SIXTH DIVISION
July 26, 2019

No. 1-17-0977

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. TH-078-009
	)	
EDWARD SAQUIMUX,	)	Honorable
	)	Elizabeth A. Karkula,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Delort and Justice Connors concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's conviction of driving under the influence of alcohol is affirmed where the non-pattern jury instruction given was clear and correctly stated the law, the defendant was not prejudiced by statements not disclosed prior to trial, and the evidence was sufficient to convict beyond a reasonable doubt.

¶ 2 Defendant, Edward Saquimux, appeals his jury conviction of driving under the influence of alcohol (DUI). On appeal, defendant contends he is entitled to a new trial where the trial court (1) allowed a non-Illinois pattern jury instruction (IPI) interpreting the phrase "actual physical

control" when a unambiguous IPI instruction existed on the same issue; and (2) allowed the first officer on the scene to testify about certain statements defendant made that were not disclosed during discovery. Defendant also contends that the State's evidence was insufficient to prove his guilt beyond a reasonable doubt. For the following reasons, we affirm.

¶ 3 I. JURISDICTION

¶ 4 Judgment was entered against defendant on September 28, 2017, and defendant filed a motion for a new trial. On March 3, 2017, the trial court denied the motion and defendant filed a notice of appeal on March 31, 2017, before he was sentenced. The trial court sentenced defendant on April 6, 2017. Pursuant to our supreme court's supervisory order, we consider defendant's March 31, 2017, notice of appeal timely filed.

¶ 5 II. BACKGROUND

¶ 6 On August 6, 2015, defendant was issued two traffic citations and charged with one count of DUI and one count of operating an uninsured motor vehicle. The uninsured motor vehicle count was subsequently nolle prossed and the DUI count proceeded to a jury trial.

¶ 7 On September 28, 2016, before the trial was scheduled to begin, the parties discussed a discovery issue that arose the night before. The assistant state's attorney (ASA) informed the court that in speaking to Officer Gremo, he relayed a statement made by the defendant on the scene that had not been memorialized in the police report. Defendant told Officer Gremo, "I am waiting for Jim to drive me to work." Defense counsel moved to bar the statement as a sanction since it had not been previously disclosed in violation of Illinois Supreme Court Rule 412 (a)(ii) (eff. Mar. 1, 2001), and prejudiced defendant. The ASA argued, however, that the statement is substantially similar to one that was in Officer Schlecht's arrest report and previously disclosed to defendant. The report noted that when Officer Schlecht asked defendant a question he

responded, "I have to go to work. I'm waiting for Jim." Since the jury had not been sworn in, and the trial had not technically begun, the trial court allowed the statement. The trial court further found that the statement "is essentially the same as the statement in the police report."

¶ 8 At trial, Chicago police officer Mike Gremo testified that on August 6, 2015, he and his partner were driving southbound on the 4200 block of Central Avenue in Chicago, Illinois, on routine patrol. Officer Gremo noticed a car parked at a 45 degree angle in the bus stop. The area was clearly marked as a bus stop and the car was parked in between the two poles marking the area as a bus stop. Officer Gremo slowed his vehicle and observed a person in the driver's seat of the illegally parked car. Officer Gremo got out of his vehicle and when he approached the car he noticed front-end damage including a busted light and dented bumper. The man in the driver's seat had his eyes closed with mouth wide open, and his head was resting on the driver's side window. Officer Gremo identified the man as defendant.

¶ 9 Since the driver's side window was rolled down a little, the officer asked defendant if he was alright because he did not know if defendant had been hurt or had been in an accident. When defendant did not respond, Officer Gremo knocked on the window and banged on the roof of the car. Defendant responded when Officer Gremo reached through the window opening to shake his shoulder. The officer asked defendant whether he had been hurt or in an accident, and defendant stated that he had not and was "waiting for Jim to drive me to work." Officer Gremo did not see any signs of injury and assumed that there had been no accident.

