrickson any other time in the recent past. Defendant later told Detective Gillson he might have been with an ex-girlfriend of his in Peoria and provided a telephone number for her. Gillson contacted this potential alibi witness. She told Gillson she picked up defendant and Derrickson walking along Route 116 in Germantown Hills in the later evening or early morning hours of March 8 or 9. When Gillson confronted defendant with this information, defendant admitted he had been with Derrickson that night and went to the construction site.

¶ 10 The interview with defendant lasted almost three hours. Before admitting he was with Derrickson, defendant denied being with Derrickson more than 10 times. On cross-examination, Gillson testified defendant never admitted going into the house or trying to steal anything.

¶ 11 The parties stipulated Derrickson pled guilty to a burglary that occurred on or about March 10, 2010.

¶ 12 Defendant testified on his own behalf. He stated he and Derrickson had been friends for a long time. They were separated while defendant was incarcerated. Defendant testified he had been in prison twice. Defendant admitted he lied when he told Detective Gillson he had not been with Derrickson on the night in question. According to defendant, he lied because he had done nothing wrong and did not want to be involved with the situation. Defendant claimed he did not lie to obstruct justice. He claimed he and Derrickson never went into the house so he believed Gillson was lying to him. According to defendant, the thought of

prosecution "didn't even come to mind" because he and Derrickson never entered the house. On cross-examination, defendant testified Detective Gillson told him he was investigating this burglary.

¶ 13 In his closing argument, defense counsel conceded the State established defendant knowingly provided false information to Detective Gillson. However, defense counsel argued the State did not establish beyond a reasonable doubt defendant intended to obstruct the prosecution of either himself or Derrickson. Defense counsel argued Derrickson had recanted his statement to Gillson that defendant was involved in the burglary. According to defense counsel, at Derrickson's sentencing hearing, Derrickson told the court defendant said "hell, no" when they pulled into the driveway of the house. Defendant then backed up into the ditch and got stuck.

¶ 14 The jury found defendant guilty of count I (obstructing the prosecution of Derrickson) and not guilty of count II (obstructing his own prosecution).

¶ 15 On July 10, 2013, the trial court held a sentencing hearing in this case. Defendant was extended-term eligible. The State noted defendant had 24 Class A misdemeanor convictions, 8 felony convictions, and 24 other traffic offenses. The State recommended a six-year prison sentence consecutive to a sentence defendant was serving on a conviction from Peoria County (case No. 11-CF-13). The court sentenced defendant to six years in prison with credit for 530 days served. The court ordered defendant's sentence to be consecutive to his sentence in the other case, stating:

"[T]he court is of the opinion that imprisonment is necessary for the protection of the public, and probation would deprecate the seriousness of the offender's conduct and would be inconsistent

with the ends of justice. For the same reason, the court also finds that consecutive terms of imprisonment are necessary to protect the public from further criminal activity of this defendant, which includes numerous thefts, retail thefts, and misdemeanor resisting peace officers, drug offenses all the way up until almost immediately upon his arrest for this case. And even after his fleeing from this court he continued to resist the performance of police officers' duties."

¶ 16 In August 2013, defendant filed a motion to reconsider his sentence. On January 15, 2014, the trial court denied defendant's motion.

¶ 17 This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 Ironically, the jury in this case found defendant not guilty of obstructing his own prosecution but guilty of obstructing Derrickson's prosecution. Considering defendant repeatedly lied to Detective Gillson about his involvement in the incident during the course of a three-hour interview and identified false alibi witnesses, had the jury convicted defendant of obstructing his own prosecution, we could have affirmed that judgment. However, this is not what the jury did.

¶ 20 Defendant argues the State failed to prove he was guilty of obstructing Derrickson's prosecution because defendant's act of furnishing false information to Detective Gillson did not materially impede Derrickson's prosecution. The relevant portion of the obstruction of justice statute states:

"A person obstructs justice when, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he knowingly commits any of the following acts:

(a) Destroys, alters, conceals or disguises physical evidence, plants false evidence, furnishes false information[.]" 720 ILCS 5/31-4(a) (West 2008).

We need not interpret the meaning of this statute as our supreme court has already done so.

In *People v. Comage*, 241 Ill. 2d 139, 149, 946 N.E.2d 313, 319 (2011), our supreme court stated:

"The subject addressed by section 31-4 is 'obstructing justice.' Obstruction of justice is an attempt to interfere with the administration of the courts, the judicial system, or law enforcement agencies. The phrase "obstructing justice" as used in connection with offenses arising out of such conduct means impeding or obstructing those who seek justice in a court or those who have duties or powers of administering justice in courts.' 67 C.J.S. *Obstructing Justice* § 1, at 67 (2002). Thus, in enacting section 31-4, the legislature intended to criminalize behavior that *actually* interferes with the administration of justice, *i.e.*, conduct that 'obstructs prosecution or defense of any person.' " (Emphasis in original.)