¶ 10 The officer noted that defendant's "eyes were a little glossy" and he "detected a strong odor of alcoholic beverage" from defendant's breath. He called Officer Schlecht, who was in charge of traffic enforcement that night, for assistance. As he waited for Officer Schlecht to arrive, Officer Gremo noticed that defendant "went back to sleep." He also noticed that the car

was not running, but the keys were in the ignition. He observed "a bunch of beer bottles and empty beer cans in the front seat passenger floorboard."

¶ 11 Officer Schlecht arrived five to ten minutes later and approached defendant's car. He attempted to wake defendant by knocking on the window. When defendant did not respond, Officer Schlecht reached into the vehicle and shook defendant's arm. Defendant awoke and Officer Schlecht asked him questions about his location. Defendant stated that "he was in the town of Cicero" although they were actually in Chicago. Officer Gremo thought defendant meant he was on Cicero Avenue but defendant said "no Cicero the town." Officer Schlecht then asked defendant to exit the car. As defendant got out, he leaned on the door as if he was about to fall, but he did not fall.

¶ 12 On cross-examination, Officer Gremo acknowledged that he did not take notes of his interactions with defendant. Defense counsel questioned Officer Gremo about defendant's statement that he was waiting for Jim to drive him to work and noted that "[t]he first time you remembered to tell the Assistant State's Attorney about this was yesterday; isn't that fair to say?" The State objected and the court held a sidebar. The State argued that defense counsel was trying to impeach Officer Gremo without basis because the statement had already been tendered in the police report. Defense counsel responded that the officer first spoke of the statement the night before and that Officer Gremo during his trial testimony also stated that defendant told him he was in the town of Cicero, which "is a brand new statement" no one had heard before. Counsel found these statements "problematic and that's exactly what impeachment is designed to do." The trial court overruled the State's objection and allowed defense counsel's line of questioning. Officer Gremo acknowledged that he did not write a narrative or create an interview log of his

conversation with defendant, and that his memory "would have been best in August of 2015, as it relates to this event."

¶ 13 On re-direct examination, Officer Gremo stated that over his 19 years as a police officer, he has seen people under the influence "at least ten thousand times." Based on his experience, Officer Gremo believed that defendant was under the influence of alcohol on August 6, 2015. He noted "the strong odor of alcoholic beverage from [defendant's] breath" and his "glassy eyes" during his brief conversation with defendant, and when defendant attempted to get out of his car, he was "leaning to get out of his vehicle." He stated that it was not difficult for him to remember this case because of the "unusual circumstances," even though he did not file a report.

¶ 14 Officer Schlecht testified that he has been in the Chicago Police Department for 16 years. He received training on conducting DUI investigations including conducting standardized field sobriety tests. Throughout his career, Office Schlecht has made "just under 200" DUI arrests. When he arrived on the scene on August 6, 2015, Officer Schlecht observed Officer Gremo's vehicle and a car that was "parked slightly on an angle" with the back end "sticking out." He also noticed front-end damage to the parked car. When he approached the car, Officer Schlecht saw a person, who he identified as defendant, in the driver's seat. Defendant was asleep with his head leaning against the driver's side window. The window "was just cracked partially down." Officer Schlecht also saw on the passenger's side and in the back of the car "several open aluminum beer cans and glass bottles of beer" that were empty.

¶ 15 Officer Schlecht tried to wake defendant by tapping him on the shoulder and after about 30 seconds, defendant woke up. He asked defendant for his license and insurance, but defendant could not find his license at first. Officer Schlecht detected "a strong odor of alcoholic beverages on [defendant's] breath" and he noticed that defendant had a "mumbled and slurred, thick

tongue, confused speech about him." Defendant also had "watery eyes." Officer Schlecht asked defendant to step out of the car so he could conduct a standardized field sobriety test on the sidewalk. Defendant exited the car "slowly, normally." As defendant walked toward the sidewalk, he stopped as he approached the curb "as if he was thinking about the curb and then he was able to get his foot up, step up over the curb and on to the sidewalk." Officer Schlecht stated that defendant's conduct was a "sign of impairment." He asked defendant if he knew where he was, and defendant answered that he was waiting for Jim because he was going to work, and that he was "in the town of Cicero." When told he was in Chicago, defendant "seemed kind of shocked that he was in Chicago." Officer Schlecht asked defendant how much he had to drink, and defendant stated that he had "several beers."

¶ 16 Defendant consented to field sobriety tests. First, Officer Schlecht administered the horizontal gaze nystagmus (HGN) test, which checks the involuntary jerking of the eyeball. Defendant stated that he did not have any brain injury that would cause a natural involuntary movement of the eye. Defendant exhibited four out of the six clues indicating the consumption of alcohol, including "distinct and sustained nystagmus at maximum deviation and onset prior to maximum deviation."

¶ 17 Next, Officer Schlecht administered the walk-and-turn test, which tests balance and attention. The test involves taking nine heel to toe steps, turning around, and taking nine heel to toe steps back. Defendant exhibited two clues indicating impairment: he had difficulty maintaining his balance when putting his left foot in front of his right foot, and he made an incorrect turn when walking back. Also, defendant performed the test very slowly "as if he had a hard time maintaining his balance."

¶ 18 The final test administered was the one leg stand test. Defendant was instructed to raise one foot at least six inches with toes pointing forward, keeping his hands to his side and counting out loud until told to stop. While performing the test, defendant did not raise his foot at least six inches off the ground, and only counted to three before he put his foot down. Defendant attempted to perform the test again, counting from three to eleven. He then counted backwards from eleven and when he reached nine he put his foot down. Defendant was supposed to count to 30. Defendant also swayed as he performed the test. These clues indicated impairment. After administering these tests, Officer Schlecht placed defendant under arrest for DUI and transported him to the 16th District police station.

¶ 19 At the station, defendant's "demeanor kept going back and forth," from being polite and cooperative "to being upset about the fact that he's in custody for a DUI." Officer Schlecht read defendant the warning to motorist document outlining the consequences of submitting to or refusing a breathalyzer test. Defendant agreed to take the test and after waiting the required 20 minutes for observation, Officer Schlecht administered the test. Defendant blew into the machine twice but no valid blood alcohol content result could be obtained. The machine shut down after the second attempt and Officer Schlecht did not attempt other tests.

¶ 20 Officer Schlecht's opinion, based on his experience as well as everything he observed, the results of the field sobriety tests, and "the fact that [defendant] admitted to [him] that he had been drinking," was that defendant was under the influence of alcohol.

¶ 21 On cross-examination, Officer Schlecht stated that he never saw defendant driving the car and he did not know how long the car was parked in the bus stop. Although he testified to the damage he observed on the front end of the car, he did not record the damage in his report. When the officer wrote that defendant stated he was in Cicero, defendant was referring to the town of

Cicero. Officer Schlecht acknowledged that he only wrote "Cicero" in his report. Officer Schlecht did not ask defendant how many beers he drank or when he drank them. Defendant told him that he was not under the influence of alcohol and correctly recalled the date as August 6.

¶ 22 On re-direct, Officer Schlecht stated that his report was only a summary of the events. He also testified that defendant was alone in the car and no one joined defendant while the officers investigated the incident. He did not offer alternative tests, such as blood or urine tests, because they are generally offered when there are inconsistent facts in the investigation. In this case, nothing contradicted Officer Schlecht's initial opinion that defendant was under the influence of alcohol.

¶ 23 The State rested and defendant moved for a directed verdict, arguing that Officer Gremo's testimony was not credible and the field sobriety tests only indicated the bare minimum of clues for impairment. The trial court denied the motion and defendant exercised his right not to testify.