Based on this interpretation, we must determine whether the State presented sufficient evidence to establish defendant's guilt of obstructing Derrickson's prosecution beyond a reasonable doubt.

¶ 21 "In reviewing the sufficiency of the evidence in a criminal case, our inquiry is 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 offense beyond a reasonable doubt." *People v. Baskerville*, 2012 IL 111056, ¶ 31, 963 N.E.2d 898. In addition, pursuant to this standard, "all reasonable inferences from the evidence must be allowed in favor of the State." *Id.*

¶ 22 Defendant argues the State failed to present sufficient evidence for any rational trier of fact to convict him of obstructing Derrickson's prosecution. According to defendant, the false statements he made to Detective Gillson did not interfere with Derrickson's prosecution. However, the State argues it did not have to establish the statements actually interfered with Derrickson's prosecution.

¶ 23 According to the State:

"By definition, a person obstructs justice when he knowingly furnishes false information with intent to obstruct the prosecution of a person. 720 ILCS 5/31-4(a)(1) (West 2010). Thus, the legislature considered such an act when committed with the requisite mental state to constitute a *per se* interference with the administration of justice. Cf. *People v. Baskerville*, 2012 IL 111056, ¶ 28 (recognizing that under the offense of obstructing justice, some acts are 'specifically enumerated as obstructive conduct')."

However, we reject the idea simply furnishing false information to a police officer even with the requisite intent automatically establishes obstruction of justice. As the supreme court noted in *Comage*, "the legislature intended to criminalize behavior that *actually* interferes with the

administration of justice, *i.e.*, conduct that 'obstructs prosecution or defense of any person.'" (Emphasis in original). *Comage*, 241 Ill. 2d at 149, 946 N.E.2d at 319.

¶ 24 In the alternative, the State argues it presented sufficient evidence to prove defendant's false statements impeded the police investigation. However, defendant was not charged with obstructing the police investigation in general. He was charged with two separate offenses, (1) obstructing his own prosecution and (2) obstructing Derrickson's prosecution. The jury found defendant not guilty of obstructing his own prosecution and convicted him of obstructing Derrickson's prosecution.

¶ 25 Based on the evidence in this case, no rational trier of fact could have convicted defendant of obstructing Derrickson's prosecution. As defendant points out, before Detective Gillson spoke with defendant, Detective Gillson had already interviewed Derrickson and Derrickson confessed he and defendant went to the home-construction site to burglarize it. When Gillson questioned defendant, defendant made no false statements with regard to Derrickson's involvement with the burglary. Further, defendant offered no false alibi to protect Derrickson. No reasonable inference can be made that defendant's false statements were made to protect anyone but himself from prosecution. As a result, we must reverse defendant's conviction.

¶ 26 This case is distinguishable from this court's decision in *People v. Davis*, 409 Ill. App. 3d 457, 951 N.E.2d 230 (2011). In *Davis*, the defendant was charged with obstructing justice for concealing the fact Jason Bates, for whom the police had an arrest warrant, was hiding in her house. This court's decision in *Davis* does not reflect the police knew Bates was in defendant's home when she lied to the officers. *Id.* at 458-59, 951 N.E.2d at 231. The defendant argued she "did not obstruct justice because she recanted her claim that Bates *was not* in the

house shortly after she told the officers that Bates *was* in the house." (Emphasis in original.) *Id.* at 461, 951 N.E.2d at 233. However, as this court noted:

"[W]hen, as here, the defendant furnishes false information, the potential that the investigation will be compromised is exceedingly high, which is why such a crime may be completed in a very short period of time—indeed, it *may be* completed at the moment such false information is provided. [Citation.] That is precisely what happened in this case.

[The defendant] provided the officers with false information about whether Bates was in the house, knowing that they had a warrant for Bates's arrest, in the hopes that he would not be apprehended. It was not until after defendant spoke to her brother and it apparently became clear that he was going to 'spill the beans' that she decided to tell the truth. *Under these facts*, we conclude that defendant's actions in that regard impeded the officers' investigation at the time that she misled them by lying." (Emphases added.) *Id.* at 462, 951 N.E.2d at 234.

In the case *sub judice*, Detective Gillson already had Derrickson's confession, and defendant's statements did not contradict Derrickson's stated involvement in the crime.

¶ 27 Because we are reversing defendant's conviction, we need not address his sentencing argument.

¶ 28

III. CONCLUSION

¶ 29

For the reasons stated, we reverse defendant's conviction for obstruction of justice.

¶ 30

Reversed.