¶ 24 After the defense rested, the trial court held a brief jury instruction conference. Prior to trial, after the jury was selected, the parties had also discussed jury instructions. Defense counsel questioned the necessity of giving the jury a supplemental non-IPI instruction that defined the phrase "actual physical control of a vehicle," in addition to the IPI instruction that existed on the issue. The State responded that the wording of the non-IPI instruction comes directly from established precedent, which further defines the phrase. The trial court believed that the non-IPI instruction "could potentially cause some confusion" and that "the IPI instruction should be sufficient," but reserved its ruling until the end of trial.

¶ 25 At the instructions conference held at the end of the trial, defense counsel again objected to the use of the non-IPI instruction and argued that it brought unnecessary attention to the actual

physical control issue and added a definition that was already covered by the IPI instruction. The trial court stated that it looked into the division's "accepted procedure" and was "told that we are required to include that additional instruction even though it's non-IPI, all right?" The court noted defense counsel's objection for the record.

¶ 26 After closing arguments, the jury deliberated and returned a guilty verdict against defendant for DUI. Defendant filed a motion for a new trial which the trial court denied. Defendant was sentenced to 24 months' conditional discharge, alcohol risk treatment, victim impact panel, 240 hours of independent community service, and a $1,000 fine. Defendant filed this appeal.

¶ 27 III. ANALYSIS

¶ 28 Defendant first contends that the trial court abused its discretion in giving the jury a non-IPI instruction defining the phrase "actual physical control," when an IPI instruction exists on that issue. Pursuant to the supreme court rules, the trial court must instruct the jury with an IPI instruction unless the court finds it does not accurately state the law. Ill. S. Ct. R. 451(a) (eff. April 8, 2013). The record shows that the jury here was instructed with the IPI instruction but was also given a supplemental non-IPI instruction. Therefore, the issue on appeal is not whether the trial court improperly gave a non-IPI instruction instead of an existing IPI instruction. Rather, defendant challenges the fact that the trial court gave an additional non-IPI instruction on the issue of actual physical control. "A particular jury instruction given by the trial court is proper if it is sufficiently clear, fairly and correctly states the law, and is supported by some evidence in the record." *Rios v. City of Chicago*, 331 Ill. App. 3d 763, 776 (2002). We will not disturb the trial court's decision to instruct the jury with a non-IPI instruction absent an abuse of discretion. *People v. Hudson*, 222 Ill. 2d 392, 400 (2006).

¶ 29 The Illinois Vehicle Code (Code) provides that "[a] person shall not drive or be in actual physical control of any vehicle within this State while *** under the influence of alcohol." 625 ILCS 5/11-501(a)(2) (West 2016). Illinois law has long established that a motorist need not actually drive a vehicle in order to be in actual physical control of it. In *People v. Davis*, 205 Ill. App. 3d 431 (1990), the defendant testified that he was driving his vehicle when he began to feel unwell. He pulled to the side of the expressway, locked the doors, and turned off the engine although he left the keys in the ignition. The defendant then climbed to the back seat, zipped himself inside a sleeping bag, and fell asleep. He was awakened by a trooper and admitted that he had been drinking earlier in the evening. *Id.* at 433. The trooper testified that it took great effort to rouse the defendant and he appeared disoriented when he emerged from the vehicle. The trooper also testified that defendant failed the field-sobriety tests administered to him. *Id.* at 434.

¶ 30 The defendant argued that he had no intention of driving his vehicle at the time, and the evidence showed that the trooper found him asleep, zippered in a sleeping bag in the back seat of the vehicle. Therefore, the State failed to show he was in actual physical control of the vehicle. *Id.* This court disagreed, noting that the defendant's intent to drive the vehicle is irrelevant under the Code. *Id*. at 435. Furthermore, the issue of actual physical control is "a question of fact to be decided on a case-by-case basis." *Id*. Factors to consider are whether a person is positioned in the driver's seat and has the physical capacity to start the vehicle, whether he is in possession of the ignition key, and whether he is the sole occupant of the vehicle and the doors are locked. *Id.* A person can be found in actual physical control of a vehicle even if he was asleep when discovered, or was found slumped in the passenger's seat, or with his head on the driver's door and his legs extended across the front seat. *Id.* at 435-46. This court found that the defendant was in actual physical control of the vehicle because he was the sole occupant and the doors were

locked, and he had the physical capacity to start the engine and move the vehicle "almost instantly." *Id.* at 436.

¶ 31 In *City of Naperville v. Watson*, 175 Ill. 2d 399 (1997), our supreme court agreed with the holding in *Davis*. The court observed that "[a]n intoxicated individual who gets into his vehicle to sleep poses a threat of immediate operation of his vehicle at any time while still intoxicated." *Id.* at 404. It found the term "actual physical control" in the Code "unqualified by any language suggesting that the accused's purpose in occupying a vehicle is germane to criminal responsibility. *Id*. at 404. Citing *Davis*, the supreme court held that "[a] person need not drive to be in actual physical control of a vehicle, nor is the person's intent to put the car in motion relevant to the determination of actual physical control." *Id*. at 402.

¶ 32 Like the defendants in *Davis* and *Watson*, defendant here was found sleeping in his car. He was the sole occupant in the car and was in the driver's seat with the key in the ignition. The non-IPI instruction given to the jury stated that "the defendant need not drive to be in actual physical control of the vehicle, nor is his intent to put the car in motion relevant to determination of actual physical control." The wording of this instruction, taken almost verbatim from our supreme court's holding in *Watson*, is clear, correctly states the law, and is supported by evidence in the record. The trial court did not err in giving the instruction.

¶ 33 Defendant argues, however, that the IPI instruction given was sufficient and it was error for the trial court to provide a second instruction. We disagree. The purpose of jury instructions is to give the jury the correct legal rules to apply to the evidence, and to guide the jury toward a proper verdict. *People v. Lovejoy*, 235 Ill. 2d 97, 150 (2009). The IPI instruction defined actual physical control as "the defendant was in the vehicle and in a position to exercise control over the vehicle by starting the engine and causing the vehicle to move." Illinois Pattern Jury

Instruction 23.43. The non-IPI instruction clarified that the focus is on whether a person had the physical capacity to drive, not whether he was actually driving or intending to drive. Together, the IPI and the non-IPI instructions provided clear and correct legal rules with which the jury could view the evidence. Rule 451(a) does not prohibit the trial court from giving an additional instruction where the jury is also being given a relevant IPI instruction pursuant to the rule. The case defendant cites as support, *People v. Lurz*, 379 Ill. App. 3d 958 (2008), did not involve a non-IPI instruction given with the IPI instruction.

¶ 34 Nor do we find persuasive defendant's argument that the non-IPI instruction improperly gave a "factual interpretation" that usurped the jury's function as fact finder. The instruction merely informed the jury that defendant need not be driving to have actual physical control of the car, and that his intent to drive is irrelevant. The non-IPI instruction did not tell the jury what facts to consider in determining whether defendant had actual physical control of the vehicle, such as whether he was in the driver's seat and had the physical capacity to start the vehicle, whether the keys were in the ignition, or whether he was the sole occupant of the vehicle. *Davis*, 205 Ill. App. 3d at 435-46.

¶ 35 Defendant next argues that the trial court improperly allowed Officer Gremo to testify to statements not previously disclosed in discovery in violation of Supreme Court Rule 412, and he was prejudiced by those statements. Rule 412(a)(ii) provides that upon written motion of defense counsel, the State shall "disclose to defense counsel *** any written or recorded statements and the substance of any oral statements made by the accused or by a codefendant, and a list of witnesses to the making and acknowledgement of such statements." Ill. S. Ct. R. 412(a)(ii) (eff. Mar. 1, 2001). The disclosure rule protects defendants against unfairness and inadequate preparation, and seeks "to eliminate the tactical advantage of unfair surprise." *People v. Furlong*,

217 Ill. App. 3d 1047, 1053 (1991). While compliance with the discovery rules is mandatory, noncompliance does not require a reversal absent prejudice to the defendant. *People v. Robinson*, 157 Ill. 2d 68, 78 (1993). We review the trial court's ruling on a discovery violation for abuse of discretion. *People v. Matthews*, 299 Ill. App. 3d 914, 918 (1998).

¶ 36 Defendant first challenges the statement Officer Gremo said he made, "I am waiting for Jim to drive me to work," which was disclosed by the State on the night before trial. Although Officer Schlecht's previously disclosed report contained defendant's statement "I have to go to work. I'm waiting for Jim," defendant argues that the statement to Officer Gremo was not the same. Rather, "[t]he undisclosed statement includes the inference that there was another driver or controller of the vehicle other than the defendant." Defendant contends he was prejudiced by the statement because "[t]he possibility of a driver or controller of the vehicle other than the defendant is a factor of great import" to his defense strategy.

¶ 37 The trial court disagreed with defendant, finding that Officer Gremo's statement was substantially the same as the disclosed statement in Officer Schlecht's report. The court's determination was not an abuse of discretion. Furthermore, even if the undisclosed statement was different because it implied that Jim, not defendant, would be driving the vehicle to work, defendant was not prejudiced. Whether he was waiting for Jim before driving to work, or whether he was waiting for Jim to drive him to work, defendant's intent to drive is irrelevant in determining whether he had actual physical control of the vehicle. *Watson*, 175 Ill. 2d at 402. The officers found defendant alone in his car, asleep, and in the driver's seat with the key in the ignition. No one else was in the area. This evidence is sufficient to support a finding that defendant had actual physical control of the vehicle, regardless of his intent to drive. *Davis*, 205 Ill. App. 3d at 435-36.

¶ 38 Defendant also challenges Officer Gremo's statement that defendant said he "was in the town of Cicero." Officer Schlecht's disclosed report merely listed "Cicero" as defendant's response when asked where he thought he was located. Defendant argues that "Cicero" could mean the street name as well as the town, and his pre-trial strategy "could have been different" had the defense been aware that defendant meant the town. Therefore, he was prejudiced by the statement.

¶ 39 We do not see how defendant would have been surprised by this statement. Defense counsel had Officer Schlecht's report well before trial and could have addressed any ambiguities suggested by the word "Cicero" prior to trial. In fact, the record shows defense counsel was aware of that ambiguity and incorporated it into the defense strategy. During Officer Schlecht's cross-examination, defense counsel asked the officer whether he knew if defendant was referring to the town or the street. Officer Schlecht answered that he believed defendant was referring to the town. Counsel responded, "But you don't know, the word he said was Cicero?" The officer answered, "The word he said was Cicero." Defense counsel then asked whether Central, the street defendant was found on, and Cicero both begin with "C," whether the streets were only a mile apart, and whether both led to Midway Airport, and Officer Schlecht answered in the affirmative. Defense counsel used the ambiguity to imply that when defendant said he was in "Cicero," he was not completely unaware of his surroundings because he was intoxicated. Instead, he merely made a reasonable mistake about the street he was on.

¶ 40 The cases primarily relied upon by defendant as support, *Furlong* and *People v. Aguilar*, 218 Ill. App. 3d 1 (1991), are inapposite, as the statements disclosed for the first time during trial in those cases contained substantive and relevant information not known prior to trial. In contrast, the substance of the challenged statements here was known by defense counsel prior to

trial or was not relevant to the determination of defendant's guilt. The trial court also allowed defense counsel to cross-examine both Officer Gremo and Officer Schlecht extensively on their statements and the report. Therefore, we find that defendant was not prejudiced by the disclosures and a new trial is not warranted. See *People v. Cisewski*, 118 Ill. 2d 163, 172 (1987) (finding that "[a] new trial should only be granted if the defendant is prejudiced by the discovery violation and the trial court failed to eliminate the prejudice").

¶ 41 Defendant's final contention is that the State failed to prove his impairment beyond a reasonable doubt. When reviewing the sufficiency of the evidence, the question is "whether, when viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the defendant guilty beyond a reasonable doubt." *People v. Brown*, 185 Ill. 2d 229, 251 (1998). It is not the function of this court to retry defendant. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). Rather, it is the jury's function, as fact finder, to assess the credibility of witnesses, weigh their testimony, and draw inferences from the evidence presented. *Brown*, 185 Ill. 2d at 250-51. Whether a person is under the influence of alcohol is a question of fact for the jury to resolve. *People v. Morris*, 2014 IL App (1st) 130512, ¶ 20. A criminal conviction will not be reversed unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of defendant's guilt. *Collins*, 106 Ill. 2d at 261.

¶ 42 A person is under the influence of alcohol when, as a result of drinking any amount of alcohol, his mental or physical faculties are impaired so as to reduce his ability to think and act with ordinary care. *People v. Diaz*, 377 Ill. App. 3d 339, 344 (2007). To find defendant guilty of driving under the influence of alcohol, the State must establish that defendant was impaired to a degree that rendered him incapable of driving safely. *People v. Workman*, 312 Ill. App. 3d 305,

310 (2000). Circumstantial evidence alone may be sufficient to prove impairment beyond a reasonable doubt. *Diaz*, 377 Ill. App. 3d at 345.

¶ 43 Both Officer Gremo and Officer Schlecht testified that defendant was found asleep in the driver's seat of his car, which was illegally parked in a bus stop at an angle. The car exhibited front-end damage. Although the car was not running, the key was in the ignition. They also testified that defendant was difficult to rouse, had glassy eyes, and his breath smelled strongly of alcohol. They observed open and empty beer cans and bottles in the car. Officer Schlecht testified that defendant had a "mumbled and slurred, thick tongue, confused speech about him." When he exited the car, defendant moved slowly and with effort. Officer Schlecht administered field sobriety tests, and in all three tests defendant exhibited clues indicating the consumption of alcohol. Officer Gremo, who has seen people under the influence "at least ten thousand times" during his 19 years as a police officer, testified that he believed defendant was under the influence of alcohol. Officer Schlecht, who had been an officer for 16 years and received training on conducting DUI investigations, testified that based on his experience and everything he observed, defendant was under the influence of alcohol. This evidence supports a finding that defendant was impaired by alcohol beyond a reasonable doubt.

¶ 44 Defendant, however, argues that Officer Schlecht's testimony contained inconsistencies regarding his impairment as shown by the field sobriety tests, and his testimony conflicted with that of Officer Gremo when describing defendant's degree of impairment when he exited his vehicle. We note that a reviewing court will not reverse a conviction "simply because the defendant tells us that a witness is not credible." *People v. Byron*, 164 Ill. 2d 279, 299 (1995). Rather, any inconsistencies in the testimony go to the weight of the evidence. *Brown*, 185 Ill. 2d at 250.

¶ 45 Furthermore, defendant's performance on field sobriety tests was not the sole evidence of impairment presented at trial. Officers Gremo and Schlecht testified in detail about the circumstances in which defendant was found in his car, and based on their considerable experience investigating DUIs, they concluded that defendant was under the influence of alcohol. The jury, as fact finders, found the officers to be credible witnesses. "Where the arresting officer provides credible testimony, scientific proof of intoxication is unnecessary." *Morris*, 2014 IL App (1st) 130512, ¶ 20. In determining the sufficiency of the evidence, what matters is that all of the evidence, taken together, satisfies the jury of defendant's guilt beyond a reasonable doubt. *People v. Jackson*, 232 Ill. 2d 246, 281 (2009). The evidence presented here, taken as a whole, supports the jury's finding that defendant was under the influence of alcohol to a degree that rendered him incapable of driving safely.

¶ 46 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 47 Affirmed.